

NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI

**Mississippi Department of Human Services
Division of Economic Assistance**

**MS Department of Human Services
c/o Cheryl Sparkman
750 North State Street
Jackson, MS 39202**

**Specific Legal Authority Authorizing the
promulgation of Rule:** {Insert citation to state or federal
statute, or rule Public Law 104-193 Personal
Responsibility and Work Opportunity Reconciliation Act
and the Deficit Reduction Action of 2005

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**Reference to Rules repealed, amended or suspended
by the Proposed Rule :** {Insert citation to specific rule(s)
repealed, amended or suspended

Date Rule Proposed: {June 16, 2008}

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:

Updated Temporary Assistance for Needy Families (TANF) policy based on Deficit Reduction Act

**The Agency Rule Making Record for this rule including any written comments received during the comment period
and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.**

An oral proceeding was held on this rule:

Date: {Insert Date}
Time: {Insert Time}
Place: {Insert Place}

An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:

Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question. The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: August 1, 2008



Signature and Title of Person Submitting Rule for Filing
SOS FORM APA 002 Effective Date 07/29/2005

1. Page 8, number 2 and 11, number 3 - TANF “benefits” was changed to TANF “assistance.” The 60-month time limit on receipt of federally funded TANF assistance is applicable to a family receiving Federal TANF “assistance” that includes an adult head-of-household or a spouse of the head-of-household, as well as a family that includes a pregnant minor head-of-household, minor parent head-of-household, or spouse of such a head-of-household.
2. Page 12, the following changes were made to number 5 -
 - “parent” was added to the first bullet - Families without a minor child residing with the “parent” or adult caretaker relative.
 - “who are not employed” was added to the fifth bullet - Teenage parents without a high-school education or equivalent, who are not employed and do not attend school or an equivalent training program;
 - “or vocational rehabilitation requirements, whichever is required.” was added to the eighth bullet - Families who fail to complete up-front job search or vocational rehabilitation requirements, whichever is required;
 - “to cooperate with the TANF Work Program” was added to the ninth bullet - Families who fail to comply with the Employability Development Plan signed by the individual, “to cooperate with the TANF Work Program,” or to participate satisfactorily in the assigned work activity;
 - “Unqualified” aliens was changed to “Ineligible” aliens for the eleventh bullet.
3. Page 12 - “starting at forty (40) months and continued eligibility” was added to #7: Hardships will be assessed “starting at forty (40) months and continued eligibility” determined at the end of the individual’s five (5) year time limit. Also, “so long as the State does not exceed the 20% exemption criteria” was added to this statement: The following individuals, as approved, may continue to receive benefits beyond the five-year time limit “so long as the State does not exceed the 20% exemption criteria”
4. Page 13 - removed “Food Stamps or SSI “ from number 11: Mississippi will also deny assistance for ten years to an individual convicted in Federal or State court of having made a fraudulent statement or representation, with respect to the individual’s place of residence in order to receive TANF assistance simultaneously from two or more states.

Page 13 - “vocational rehabilitation” was added to number 12: Mississippi will deny benefits to all adult TANF applicants who do not meet an exemption from work requirements, who fail to comply with job search or “vocational rehabilitation” activities during the 30-day TANF application processing period.

Page 13 - transportation was changed to “work stipend” in number 14: Mississippi will operate a statewide work program mandated by State law and TANF to provide work activities and supportive services (child care, work stipend,

participation stipends, work related expense payments and job retention bonus payments) focused on enabling families to achieve and maintain self-sufficiency.

5. Page 14 - added “not eligible for vocational rehabilitation services” to number 16, first bullet: Incapacitated and not eligible for vocational rehabilitation services

Page 14, number 16 - added the following statement, “If certain criteria are met, the individual’s treatment plan may be defined and countable under the TWP job readiness activity.”

6. Page 15, deleted the definition of Contractual Employment from the Unsubsidized Employment section to comply with TANF Work Verification Plan.

Written comments may be submitted to

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III. FAMILY ASSISTANCE PLAN

A. General Provisions

1. Mississippi will conduct a program designed to provide allowable work activities that will serve all political subdivisions (counties) in the State with emphasis on providing assistance to needy families with children and providing parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient to the degree that State and local resources allow.
2. Mississippi will require a parent or caretaker, without a work program exemption, receiving assistance under the Program to engage in an allowable work activity once the State determines the parent or caretaker is work eligible, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

Mississippi will not issue benefits to a family that includes an adult or spouse head-of-household, a pregnant minor head-of-household, a minor parent head-of-household or spouse of a minor parent head-of-household who has received TANF funding for 60 months (whether consecutive or not), except as allowed by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in regard to the 20% exemption.

