

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**ECONOMIC STABILITY ADMINISTRATION**

**FAMILY INDEPENDENCE PROGRAM**

(By authority conferred on the department of health and human services by section 6 of the social welfare act, 1939 PA 280, MCL 400.6)

**R 400.3101 Definitions.**

Rule 1. (1) As used in these rules:

(a) "Administrative recoupment" means a process by which a group's benefits are reduced to make payments on an over issuance.

(b) "Agency errors" means over issuances caused from incorrect actions by the department.

(c) "Application" means an application for the family independence program.

(d) "Application filing date" means the date the department receives a signed application document that contains the minimum required information.

(e) "Authorized representative" means a person who is not less than 18 years of age and who applies for assistance on behalf of a client or who otherwise acts on a client's behalf, or both. The person may be, but is not limited to being, a guardian, spouse, or relative outside the group.

(f) "Available/warrant date" means the date that a regular assistance benefit or warrant was issued.

(g) "Client error" means over issuances that are caused due to the action or inaction of a client or authorized representative. An over issuance resulting from a department action being deleted due to a client's hearing request is client error if the client withdraws his or her request, fails to appear for the hearing, or the department is upheld in the hearing decision.

(h) "Collection actions" means the department processes initiated to maximize the recovery of over issued benefits.

(i) "Crediting" means returning the benefit issuance amount to the state treasury.

(j) "Department" means the Michigan department of health and human services.

(k) "Disqualification" means a department penalty action which is assessed for noncompliance with a family independence program requirement and which results in the ineligibility of the noncompliant person.

(l) "Eligible child" means a child who is part of a group that receives assistance under the family independence program.

(m) "Immunizations" means all immunizations recommended by the department of community health.

(n) "Institution" means an establishment that furnishes food, shelter, and some medical treatment or services to more than 3 people who are unrelated to the proprietor of the establishment.

(o) "Intentional program violation" means the intentional withholding or misrepresenting of information by a client or authorized representative for the purpose of obtaining benefits that he or she would not otherwise be eligible for. Over issuances become intentional program violations if the client or client's authorized representative is found responsible for an intentional program violation by a court, as a result of an administrative hearing, or due to signing an agreement form.

(p) "Mandatory vendoring" means department payment of assistance amounts, without client request, directly to the client's landlord, mortgage holder, land contract holder, and the providers of the client's home heating and electricity services.

(q) "Minimum wage" means the lesser of the federal or state minimum wage.

(r) "Monthly payment amount" means the amount of assistance paid to the group after deductions for vendoring and any department recoupment.

(s) "Nonstriker" means a person to whom all of the following conditions apply:

(i) Is locked out of the workplace by the employer.

(ii) Is not part of the bargaining unit on a strike.

(iii) Is in fear of reprisal if he or she crosses a picket line.

(t) "Over issuance" means an issuance of more benefits than a client is eligible to receive.

(u) "Over issuance period" means the time period during which an over issuance occurs.

(v) "Over issuance type" means the reason an over issuance occurred. Department error, client error, and client intentional program violation are the types of over issuance.

(w) "Pay period" means the half of the month from the first of the month through the fifteenth of the month or from the sixteenth of the month through the end of the month.

(x) "Potential benefits" means any of the following benefits:

(i) Retirement, survivors, and disability insurance.

(ii) Worker's compensation benefits.

(iii) Veterans administration benefits.

(iv) Railroad retirement benefits.

(v) Unemployment compensation benefits.

(vi) Child support payments.

(vii) Pension payments.

(viii) Disability or retirement benefits.

(ix) Earned but unpaid wages.

(x) Strike pay.

(xi) Vacation pay.

(xii) Supplemental unemployment benefits.

(xiii) Supplemental security income.

(xiv) Any other financial benefits for which potential eligibility exists and which may reduce the family independence program benefit, other than state-funded, needs based programs.

(y) "Reapplication" means an application for family independence program benefits after a previous case has been closed.

(z) "Recoupment" means a department action to identify and recover a benefit over issuance.

(aa) "Redetermination" means a review of continuing eligibility for the family independence program.

(bb) "Redirecting" means routing a warrant to a different address.

(cc) "Reinstatement" means restoring a closed assistance case to active status without a new application/redetermination form.

