

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 3000

PROPOSED

PUBLIC NOTICE

Temporary Assistance for Needy Families (TANF) - CMR

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) is proposing to amend the Division of Social Services Manual regarding Temporary Assistance for Needy Families (TANF), specifically, *to update the Contract of Mutual Responsibility (CMR)*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on April 4, 2019. Please identify in the subject line: Temporary Assistance for Needy Families (TANF) - CMR.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) is proposing to amend Division of Social Services Manual regarding Temporary Assistance for Needy Families (TANF), specifically, *to update the Contract of Mutual Responsibility (CMR)*.

Statutory Authority

- 13 DE Reg. 847
- 10 DE Reg. 706
- 14 DE Reg. 304

Background

The caretaker of children in the TANF program enters into a Contract of Mutual Responsibility (CMR) with the Division of Social Services (DSS) of the Department of Health and Social Services (DHSS). Applicants and recipients have a face-to-face interview. During this interview, the DSS worker explains to the recipient the CMR and those elements specific to the client. The CMR is an agreement between the TANF client and the Division of Social Services which sets obligations and expectations for helping the client achieve self-sufficiency.

DSS is amending policies to more concisely define the TANF CMR and to update the required elements of the contract. The formatting of the policies has been revised for better readability.

Summary of Proposal

Summary of Proposed Changes

Effective for services provided on and after May 11, 2019 Delaware Health and Social Services/Division of Social Services proposes to amend sections 3009.1, 3009.3, 3010, 3010.1, 3017.1, 3017.1.1, and 3017.1.2 of the Division of Social Service Manual regarding Temporary Assistance for Needy Families (TANF), specifically, *to update the Contract of Mutual Responsibility (CMR)*.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on April 4, 2019.

Fiscal Impact

DSS is amending the policies to outline the requirements of the CMR and clarify the text and formatting of the existing TANF CMR policies. The policies are currently in place and there are no new financial responsibilities.

AMENDED

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

3009.1 Failure to Comply With CMR and Imposition of Sanctions Imposing Sanctions for Non-Compliance with CMR Requirements

~~The Contract of Mutual Responsibility encompasses three broad categories of requirements: 1) enhanced family functioning, 2) self-sufficiency and 3) teen responsibility requirements.~~

~~1) Enhanced family functioning requirements of the Contract of Mutual Responsibility include, but are not limited to, attending family planning and parenting education sessions, ensuring that children are immunized, and participating in substance abuse assessment and treatment. Sanctions for non-compliance with these requirements start at \$50.~~

~~2) Self-sufficiency requirements of the Contract of Mutual Responsibility are employment and training responsibilities. Sanctions for non-compliance with these requirements result in the closure of the TANF case.~~

~~3) Teen responsibility requirements include maintaining satisfactory school attendance. Teens under the age of 16 must maintain satisfactory school attendance. The parent must work with the child and school to ensure satisfactory attendance. If the teen does not maintain satisfactory attendance at school and the parent fails to work with the school or appropriate agency to ensure school attendance, the case will be sanctioned. This sanction is an initial reduction of \$50. This reduction will increase by \$50 every month until there is compliance with the requirement. If the parent complies and works with the school the TANF benefit will be restored, even if the child does not return to school.~~

~~4) Teen responsibility requirements include maintaining satisfactory school attendance, or ensuring satisfactory attendance, for dependent children 16 years of age and older or participating in employment and training activities. The sanction for non-compliance with these requirements is the removal of the teen from the assistance grant. The teen can not be added back into the case until verification of school attendance is received or verification of four consecutive weeks of participation and one month of being removed from the grant.~~

~~5) The severity of the sanctions differs depending upon the type of violations. Individual penalties and the cure for each are noted in the policy sections which follow. However, when imposing sanctions, these are the rules in which sanctions are applied:~~

~~1. The penalty for failure to comply with self-sufficiency requirements of the Contract of Mutual Responsibility (employment and training responsibilities) is the closure of the TANF case.~~

~~2. The penalty for failure to comply with teen responsibility requirements for a child under 16 years of age is a \$50 reduction in the grant, if the teen does not comply. If the caretaker does not work with the appropriate agencies to remedy the situation, an additional \$50 penalty continues each month until the caretaker works with the appropriate agency, the child returns to school or the grant reduces to zero. The only way to cure the sanction is for the caretaker to work with the appropriate agency and/or the child returns to school. If the child does not return to school but the caretaker has been working with the appropriate agency then the sanction can be lifted.~~