3. Mississippi will ensure that parents and caretakers receiving assistance under the Program will engage in work activities in accordance with Section 407 of Title 1 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Work requirements and activities are defined in the revised TANF State Plan and current supporting policy and procedures manuals and bulletins. These documents are open for public review and comment according to the Administrative Procedures Act. The work requirements and activities are tracked through the system (MAVERICS and JAWS) interface throughout the period of assistance to ensure compliance is met, appropriate penalties imposed, and time limits not exceeded.

Mississippi will comply with the mandatory work requirements and strive to meet the participation rates required. In Fiscal Year 2000, 40% of all families receiving assistance must be in a countable work activity. The percentage increased to 45% in Fiscal Year 2001 and 50% in Fiscal Year 2002 and the first quarter of Fiscal Year 2003. Currently, the rate remains at 50% under TANF program extensions. Participation rate requirements may be adjusted based on reduction in the caseload. Beginning October 1, 2001, State Maintenance of Effort funds were used for cash assistance payments for two-parent families. Therefore, federal mandatory work requirements and participation rates do not apply to the State's two-parent families.

4. Mississippi will take reasonable and necessary steps to restrict the use and disclosure of information about individuals and families receiving assistance under the program

and/or benefit level decision to resolve any recipient benefit decreases, terminations, or related issues. Basic assistance program eligibility criteria and benefit levels are the same statewide.

4. Mississippi will not require a parent or caretaker relative, who after receiving TANF benefits for two months and is not exempt from work requirements, to participate in community services employment. However, allowable work activities include community service programs and placement in this work activity will be made based on the Employability Development Plan and available resources in that area leading to employment.

C. Other Provisions

1. Mississippi is making available to the public the new TANF State Plan and other State program plans and policy bulletins addressing the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in accordance with Federal and the Mississippi Administrative Procedure Law, Title 25, Chapter 43 of the Mississippi Code of 1972, Annotated. The amended State Plan with implementing policy bulletins, draft policy bulletins and copies of policy manuals are on file with the Secretary of State's Office for public inspection and comment. Provisions of the Mississippi Welfare Reform Program Restructuring Act (with waivers) were filed timely prior to implementation in 1995. The original TANF State Plan effective October 1, 1996 contained the mandates and the Amended State Plan includes the mandates and State options. All documents have been filed for public review and comment. Thus, we have met the public review and comment requirements.

Note: Although the eligibility manuals are not attached with the State Plan for TANF, the Mississippi Department of Human Services continues to administer the statewide family financial assistance and work programs through specific instructions for eligibility determination, services and sanctions with policy and procedures manuals and supplements (bulletins) filed for public review.

2. The TANF Program is administered by the Mississippi Department of Human Services, the single State agency designated by State law for eligibility determination and spending authority. The organization is State administered with at least one full service office for intake and client service delivery located in each county with structured supervisory and regional administrative levels.
3. Mississippi will continue to provide financial assistance to needy families determined eligible under the currently established policies in the TANF State Plan and the Standard of Need and maximum payment level for that size family as prescribed in the Program Policy Manual (Volume III) and supporting policy bulletins, and the Systems Procedural Manual (Volume X). "Needy families" are identified according to ongoing income, resources, and deprivation criteria contained in these manuals. The money payment level set by State law at 43-17-5(1), is \$110 for the first person, \$36 for the second person and \$24 for additional persons, except as restricted by the Family Benefit Cap.