(dd) "Repayment" means an action by the client to pay back benefits received.

(ee) "Restricted payments" means the meeting of client shelter, heat, and utilities obligations through mandatory vendoring or third-party payments.

(ff) "Returned warrants" means uncashed warrants received by the local department office or treasury.

(gg) "Stop payment" means a department directive to treasury to not honor a warrant.

(hh) "Striker" means a person who is involved in any of the following situations:

(i) An employee strike.

(ii) A concerted work stoppage, including a stoppage when a collective bargaining agreement expires.

(iii) A work slowdown.

(iv) Interruption of work activities or employment operations.

(ii) "Third-party payments" means department payment of the client's entire assistance benefit, without client request, to an agency or person outside the eligible group for management of the assistance on behalf of the group.

(jj) "Third party resource" means a person, entity, or program that is, or might be, liable to pay all or part of a group member's medical expenses.

(kk) "Treasury" means the Michigan department of treasury.

(ll) "Under issuance" means that a group has received less cash assistance than it is eligible to receive.

(mm) "Verification" means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

(nn) "Voluntary vendoring" means a payment system whereby, at the group's request, the department sends part of the group's cash assistance directly to the provider of shelter, heat, or electricity.

(oo) "Warrant date" means the date shown on the warrant. For regular client and vendor warrants, the warrant date is the expected date of delivery. For replacement warrants, the warrant date is the date that the warrant was mailed by the department.

(2) Terms defined in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, have the same meaning when used in these rules.

History: 1997 AACS; 2014 AACS; 2019 AACS.

#### **R 400.3102 Rescinded.**

History: 1997 AACS; 2014 AACS.

#### **R 400.3103 Returned warrants.**

Rule 3. (1) The department may rewrite returned warrants if a group was eligible for cash assistance during the period covered by the original warrant.

(2) A group is presumed ineligible under any of the following circumstances:

(a) The post office returned a client warrant to the treasury as undeliverable and the group has not contacted the department regarding the warrant.

(b) A warrant remains uncashed for more than 30 calendar days from the warrant date and the group has not contacted the department regarding the warrant.

(c) A group fails to contact the department by the disposition deadline for a warrant returned or delivered to the local department office.

(3) A representative of a group who picks up a group warrant shall present the group's signed statement of permission.

History: 1997 AACCS; 2014 AACCS.

**R 400.3104 Replacement policies for warrants reported lost, stolen, not received, or destroyed.**

Rule 4. (1) A group is eligible for replacement of unendorsed warrants reported lost, stolen, not received, or destroyed if 1 or more of the following conditions are complied with:

(a) The group completes a stop payment/replacement request affidavit. For a stolen warrant, a group shall file a police report, unless replacement of the warrant is made after recovery of the warrant amount.

(b) A group or provider contacts the post office to verify delivery of a warrant that was issued but not received. If delivery is verified, then the warrant is considered lost. If delivery cannot be verified, then the warrant is considered to be a warrant that is not received.

(c) For a warrant that is not received, a group or provider completes a stop payment/replacement request affidavit not earlier than the day after the fourth mail delivery day after the warrant date.

(d) Under any of the following circumstances, a warrant shall be replaced only after recovery of the original warrant amount:

(i) Replacement is requested more than 30 calendar days after the warrant date.

(ii) The group has previously requested a replacement after cashing the original warrant.

(iii) The group did not file a police report on a stolen warrant.

(iv) The case is closed or closure is pending.

(v) The warrant to be replaced is a replacement warrant or a vendor warrant.

(e) If a warrant is cashed by a recipient of the cash assistance case, then a request for stop payment will not be taken and a replacement warrant will not be issued.

(2) A warrant that is lost or stolen after endorsement shall be replaced only if the warrant is later returned or voided, or both.

(3) The following provisions apply to a replacement warrant that is issued for a warrant which was cashed:

(a) If a client claims that the warrant copy signature is not his or her signature, then the client shall sign an affidavit to that effect.

(b) If a client fails to keep an appointment to view the warrant, refuses to sign the affidavit, or admits endorsing both the original and replacement warrants, then the department shall recover the over issuance from the group.

History: 1997 AACCS; 2014 AACCS.