~~3. The sanction for teens 16 years or older who do not attend school and/or employment and training activity for the required hours is the removal of that teen from the TANF grant and a reduction in the house hold size. The sanction can only be cured when the teen is removed from the grant for one month and participation in employment and training for four consecutive weeks is verified or satisfactory school attendance is verified.~~

~~4. The penalty for failure to comply with enhanced family functioning requirements of the Contract of Mutual Responsibility is an initial \$50 reduction of the TANF benefit. This reduction will increase by \$50 every month until there is compliance with the requirement. The initial \$50 reduction will be imposed whether the family fails to comply with one, or more than one, family functioning requirement. Clients will have to comply with all requirements before the sanction can end.~~

~~5. Failing to comply with both enhanced family functioning and self-sufficiency requirements of the Contract of Mutual Responsibility will result in combined penalties for each. For example, impose the \$50 reduction and then close the case.~~

~~6) When there are multiple sanctions always impose the monetary sanctions first; enhanced family functioning and teen under 16. The removal of a teen from the case is second, and the self-sufficiency which results in a case closure is last. All sanctions need to be imposed.~~

DSS imposes sanctions on TANF cases when clients fail to comply with their CMR requirements. If DSS determines a client has good cause for non-compliance with the CMR, DSS will not sanction the TANF case.

1. DSS applies sanctions to a TANF case based on a penalty hierarchy for the three broad categories of CMR requirements: self-sufficiency, enhanced family functioning, and teen responsibility.

2. DSS case workers must follow the CMR sanctions penalty hierarchy as outlined in this policy. Case workers must apply sanctions that reduce benefits before applying sanctions that close the TANF case. Case workers must impose all CMR sanctions.

A. DSS applies teen responsibility sanctions first. The teen responsibility sanction removes a teen, age 16 and older, from the TANF case when the teen does not maintain satisfactory school or employment and training attendance.

B. DSS applies family functioning sanctions second. The family functioning sanction reduces the TANF benefit amount by \$50 initially, with an additional reduction of \$50 in the benefit amount each month the client is non-compliant with the CMR requirements for:

- CMR development,
- Satisfactory school attendance for children under 16 years old,
- Immunizations,
- Family planning information,
- Parenting education,
- Bridge Program participation,
- Transitional Work Program (TWP) participation,
- Financial coaching orientation, and
- Other requirements specified in the CMR.

C. DSS applies self-sufficiency sanctions last. The self-sufficiency sanction closes the TANF case when the client is non-compliant with the CMR requirements for:

- Employment and training (E&T) participation, and
- Cooperation with the Division of Child Support Services (DCSS).

3. DSS removes sanctions from TANF cases when clients comply with their CMR requirements.

A. DSS case workers must verify that clients are compliant with their CMR requirements before the sanctions can end.

B. A sanction is removed from the TANF case on the date proof of compliance is provided to DSS.

10 DE Reg. 706 (10/01/06)

AMENDED

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

3009.3 Benefit Reduction for Multiple Sanction Types

~~The sanctions for failure to meet Contract requirements allow for the possibility of multiple penalties to be imposed at the same time. The hierarchy is as follows:~~

1. The sanction for teens 16 and over who fail to meet school attendance requirements is the removal of the teen from the grant first, if applicable.
2. The \$50 sanction for failure to meet enhanced family functioning requirements (CMR) and the teen under 16 years of age sanction is imposed next.
3. The self sufficiency sanction, failure to meet participation requirements is a full TANF sanction resulting in a case closure. This is imposed last.

The order in which sanctions are imposed is important because we can not sanction a closed case. If a client has both an enhanced family function and a self sufficiency sanction for the same period it is important to make sure the enhanced family sanction that reduces the TANF grant is imposed prior to the self sufficiency sanction that closes the case.

10 DE Reg. 706 (10/01/06)

AMENDED

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

3010 Requiring Participation and Cooperation in Developing the CMR

It is mandatory that the caretaker enter into a Contract of Mutual Responsibility. The Contract applies to those families in the Time Limited Program and Children's Program, as well as to teen parents. Other family members within the assistance unit may be subject to compliance with provisions of the Contract, even if the caretaker is a non-needy caretaker payee.

