

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 207.000: TRANSITIONAL AID TO FAMILIES WITH DEPENDENT CHILDREN:
EMPLOYMENT SERVICES PROGRAM

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106 CMR 207.000 contains the regulations for the Employment Services Program (ESP), which is administered by the Department under the authority of M.G.L. c. 118.

Except as specified in 106 CMR 207.000(C), a grantee, including a sanctioned or ineligible grantee who is a parent, except an SSI parent, with a child must participate in ESP in accordance with the criteria below.

(A) If the youngest child in the assistance unit (or who would be in the assistance unit but is ineligible as specified in 106 CMR 204.305(E)(1), (2) or (3)) is two years of age or older or the youngest dependent child is ineligible in accordance with 106 CMR 204.305(E)(7) and three months of age or older, the grantee must participate in ESP in accordance with 106 CMR 203.400(A): *Requirements* unless he or she is employed for the required hours per week as specified in 106 CMR 203.400(A)(5).

If there are slots available in any other ESP component, the grantee may be required to participate in such component. Additionally, if the grantee is meeting his or her Work Program requirement by working for compensation, participating in the Community Service, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, the grantee, subject to appropriations, may volunteer to participate in the Full Employment Program.

(B) A grantee, including sanctioned and ineligible grantees, must participate in the Educational Component (high school or GED) of ESP if he or she is a teen parent and has not graduated from high school or obtained the equivalency of a high school diploma. *See* 106 CMR 207.140.

(C) If a dependent child is 16 through 18 years of age and is not attending school, the dependent child must participate in ESP.

(D) All other applicants and recipients may volunteer to participate for ESP, subject to appropriations.

207.100: Introduction to Employment Services Program (ESP)

Orientation. Applicants and recipients shall be provided with a description of the TAFDC Program which focuses on obtaining a job, employment services to assist in obtaining a job, activities that will lead to a job, Employment Services Program (ESP) component requirements and opportunities, and information on child-care services.

All applicants and recipients shall be informed of their ESP requirements as specified in 106 CMR 207.000, the rights and responsibilities associated with their ESP requirements, the good cause criteria, and how to enter ESP.

207.110: Completion of an Employment Development Plan (EDP)

(A) Developing an Employment Development Plan (EDP).

- (1) An Employment Development Plan (EDP) will be completed annually for the following:
 - (a) a grantee who the Department has determined must participate in an Employment Services Program (ESP) component because of the availability of unfilled component placement slots;
 - (b) a grantee who has volunteered to participate in an ESP component;
 - (c) all teen parents who have not graduated from high school;
 - (d) a grantee needing support services to work or to participate in an ESP education, training or job search component;
 - (e) a dependent child 16 to 18 years of age who is not in school and must participate in the ESP Educational Component;
 - (f) a grantee or an ineligible grantee specified in 106 CMR 203.400(A)(2) referred to Community Service who:
 1. volunteers to participate in Community Service;
 2. has been mandated to participate in the Community Service because of failure to comply with another program requirement; and
 3. needs support services to participate in Community Service;
 - (g) a grantee who is participating in the Full Employment Program, or
 - (h) any other grantee determined by the Department.
- (2) An initial assessment interview shall be conducted by a Department worker at application or the eligibility review and shall include, but is not limited to, the following:
 - (a) the collection of information about the individual's educational and employment background;
 - (b) a discussion of the available services to assist the individual in obtaining and maintaining a job;
 - (c) a review of the individual's ESP requirements as specified in 106 CMR 207.000; and
 - (d) a discussion of the available ESP components that will best serve the goal of obtaining a job.
- (3) The following criteria are used in developing an EDP with the participant:
 - (a) the results of the initial assessment of the participant's skills, work experience and education;
 - (b) available program resources to support the participant in the activity and the employment goal;
 - (c) the participant's need for and the availability of support services as specified in 106 CMR 207.210;
 - (d) the participant's vocational and employment interests;
 - (e) employment opportunities in the northeast regional labor market as found in the *Dictionary of Occupational Titles, Occupational Outlook Handbook and Labor Market Surveys*; and
 - (f) the component requirements as specified in 106 CMR 207.120 through 106 CMR 207.180.
- (4) The EDP shall contain:
 - (a) the individual's employment goal and the activities needed to meet the employment goal;
 - (b) ESP component activities in which the individual will participate;
 - (c) the identification of necessary support services, if appropriate, and the name of the provider of the support services; and
 - (d) the anticipated start and end dates for the above activities.