**R 400.3105 Supplemental benefits policy for cash assistance.**

Rule 5. (1) The department shall issue supplemental benefits (a supplement) to correct an under issuance.

(2) A supplement is offset by over issuances for which collection actions have not yet begun. The amount of the over issuance is subtracted from the amount of the supplement, up to the amount of the supplement.

(3) A supplement shall be issued promptly upon receipt by the department of verification of a change in circumstances resulting in increased need or when the department becomes aware of an agency error that resulted in an under issuance.

(4) The department shall issue a supplement back to the month following the month verification shows the need began, but no earlier than the month that the group reported the change in circumstances.

(5) The department shall not issue a supplement for a period before the eligibility effective date for the program.

(6) The department shall give a group adequate notice that a supplement has been authorized or denied.

History: 1997 AACCS; 2014 AACCS.

**R 400.3106 Restricted payments to groups.**

Rule 6. (1) A group shall have mandatory vendoring or third-party payments initiated when the department determines that the grantee's negligence resulted in mismanaged funds and has endangered the health or safety of a child.

(2) The department shall to initiate third-party payments or mandatory vendor payments based on the seriousness of the group's circumstances, the availability of a competent third-party payee, and the qualification of shelter providers.

(3) Mandatory vendoring shall be limited to the monthly combined shelter, heat, and utility expenses. The group shall receive a minimum of a \$2.00 monthly payment after vendoring and other required deductions from the payment standard.

(4) A group that is in restricted payment status has the right to a department review of the need to continue mandatory vendoring or third-party payments at least once every 6 months.

History: 1997 AACCS; 2014 AACCS.

**R 400.3107 Applications.**

Rule 7. (1) Any person may apply for assistance for himself or herself. With the group's permission, a person who is 18 years of age or older may be authorized to represent and apply on behalf of the group.

(2) A person may submit an application by fax on a form prescribed by the department. The original, signed application must be received by the department before benefits are approved.

(3) A person shall complete a department application form when first applying for assistance benefits and when eligibility is redetermined.

(4) The department must accept an application and register it as soon as it is filed if it contains the minimum information established by the department and is signed by the client or the client's authorized representative.

(5) Upon receipt of an incomplete application, the department staff shall provide the client with an appropriate form identifying the information needed to render the application complete and shall specify a due date by which the information must be provided. The department must deny eligibility, or terminate an ongoing assistance case, if the application remains incomplete. An incomplete application is valid through the last day of the month after the month of denial or termination and may be updated during that period.

(6) As part of the application and redetermination process, the department may conduct an official, confidential interview with the client, another responsible applicant group member, or the authorized representative. An interview must be conducted in a department local office during normal weekday office hours or by telephone.

History: 1997 AACS; 2014 AACS; 2022 MR 12, Eff. June 29, 2022.

#### **R 400.3108 Verification of eligibility factors.**

Rule 8. (1) A group shall verify the factors that affect the initial and continued eligibility of the family independence assistance group, a program group, or individual group members, including information obtained by data exchanges.

(2) The department shall provide a group with written notice of the required verification items and the due date for their submittal to the department local office.

(3) Department staff may make home calls to verify information or conduct other department business. A group shall cooperate with department staff making home calls.

History: 1997 AACS; 2014 AACS.

#### **R 400.3109 Determination of eligibility and assistance amount.**

Rule 9. The department shall determine the eligibility of each person in the program group and the amount of assistance for which the group qualifies.

History: 1997 AACS; 2014 AACS.

#### **R 400.3110 Assistance benefits; beginning dates.**

Rule 10. The department shall begin assistance benefits not earlier than the half-month pay period after the pay period that includes the application filing date, and not later than the pay period in which the application becomes 30 calendar days old, if the group is eligible for that pay period. If the application becomes 30 calendar days old and the group has not met the eligibility requirements, then the department shall begin assistance for the pay period in which all eligibility requirements are met.

History: 1997 AACCS; 2014 AACCS.

**R 400.3111 Client responsibility to cooperate with department; effect of failure to cooperate.**

Rule 11. (1) A client shall cooperate with department staff in determining initial and ongoing eligibility and benefit levels. Cooperation includes all of the following:

(a) Answering completely and truthfully all questions on department forms and during interviews.