If the caretaker is a non-needy caretaker, the individual would not be required to participate in employment-related activities, but may be required to participate in other Contract activities.

The caretaker may object to certain aspects of the Contract. The caretaker needs to present any objections up front, at the time of the initial Contract or upon Contract revision. DSS retains the ultimate decision making authority as to what elements are put into the Contract of Mutual Responsibility.

DSS expects clients to cooperate in the development of the Contract of Mutual Responsibility. Certain aspects of the Contract, such as, but not limited, to participation in employment related activities, meeting school attendance requirements and immunization, cannot be amended. However, even though certain aspects cannot be amended, this does not imply that caretakers cannot discuss and/or negotiate Contract requirements. Further, this is not to imply that such discussion and/or negotiation is non-cooperation. To the extent possible, each caretaker should be able to mutually develop her/his Contract. DSS is to give caretakers the opportunity to understand the Contract and its requirements, as well as to discuss the Contract with persons outside the DSS office. Reasons for requesting such an outside review of the Contract include, but are not limited to, language barriers, developmental disabilities, or to seek legal or other counsel. Caretakers therefore, should be granted their requests to remove proposed Contracts from the DSS office in order to review it with another person. This should not be considered non-cooperation.

Negotiating elements of the CMR can mean that aspects of the CMR are waived. On a case by case basis, elements of the CMR can be waived if good cause exists. If the particular circumstances of a family warrant waiving elements of the CMR it is to be justified and properly documented in the case record.

See Administrative Notice A-10-99 DFS/DSS Procedures.

For example: a parent's only child is terminally ill. It is reasonable to determine that a parent would want to spend as much time with the child as possible. Therefore, waiving school attendance requirements and parenting education requirements are reasonable. Document the child's illness and the reason for the waiving of the CMR requirements in the case record.

Participating and cooperating with DSS in developing the CMR is a required CMR element for all TANF clients.

1. **TANF clients are required to develop a CMR in collaboration with their DSS case workers. Compliance with developing the CMR applies to all TANF cases.**
2. **DSS case workers will discuss the CMR elements with clients and assist clients in developing and customizing the CMR.**
 - A. DSS will give clients the opportunity to mutually develop their CMRs.

- B. CMRs will include requirements for self-sufficiency, enhanced family planning, and teen responsibility.
- C. Prior to signing the CMR, DSS will give clients the opportunity to understand the CMR and its requirements. Upon request, DSS will give clients a copy of the proposed CMR to review outside of the DSS office; this should not be considered non-cooperation.
- D. Clients may object to certain elements of the CMR. Clients are to present any objections at the time of the initial CMR development or CMR revision.
- E. On a case by case basis, DSS may waive elements of the CMR if good cause exists. If the particular circumstances of a family warrant waiving an element of the CMR, the case worker must justify and properly document the waiver in the client's case record.
- F. DSS has the final determination of what elements are required in each client's CMR.

3. Failure to comply (without good cause) in developing the CMR will result in a sanction to the TANF case.

- A. The sanction will be an initial \$50.00 reduction in the household's TANF benefit amount.
 - i. If the client is actively negotiating the terms of the CMR or reviewing the CMR outside of the DSS office, DSS will not impose the \$50.00 penalty. DSS must allow clients up to 10 days to reach a resolution or to complete contract review.
 - ii. DSS will consider clients who have not returned their CMRs within 10 days as non-compliant and subject to the \$50.00 penalty.
- B. This reduction increases each month by \$50.00 until there is compliance or the TANF case is closed.
- C. The client will receive written notification of compliance requirements.
- D. The sanction will end when DSS receives proof that the client completed the development of the CMR.