4. In Mississippi, TANF monthly benefits and supportive service payments provided to individuals participating in allowable work activities or transitional programs are provided to the family by means of a Mississippi Debit MasterCard® card account. TANF supportive service payments issued to providers are paid by check or by vouchers redeemable for services.
5. According to the TANF prohibitions/requirements in Title I, Section 408, Mississippi will, except for individuals and families specifically exempt or excluded for good cause, deny TANF assistance to:
 - Families without a minor child residing with the parent or adult caretaker relative;
 - Families including an adult or spouse head-of-household, a pregnant minor head-of-household, a minor parent head-of-household or spouse of a minor parent head-of-household who has received assistance under TANF for 60 months (whether or not consecutive);
 - Families not assigning certain support rights to the State;
 - Families who fail to cooperate in establishing paternity or obtaining child support;
 - Teenage parents without a high-school education or equivalent, who are not employed and do not attend school or an equivalent training program;
 - Minor parents not living in an adult-supervised setting;
 - Minor children who are absent from the home for a significant period (30 days or more). NOTE: A relative who fails to report the absence of a child within five days will be disqualified;
 - Families who fail to complete up-front job search or vocational rehabilitation requirements, whichever is required;
 - Families who fail to comply with the Employability Development Plan signed by the individual, to cooperate with the TANF Work Program, or to participate satisfactorily in the assigned work activity;
 - Fleeing felons and parole violators;
 - Convicted drug felons; and
 - Ineligible aliens.
6. Mississippi will coordinate services, where available, with public and private entities (i.e., Mississippi Departments of Rehabilitation Services, Employment Security and Mental Health, and the State Board for Community and Junior Colleges, etc.) to allow TANF

families with barriers (i.e., little or no work experience, domestic violence, mental and/or physical disabilities, and substance abuse) an opportunity to gain access to services and resources needed to obtain the highest level of self-sufficiency within the constraints of the TANF time-limits. Special screening and referral procedures will be used to identify and refer the individual for the appropriate service. Mississippi will deny benefits to individuals who fail to comply with the activities provided by these entities.

7. Hardships will be assessed starting at forty (40) months and continued eligibility determined at the end of the individual's five (5) year time limit. The following individuals, as approved, may continue to receive benefits beyond the five-year time limit so long as the State does not exceed the 20% exemption criteria:
 - Adults who are determined to be temporarily or permanently incapacitated and the household income does not exceed the TANF Basic 100% Requirement.
 - Parents who are required to provide full-time care for an ill or incapacitated child or adult in the home and the household income does not exceed the TANF Basic 100% Requirement.
8. Mississippi will not deny assistance to a minor parent with a child under the age of 12 weeks for failure to attend school, but will permit the minor parent to voluntarily participate in educational activities as medically appropriate.
9. Mississippi requires regular school attendance and regular immunizations for all dependent children served under TANF. This is in accordance with State Law at 43-17-5. A 25% monthly benefit reduction is imposed for failure to comply without good cause.
10. Mississippi will impose a family benefit cap to prevent increases in assistance for new children coming into the family after the initial ten months of benefits, with certain exceptions (State Law 43-17-5).
11. Mississippi will also deny assistance for ten years to an individual convicted in Federal or State court of having made a fraudulent statement or representation, with respect to the individual's place of residence in order to receive TANF assistance simultaneously from two or more states.
12. Mississippi will deny benefits to all adult TANF applicants who do not meet an exemption from work requirements, who fail to comply with job search or vocational rehabilitation activities during the 30-day TANF application processing period.
13. Recipients of SSI are excluded from the TANF assistance unit.
14. Mississippi will operate a statewide work program mandated by State law and TANF to provide work activities and supportive services (child care, work stipend, participation stipends, work related expense payments and job retention bonus payments) focused on enabling families to achieve and maintain self-sufficiency.

State law and Public Law 104-193 provide for a full benefit sanction of TANF and comparable Food Stamps sanctions until compliance for families in which the nonexempt individual refuses, without good cause, to participate. The work program emphasizes unsubsidized jobs with supportive services following employment and/or transitional services following termination of the TANF grant because of increased earnings or loss of earned income disregards. The family also receives supportive services during the training and transitional services when benefits are terminated after employment.

15. Case management is the process for coordinating work activities and supportive services for TANF Work Program participants. This involves monitoring the participant's attendance and progress and amending the Employability Development Plan, component assignment, and supportive services, as necessary, to keep the participant on a path to achieving self-sufficiency. Case management is performed by MDHS staff.
16. TANF mandates participation in approved work activities for all adult recipients who do not meet specific exemption criteria. All adults who are not specifically exempt will be referred for work activities. An adult included in the TANF grant assistance unit may be exempt from the mandatory work requirements for one of the following reasons:
 - Incapacitated and not eligible for vocational rehabilitation services
 - Temporary illness or injury
 - Pregnancy in third trimester
 - Caretaker of a child under 12 months old (up to 12 months)
 - Caretaker of an ill or incapacitated person
 - Age (over 60 and under 18)
 - Domestic violence victim (up to 12 months)
 - Caretaker in two-parent family of a child who is mentally retarded or physically handicapped

The State may exempt an individual from work requirements while receiving treatment for substance abuse, as long as the person is in compliance with the treatment plan. If certain criteria are met, the individual's treatment plan may be defined and countable under the TWP job readiness activity.