(b) Taking all actions within the group's ability to verify factors concerning the group's eligibility.

(c) Cooperating with department staff during quality control reviews.

(d) Accurately reporting, within 10 calendar days after the information is known to the client, information that might affect eligibility or benefit amounts.

(2) A client's failure to cooperate with the department in any matter of eligibility shall result in the denial of the assistance application, case closure, member disqualification, or benefit level reduction.

History: 1997 AACCS; 2014 AACCS.

**R 400.3112 Group composition.**

Rule 12. (1) If family independence assistance is requested for a child, then all of the following persons who live together shall, except as provided in subrule (7), be included in the program group applying for assistance and, if eligible, in the family independence assistance group:

(a) The child.

(b) The child's parents.

(c) The child's siblings who meet the definition of child.

(d) The parents of the siblings.

(e) The child's stepparent.

(f) The child's stepsiblings who meet the definition of child.

(g) The child's child.

(2) If a minor parent applies for assistance for himself or herself and his or her child, and if the minor parent is living with his or her parent or parents or stepparent, then the minor parent is denied assistance in his or her own right and the minor parent and his or her child shall be treated as children in accordance with subrule (1) of this rule.

(3) If a minor parent applies for assistance and is living with a legal guardian or an adult relative, other than his or her parent or stepparent, and if the adult relative or legal guardian receives family independence assistance, then the minor parent and his or her

child shall be included in the adult relative's or legal guardian's group and, if eligible, in the family independence assistance group as children in the care of the adult relative or legal guardian. If the adult relative or legal guardian does not receive family independence assistance, then the minor parent may receive assistance in his or her own right, if eligible.

(4) If a caretaker is caring for and requesting assistance for 2 or more children who are not siblings or stepsiblings to each other, then all of the children under the care of the caretaker shall be included in a single program group and, if eligible, in a single family independence assistance group.

(5) In the absence of a parent or stepparent, a needy caretaker may request assistance and be included in the program group and, if eligible, in the family independence assistance group with the child. If the caretaker chooses to request assistance for himself or herself, then the caretaker's spouse and their dependent children, if living in the home, shall also be included in the request for assistance.

(6) The program group or family independence assistance group may consist of the following persons if there is no eligible child in the group:

(a) A pregnant woman and her husband, if living in the home.

(b) A parent, stepparent, or other caretaker of a child in the home who would be eligible except for the child's receipt of supplemental security income, and the spouse of the parent, stepparent, or other caretaker, if living in the home.

(c) A parent of a child in foster care, and the spouse of the parent, if living in the home. The parent, and the parent's spouse, if applicable, shall comply with the agency's case service plan.

(7) If an individual becomes a new group member as a result of marriage to a member of the group, the new group member's income and assets may be disregarded for 18 months after the date of marriage, unless the program group's income and assets, when combined with the new parent's, the new stepparent's or the new stepsibling's income or assets, exceed twice the income and asset limits set by the department.

History: 1997 AACCS; 2019 AACCS.

Editor's Note: An obvious error in R 400.3112 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2019 MR 17. The memorandum requesting the correction was published in *Michigan Register*, 2019 MR 17.

### **R 400.3113 Voluntary vendoring.**

Rule 13. (1) A group may request voluntary vendoring at any time by completing a department vendor payment form.

(2) As part of the voluntary vendoring request, a group that has obligations for heat and electricity shall request vendor payments for both services, unless vendoring both would leave a monthly benefit amount of less than \$2.00. Amounts vendored for heat and electricity shall be established by the department or utility company based on the assistance payment standard. A group may specify any monthly shelter amount that is not less than \$2.00 to be vendored if vendoring would leave a monthly payment amount of not less than \$2.00.

(3) The department shall cease voluntary vendor payments as soon as administratively feasible when requested in writing by the client.

(4) The department shall not authorize voluntary vendor payments for rent under any of the following circumstances:

(a) The local housing authority notifies the department that the dwelling fails to meet the housing code or the landlord has failed to comply with housing code policies and procedures. Ongoing vendoring shall be stopped within 5 workdays if administratively feasible.

(b) The landlord has not cooperated with the agency or a utility company in the installation of energy conservation measures that were determined necessary to reduce consumption. Ongoing vendoring shall be stopped within 5 workdays if administratively feasible.