14 DE Reg. 304 (10/01/10)

AMENDED

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

3010.1 Penalties for Not Cooperating in Development of CMR

~~The fiscal sanction for not cooperating, without good cause, in the development of the Contract will be an initial \$50.00 reduction in TANF benefits. This reduction will increase each month by \$50.00, either until there is compliance or the case is closed.~~

~~If caretakers are actively negotiating the terms of their Contracts, DSS will not impose the \$50.00 penalty. DSS will provide caretakers up to 10 days to reach a resolution. After this time, DSS will consider caretakers as not cooperating if they refuse to participate in the further development of their Contracts.~~

~~DSS will also give those caretakers, who choose to do so, the opportunity to discuss their Contracts with persons outside of the DSS office. DSS will allow caretakers up to 10 days to take Contracts outside of the office, during which DSS will not impose the \$50.00 penalty. DSS will consider caretakers who have not returned Contracts after that time as not cooperating and subject to the \$50.00 penalty.~~

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

3017.1 Transitional Work Program (TWP) Requirements Participating in the Transitional Work Program

The Transitional Work Program (TWP) is designed to help TANF parents and caretakers who as a result of physical and/or mental disability have been determined to be unable to work in an unsubsidized employment setting. The program will assist clients through assessment, case planning, and case management. Services will be provided in a manner that accommodates the individual needs of clients including in-home services when necessary. Clients will not be expected to participate beyond the maximum limits established by health care professionals. All parents and caretakers receiving a TANF grant in the Non-Time Limited program are eligible for referral to the TWP.

The goal of the TWP program is to support clients in achieving the highest level of self-sufficiency possible given their individual circumstances. This goal will be reached by:

- Promoting wellness activities and health maintenance planning for clients with disabilities that are expected to be of limited duration.
- Identifying and accessing accommodations, educational programs, and appropriate work settings for clients with disabilities amenable to those interventions.
- Identifying and assisting clients who are likely eligible for federal disability programs gain entry into those programs.

The TWP Employability Plan is a tool used to assist clients in reaching TWP program and client identified goals. The Employability Plan will detail the activities clients will need to engage in to reach the goals. The TWP program will collaborate with each client to develop their TWP Employability Plan. Goals and activities will include but are not limited to; completion of assessments and healthcare appointments, enrollment/completion of training activities, completion of activities aimed at improving or maintaining wellbeing and the completion of activities necessary for application for federally funded disability programs.

The CMR and the TWP Employability Plan will establish time limits for the completion of TWP activities or goals.

All TANF E&T exempt clients are eligible for referral to the Transitional Work Program (TWP). Participating in TWP is a required CMR element for all clients who are referred to the program.

- 1. TWP provides assessment and case management services to TANF E&T exempt clients who have been determined unable to work in an unsubsidized employment setting by a health professional.**
- 2. TWP offers services to:**
 - Develop an Employability Plan with identified activities and goals that promote self-sufficiency. The Employability Plan is developed in collaboration with the client and is tailored to the client's individual circumstances.
 - Promote wellness activities and health maintenance planning for clients with short-term disabilities.
 - Identify and access accommodations, educational programs, and appropriate work settings for clients with disabilities amenable to those interventions.
 - Identify and assess clients who are potentially eligible for federal disability programs and assist clients in applying for those programs.
 - Provide in-home services, when necessary.
- 3. All clients who are referred to TWP are required to participate in the program. Clients are not expected to participate beyond the maximum limits established by a health professional.**
- 4. The CMR and the TWP Employability Plan establish time limits for the completion of TWP activities and goals.**
- 5. Failure to comply (without good cause) with the TWP element in the CMR will result in a sanction to the TANF case.**

- A. The sanction will be an initial \$50.00 reduction in the household's TANF benefit amount.
- B. This reduction increases each month by \$50.00 until there is compliance or the TANF case is closed.
- C. The client will receive written notification of compliance requirements.
- D. The sanction will end when DSS receives proof that the TANF client is actively participating with TWP.

13 DE Reg. 847 (12/01/09)

AMENDED

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

~~3017.1.1 – Sanctions for Not Meeting the TWP Requirements~~

~~The sanction for failure, without good cause, to meet the time limits established in the CMR and the TWP Employability Plan will be an initial \$50.00 reduction in TANF benefits. This reduction will increase each month by \$50.00, either until all activities which exceed the time limits established in the CMR and TWP employability plan are completed or the case is closed.~~

~~13 DE Reg. 847 (12/01/09)~~

AMENDED

POLICY – AMENDMENT

Delaware Department of Health and Social Services
Division of Social Services
Policy and Program Development Unit

~~3017.1.2 – Curing TWP Sanctions~~

~~The sanction will end when all activities which exceed the time limits established in the CMR and TWP Employability Plan are completed.~~

~~13 DE Reg. 847 (12/01/09)~~

22 DE Reg. 744 (03/01/19) (Prop.)