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- (5) An EDP shall be approved when all of the following criteria have been met:
- (a) the EDP is consistent with the regulations found in 106 CMR 207.000 through 207.180 and 106 CMR 203.400: *Work Program*;
 - (b) the activities specified in the EDP are consistent with the goal of obtaining a job;
 - (c) the EDP is consistent with the results of the initial assessment or reassessment; and
 - (d) the component activities and support services, subject to appropriations, are available.

The Department shall document the reason(s) for disapproving an EDP.

- (6) Except for individuals who have failed to meet their Work Program requirements, the written EDP will be mutually agreed to and signed by the participant and a Department worker. The participant shall be given a copy of the EDP.

An EDP shall not be considered a contract. An EDP is valid for the period stated in the plan, but not for more than 12 months unless subject to 106 CMR 207.110(C).

- (7) An individual unable to agree on the EDP may have the contents of the EDP reviewed by a supervisory Department worker to help resolve the matter.

(B) Component Placement and Availability.

(1) The participant shall self-arrange placement in a Community Service approved by the Department or the Department shall assign the participant to a Community Service placement.

(2) The Department shall arrange a referral for the participant's placement in a component activity subject to the availability of the component activity, available program resources and acceptance by the program provider. Such referrals shall include, but not be limited to, ESP-funded component activities.

(3) If there is no opening in a component chosen by the participant the EDP will not be approved and the participant will be required to select another component activity.

(C) Reassessment. Participants shall be reassessed when:

- (1) a participant requests a reassessment;
- (2) a participant has completed the activities in his or her EDP;
- (3) the participant in the Full Employment Program has not obtained unsubsidized employment as specified in 106 CMR 207.180; or
- (4) the Department determines that a reassessment is needed.

The reassessment shall include, but not be limited to, examining the reasons that the participant is not employed and/or able to complete his or her component activity and determining the additional activities, if any, needed to complete the employment goal of the approved EDP. Such reassessment shall be conducted by a Department worker.

207.111: Economic Independence Accounts

Economic Independence Accounts shall be used to help recipients save for the first and last month of rent, a security deposit, costs related to education or training or any other expense that the Commissioner determines will aid a recipient in transitioning off of benefits, which may include health care costs or debt reduction upon approval by the Department. The Department will issue procedures prior to implementation of these Accounts

207.115: Program Participation

(A) Except as described in 106 CMR 207.170, 207.180 and 207.185 participation in the Employment Services Program (ESP) shall be subject to the requirements specified in 106 CMR 207.115 and available program resources.

(B) A participant must:

- (1) attend a program orientation;
- (2) attend an initial assessment interview;
- (3) assist in the development of an employment development plan;
- (4) attend reassessment interviews, as required;
- (5) schedule the minimum hours of participation required by 106 CMR 207.000 for each ESP component in which the participant has been enrolled in an activity except as specified in 106 CMR 207.115(B);

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(6) attend the scheduled hours unless good cause applies (*See* 106 CMR 701.380): *Good Cause Criteria* of any ESP component activity in which he or she has been enrolled. (For a description of the ESP components *See* 106 CMR 207.120 through 207.190.)

(7) unless otherwise specified, provide verification of participation at time periods determined by the Department on a form prescribed by the Department. These forms must be signed under the penalties of perjury by providers of the ESP component activity(ies).

207.120: Employment Services Program (ESP) Participation Components

106 CMR 207.130 through 207.190 describe the component activities available through the Employment Services Program (ESP). Component participation is subject to available program resources and, except for the Post-employment Services described in 106 CMR 207.185 the individual's approved Employment Development Plan (EDP). Each participant who completes an EDP must fulfill the obligations of the EDP as specified in 106 CMR 207.110.