(c) Title to the rental property reverts to the state or local municipality for nonpayment of property taxes.

History: 1997 AACCS; 2014 AACCS.

#### **R 400.3114 Temporary absence from home.**

Rule 14. (1) A person is temporarily absent from the home if all of the following provisions apply:

(a) His or her location is known.

(b) There is a definite plan for his or her return.

(c) He or she lived with the group before the absence.

(d) The absence has lasted or is expected to last 30 calendar days or less.

(2) The 30-calendar-day provision in subrule (1)(d) of this rule does not apply if the absence is due to hospitalization, training, or education.

(3) A person who meets the criteria for being temporarily absent specified in subrules (1) and (2) of this rule is considered to be living in the home and continues to receive assistance.

History: 1997 AACCS.

#### **R 400.3115 Immunizations; exemptions; informing client of immunization requirement; department assistance; compliance; penalty.**

Rule 15. (1) An eligible child who is under age 6 shall receive all immunizations.

(2) A child is exempt from the immunization requirement if any of the following conditions apply:

(a) The child is under 2 months of age.

(b) Immunizations are medically inappropriate for the child.

(c) Immunizations are contrary to the family's religious beliefs.

(3) At application, the department shall inform each group that has a nonexempt eligible child who is under age 6 of the immunization requirement and the penalty for failure to immunize.

(4) The department shall offer the group assistance to resolve problems that hinder compliance with the immunization requirement.

(5) A group is in compliance with the immunization requirement when immunizations have begun for all nonexempt children.

(6) If a nonexempt child has not been immunized and the group does not have an unresolved problem that hinders compliance with the immunization requirement, then an immunization penalty shall be imposed at redetermination.

(7) The department shall impose an immunization penalty by reducing the group's payment standard by \$25.00. The \$25.00 penalty shall continue for each month in which 1 or more nonexempt eligible children under age 6 are not immunized and in which the group does not have unresolved problems that hinder compliance with the immunization requirement.

(8) If a group complies with the immunization requirement, then the group is considered to be in compliance for the whole month in which immunizations began.

History: 1997 AACCS; 2014 AACCS.

**R 400.3116 Identity verification requirement; acceptable verification sources.**

Rule 16. A grantee shall verify his or her identity in order to receive benefits.

History: 1997 AACCS; 2014 AACCS.

**R 400.3117 Striker penalties.**

Rule 17. (1) A person who is on strike on the last day of a calendar month is excluded from the eligible group.

(2) A striker's spouse and a striker's children are also excluded from the eligible group if they live with the striker.

(3) At application, it is assumed that a striker will be on strike on the last day of the month unless it is verified that he or she will not be on strike.

(4) If a person is already receiving assistance and is on strike on the last day of the month, then the striker's spouse and children who live with him or her are ineligible for 2 pay periods or until the strike ends, whichever is longer.

History: 1997 AACCS.

**R 400.3118 Changes in circumstances; reporting.**

Rule 18. (1) A group shall report a change in circumstances within 10 days of the change.

(2) The agency will act on a change in circumstances that continues for at least 1 month beyond the month in which the change was reported.

(3) Member additions and changes in income that result in a benefit increase shall affect the month after the change occurred, if reported within 10 days of the change. If reported late, the effective month of the increase is the month after the change is reported and verified.

(4) A change not specified in subrule (3) of this rule shall affect the first full benefit month that begins not later than 10 days after the change is reported. The agency

may affect the first full benefit month that begins earlier than 10 days after the change is reported if administratively possible. The benefit month is the calendar month for which assistance is paid.

Assistance may be paid for 1/2 of the benefit month or for a full benefit month, depending upon the group's eligibility for payment.

(5) A change that results in case closure may affect the month the change occurred.

(6) A change in assets that exceeds the agency established asset standard results in group ineligibility for a minimum of 1 month or for as long as the assets exceed the standard, whichever is longer. The month in which assistance is closed is either the month after the month that the group obtained the asset or the second month after the month that the group obtained the asset if administratively feasible.

History: 1997 AACCS.

**R 400.3119 Institutional status; eligibility for family independence program.**

Rule 19. (1) A person who is in an institution for more than 30 calendar days is not eligible for assistance.