17. Upon referral to the work program, the client will be assessed within 30 days to identify and prioritize the individual's strengths and needs, and translate these into realistic goals which will lead to employment and self-sufficiency. An Employability Development Plan (EDP) is the client's plan of action for achieving these goals. The EDP describes the responsibilities of the State, case management, and the client. The plan also describes the supportive services available to the client, lists the assigned work activity, and reinforces the consequences for failure to participate.
18. The recipient must participate the required number of hours each week in one or more of the following allowable TANF work activity(s).

The adult(s) in the TANF case will participate in one or more of the following work activities:

- **Job Search and Job Readiness**

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 for those who are otherwise employable. Such treatment or therapy must be determined to be necessary and certified by a qualified medical or mental health professional. Job search and job readiness assistance activities are supervised daily by the case manager and/or job readiness trainer.

Job readiness and job search are considered as one activity by Federal law and is limited to a maximum of four weeks consecutively and six weeks total, during each federal fiscal year, for the participation rate calculation. Based on certain criteria established by federal regulations, job readiness and job search activities may be countable for 12 weeks total (no more than four consecutive weeks) during each federal fiscal year.

- **Unsubsidized Employment**

Unsubsidized employment is full- or part-time employment in the public or private sector for which the state does not furnish aid or support to the employer for wages paid to the TANF recipient.

Types may include:

- a. **Regular employment** is work in the public or private sector for which a person receives unsubsidized wages on an hourly, weekly, monthly basis, etc.
- b. **Self-employment** is work for which a person earns income directly from one's own business, trade or profession rather than a specified salary or wages from an employer. Income may be verified by a W2 form, check stubs or written statements from customers.

- **Subsidized Employment**

Subsidized employment is defined as subsidized employment in the private or public 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 recipient. Subsidized employment includes the following employment models:

- a. Work supplementation where TANF funds that would otherwise be paid as assistance are paid to the employer;

- b. A third-party contractor, like a temporary staffing agency, serves as employer of record and is paid a fee to cover salary, expenses and success in placing employees;
- c. Work study programs which involve paid employment provided by an educational institution if the student's earnings are subsidized by the educational institution; and
- d. Supported work for individuals with disabilities in an integrated setting, e.g., Vocational Rehabilitation AbilityWorks. Workers with disabilities may receive individualized services such as, but not limited to, transportation, family support or additional supervision.

Employers participating in a subsidy program must submit monthly documentation to verify participant attendance data. Agency staff will monitor and review employer reports to determine whether sufficient documentation exists to substantiate reported time and to warrant a subsidy payment. This auditing process will ensure the agency only pays for and reports actual and allowable hours of participation.

Work Study

Work study is also defined as subsidized employment. Work study is an approved employment plan at an accredited college, frequently granted in addition to other student financial aid. Various public funding sources may be utilized to pay earnings for hours worked. Earnings may be paid directly to the student or applied toward the student's tuition fees.

- **Work Experience**

Alternative Work Experience Program (AWEP) placements are only made with private nonprofit entities for no cash payment in order to improve work skills by offering training and experience for a better understanding of the work world so the individual may move more quickly into full-time employment. Individuals participating in these programs are subject to the Fair Labor Standards Act (FLSA) requirements and cannot be required to participate for more hours than the total welfare benefits divided by the federal minimum wage (FMW). The maximum number of hours in any month that a participant may be required to participate in AWEP is based upon the family's combined value of TANF assistance (monthly grant, transportation stipend and participation stipend) and food stamp benefits divided by the federal minimum wage. TANF recipients assigned to this activity cannot displace regular workers.

Based on certain criteria, private, for-profit entities may be used for AWEP placements. For example, a certain type of placement may be necessary for the participant to gain needed skills to successfully accomplish his/her career goals. Such entities must be approved in writing by the Work Programs Unit.