(2) If a person is placed in an institution, it is presumed that he or she will remain there more than 30 calendar days, unless a shorter stay is verified by the person.

History: 1997 AACCS.

**R 400.3120 Pursuit of potential benefits as condition of eligibility.**

Rule 20. (1) As a condition of eligibility, a client shall apply for potential benefits for which the group or a member of the group may be eligible.

(2) A client shall take action to make the entire benefit amount available to the group.

History: 1997 AACCS.

**R 400.3121 Penalties for failure to pursue potential benefits; verification requirements.**

Rule 21. (1) If a client fails to pursue a potential benefit, then the group is ineligible.

(2) If a client or other group member takes any action that restricts the amount of a benefit available to the group, then the group is ineligible.

(3) A client's statement that he or she has applied for a benefit or that he or she is not eligible shall be accepted as true, unless the statement is unclear, inconsistent, or in conflict with other information.

History: 1997 AACCS.

**R 400.3122 Concurrent receipt of benefits prohibited.**

Rule 22. (1) Neither an adult nor a child may receive both supplemental security income benefits and family independence program benefits for the same period.

(2) A child may not receive foster care payments and family independence program benefits concurrently.

History: 1997 AACCS.

**R 400.3123 Refusing offer of suitable employment; penalties; good cause explained.**

Rule 23. (1) An applicant or recipient shall not refuse employment without good cause. Any of the following actions constitute refusing employment:

- (a) Refusing a bona fide offer of employment of at least minimum wage.
- (b) Voluntary leaving a job.
- (c) Limiting hours of employment.
- (d) Otherwise reducing earnings.
- (e) Being terminated from employment for misconduct or absenteeism.

(2) The department shall impose a penalty if an applicant or recipient refuses employment without good cause.

(3) If an applicant refuses employment within 30 calendar days before the date of application, then the penalty is applied as follows:

(a) The group is ineligible for family independence assistance for 30 calendar days from the date of refusal.

(b) Benefits shall not begin any earlier than the first pay period after the 30 calendar days have passed.

(4) A person refusing employment or quitting a job for any of the following reasons is determined to have good cause:

(a) The person suffers from a temporary debilitating illness or injury, or an immediate family member has a debilitating illness or injury and the person is needed in the home to care for the family member.

(b) Lack of child care as defined in Section 407(e)(2) of Public Law 104-193, 42 U.S.C. §607(e)(2).

(c) Commuting time is more than 2 hours per day or more than 3 hours per day when there are unique and compelling circumstances such as a salary at least twice the applicable minimum wage or it is the only available job placement within a 3-hour commute per day, not including the time necessary to transport a child to child care facilities.

(d) Transportation is not available to the participant at reasonable cost.

(e) Employment or participation involves illegal activities.

(f) The person is physically or mentally unfit to perform the job, as documented by medical evidence or by reliable information from other sources.

(g) The person is illegally discriminated against on the basis of age, race, disability, gender, color, national origin, or religious beliefs.

(h) Credible information or evidence establishes 1 or more unplanned or unexpected events or factors that reasonably could be expected to prevent or significantly interfere with the individual's compliance with employment and training requirements.

(i) The person voluntarily left employment to obtain comparable employment.

History: 1997 AACCS; 2014 AACCS.

**R 400.3124 Child support; good cause claim and determination; exceptions to cooperation requirement.**

Rule 24. (1) A client shall take all action required by 1939 PA 280, MCL 400.1 to establish paternity and obtain support.

(2) A client may claim good cause for not taking the action specified in sub rule (1) of this rule. Good cause includes any of the following reasons:

(a) The child entitled to support was conceived due to incest or forcible rape.

(b) Legal proceedings for the adoption of the child entitled to support are pending before a court.

(c) A client is currently receiving counseling from a public or licensed private social agency to decide if the child should be released for adoption and the counseling has not continued for more than 3 months.

(d) Physical or emotional harm may result if the client or child has been subject to or is in danger of any of the following:

(i) Serious physical harm to the child entitled to support.

(ii) Serious physical harm to the client.

(iii) Serious emotional harm to the child entitled to support that actually harms the child's ability to function in everyday life.

(iv) Serious emotional harm to the client that actually harms the client's capacity to adequately care for the child entitled to support.

(e) Sexual abuse of client or child.

(f) Sexual activity involving a dependent child.

(g) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(h) Threats of, or attempts at, physical or sexual abuse of client or child.

(i) Mental abuse of client or child.

(j) Neglect or deprivation of medical care for child.

(2) A client's cooperation in establishing paternity and obtaining support is not required if good cause exists, but a support action may proceed if the department determines that the action would not endanger the child or client.

(3) Once a client is informed of the right to claim good cause and decides to make the claim, the client shall do all of the following:

(a) Specify the type of good cause.

(b) Specify the persons covered by the claim of good cause.

(c) Provide written evidence to support the claim within 20 calendar days of filing the claim.

(4) The department shall make a good cause determination shall be made within 45 calendar days of the client's written claim, unless the client was granted an additional 25-calendar-day extension to the original 20-calendar-day limit and more information is needed that cannot be obtained within the 45-calendar-day limit.

(5) A good cause determination shall make 1 of the following findings:

(a) Good cause does not exist and the client must cooperate.

(b) Good cause does exist and the client's cooperation in obtaining support is not required.

(c) Good cause does exist, but a support action can proceed without the client and without endangering the client or child.

History: 1997 AACCS; 2014 AACCS.

**R 400.3125 Imposition of support disqualification; removal of support disqualification.**

Rule 25. (1) Failure to cooperate in obtaining support without good cause shall result in a disqualification, causing minimum 1 month ineligibility for the person who failed to cooperate.

(2) If the non-cooperative person is determined by the department to be disqualified for failure to cooperate in obtaining support, the entire case is closed. The case must remain closed for a minimum of 1 month and cannot be reopened until the non-cooperative person cooperates with the action(s) to establish paternity, obtain support or until the paternity/support action is no longer needed.

History: 1997 AACCS; 2014 AACCS.

**R 400.3126 Identification of third-party resource liability.**

Rule 26. (1) As a condition of eligibility, eligible group members shall cooperate in identifying all third-party resources, unless the group members have good cause not to identify third-party resources.

(2) A group member who does not have good cause for failing to identify third-party resources is disqualified from receiving program benefits.

History: 1997 AACCS.

**R 400.3127 Failing to identify third-party resources; good cause reasons; determination.**

Rule 27. (1) The department shall advise a client of the right to claim good cause for failing to identify third-party resources and that the client has 20 calendar days after filing the claim to provide written evidence to support the claim. If a client has difficulty obtaining the evidence, then the initial 20-calendar-day period may be extended to 45 calendar days.

(2) The following reasons constitute good cause for failing to identify third-party resources:

(a) Establishing paternity might harm the child.

(b) Conception was due to incest or forcible rape.

(c) Adoption proceedings are pending.

(d) A regulated public or private agency is counseling the mother on whether to release the child for adoption. This reason is valid for 3 months of counseling.

(e) Serious physical or emotional harm to a group member might result.

(3) The department shall determine if good cause exists within 45 calendar days of a client's claim, unless an extension is granted to the client or is otherwise necessary to obtain evidence. The department shall not deny an application or delay benefits while a good cause claim is pending.

(4) The department shall make 1 of the following findings:

(a) Good cause does not exist and the client must cooperate to be eligible. The client may withdraw the application, request closure, or be disqualified.

(b) Good cause does exist and the third-party resource is not pursued.

(c) Good cause does exist, but the third-party resource can be pursued without endangering the client or dependent child.

History: 1997 AACS; 2014 AACS.

#### **R 400.3128 Disqualification; removing disqualification.**

Rule 28. (1) A responsible adult who fails to cooperate in identifying a third-party resource is disqualified indefinitely.

(2) A responsible adult is an adult who is an eligible group member when the resource is available to any of the following persons:

(a) Himself or herself.

(b) His or her unmarried child who is under age 18.

(c) His or her ward if the responsible adult is a legal guardian.

(d) A dependent child if his or her eligibility is based on specified relative status.

(3) A disqualified person cannot receive assistance on behalf of the group unless he or she is the only adult in the case and a suitable third-party payee cannot be found.

(4) A disqualification ends when any 1 of the following situations occurs:

(a) The disqualified person cooperates.

(b) Good cause for not cooperating is established.

(c) The resource no longer exists.

(d) Eligibility ends for the person whose resources are the basis for the disqualification.

History: 1997 AACS.

#### **R 400.3129 Benefit over issuance determination and recoupment.**

Rule 29. (1) An over issuance period starts with the first pay period that the benefit issuance exceeds the amount allowed. The over issuance period ends with the pay period immediately before the pay period when the benefit amount is corrected.

(2) The amount received by the group includes regular, supplemental, and duplicate warrants; vendor payments; and the amount of any benefit reduction used to repay previous over issuances.

(3) The department shall adjust family independence program over issuance amounts by subtracting all or part of any assigned current child support payments retained by the state during the over issuance period. If the group was ineligible for the family independence program during the over issuance period, then the full amount of

support retained by the state is subtracted. If the group was eligible for part of the family independence program issued, then the portion of child support retained by the state in excess of the amount the group was eligible for will be subtracted.

(4) The budgeting method used to determine the original issuance amount shall be used to determine the over issuance amount if the correct budgeting method was used.

History: 1997 AACCS; 2014 AACCS.

#### **R 400.3130 Intentional program violation; disqualification and recoupment.**

Rule 30. (1) If an over issuance investigation finds that an intentional program violation occurred, then the accused individual shall be notified of the allegation, the potential penalty, and the right to meet with department representatives to discuss the allegation.

(2) The department shall conduct an administrative hearing to determine if an over issuance occurred due to an intentional program violation, unless either of the following provisions applies:

(a) The person waives his or her right to the hearing by signing a recoupment and disqualification agreement.

(b) The person was convicted of fraudulent receipt of benefits under section 60 of 1939 PA 280, MCL 400.60, or any other criminal fraud statute.

(3) If a person has agreed to and signed the recoupment and disqualification agreement, then no further administrative appeal is available.

(4) An individual may request a hearing to contest the computation of the benefit reduction amount, but not the over issuance amount.

(5) The department shall conduct an intentional program violation hearing with or without the person or authorized representative present if the hearing notice is not returned by the post office as undeliverable.

(6) Overpayments for which an intentional program violation is not established shall be recouped as department or client error.

(7) In an administrative disqualification hearing, an individual who is determined to have committed an intentional program violation, who pleads guilty to an intentional program violation, who waives his or her legal right to an administrative disqualification hearing regarding an allegation of intentional program violation, or who is convicted of criminal fraud based on the fraudulent receipt of benefits shall be disqualified by reducing the monthly benefit level by the amount deemed to meet the individual's monthly needs for the following periods:

(a) One year for a first offense.

(b) Two years for a second offense.

(c) Permanently for a third or subsequent offense.

History: 1997 AACCS; 2014 AACCS.

#### **R 400.3131 Benefit over issuance collection and repayment actions.**

Rule 31. (1) The department shall seek recoupment of benefit over issuances from active or inactive family independence program groups through administrative recoupment processes. Repayment shall be in cash or through benefit reduction.

(2) The department shall seek recoupment of benefit over issuances from any adult who was a group member when the over issuance occurred.

(3) If the overpaid family independence program group did not include an eligible or disqualified adult at the time of the over issuance, then a collection action will not be initiated unless the debt was established through court action or by obtaining a signed repayment agreement.

(4) The department shall recoup over issuances to active family independence program groups through benefit reduction, unless cash payments are ordered by a court.

(5) If an over issuance is not paid in full during the notice period, then the family independence program warrants will be reduced by a percentage of the payment standard as follows:

(a) Agency and client error over issuances are recouped at a 5% reduction of the payment standard.

(b) Intentional program violation over issuances are recouped at a 10% reduction of the payment standard.

(6) A repayment amount is adjusted to maintain a minimum \$2.00 cash benefit to the client.

(7) If a court orders cash repayment and the active family independence program client does not make regular cash payments, then the department shall change the collection method to benefit reduction.

(8) A local department office may pursue collection from an estate of a deceased who had an over issuance balance through probate court claim action.

(9) Any payments received as restitution under the terms of probation will reduce the balance owed, but the completion of the probation period or the performance of a requirement of

probation does not reduce the amount owed in excess of the actual dollar amount paid toward the balance owed.

History: 1997 AACS; 2014 AACS.