ESP-funded training, education and Post-employment Services may only be provided by vendors under contract with the Department and except for the Post-employment Services described in 106 CMR 207.185, must be in accordance with the participant's approved EDP.

ESP participation may include self-initiated educational, vocational, or training programs, not funded by ESP to the extent that the programs are consistent with the regulations found in 106 CMR 207.000 through 207.190 and the participant's approved EDP. The participant must meet the Department's standards for participation, including, but not limited to, minimum scheduled hours and attendance requirements specified for the relevant component(s), and the participant must complete the self-initiated program in accordance with Department-established time frames, if any, specified for a particular component. In addition, the participant must be making satisfactory progress in the component, as defined by the provider. An ESP participant in a self-initiated program who meets the requirements shall be eligible for Support Services in accordance with 106 CMR 207.210.

207.130: Job Search/Job Readiness Component

The Job Search/Job Readiness component is a program that supports individuals with their efforts to obtain and maintain employment; however, the individual has the primary responsibility for finding a job.

Participation in the Job Search/Job Readiness component is subject to available funding and the criteria specified in 106 CMR 207.130(A) through (C).

(A) Eligible Participants.

(1) The following individuals are eligible to participate in Job Search/Job Readiness:

- (a) an applicant;
- (b) a current recipient; and
- (c) an applicant for or recipient of an extension of time-limited benefits.

(B) Job Search/Job Readiness Activities. Activities may include, but are not limited to:

- (1) Orientation;
- (2) Assessment;
- (3) Case Management;
- (4) Job-readiness activities;
- (5) Job search activities; and
- (6) Follow-up services including activities to facilitate the transition into employment.

(C) Job Search/Job Readiness Participation Criteria. The following are participation criteria in the Job Search/Job Readiness component. The participant must:

- (1) complete an EDP in accordance with 106 CMR 207.110;
- (2) attend the program scheduled hours per week, unless good cause applies (*See* 106 CMR 701.380: *Good Cause Criteria*);
- (3) be making satisfactory progress as defined by the Job Search/Job Readiness Activities Services provider; and
- (4) provide verification of participation (including employers' names, telephone numbers and contact persons, activity done, and date of activity), at time periods determined by the Department, in a manner prescribed by the Department.

207.140: Educational Component

The Educational component provides educational services to a participant to prepare him or her to obtain and maintain employment. Participation is subject to available program resources, the individual's approved Employment Development Plan (EDP), and the criteria specified in 106 CMR 207.140(A) through (D).

(A) Teen Parents. A parent younger than 20 years old who has not completed high school or the equivalency shall be required to participate in elementary, middle, or high school on a full-time basis or in a full-time program for a High School Equivalency Test (HiSET) certificate and an approved training or employment-related activity for a total of 20 hours per week. The Department will provide the necessary child-care and transportation services specified in 106 CMR 207.210.

(B) Dependent Child 16 through 18 Years of Age. A dependent child 16 through 18 years of age who is not attending an elementary, middle/intermediate, or high school on a full-time basis or in a program for a HiSET certificate shall be required to participate in basic or secondary education services.

(C) Basic and Secondary Education Services.

(1) Activities may include, but are not limited to the following education services:

- (a) high school curriculum;
- (b) basic literacy;
- (c) adult basic education;
- (d) HiSET certificate program;
- (e) English as a Second Language (ESL);
- (f) Young Parents Program; and
- (g) Department-approved alternative education programs.

(2) Participation. The following are the criteria for participation in basic and secondary educational activities:

- (a) the participant shall be an active recipient; and
- (b) the participant's program must schedule at least 12 hours of activity per week, except as specified in 106 CMR 207.115(B) or 207.140 for teen parents; and
- (c) the participant must attend the scheduled hours per week unless good cause applies (*See 106 CMR 701.380: Good Cause Criteria*); and
- (d) the participant must be making satisfactory progress as defined by the educational provider; and
- (e) the participant must not have achieved a high school diploma or its equivalent; or
- (f) the participant must have limited proficiency in English; and
- (g) the participant must provide verification of participation at time periods determined by the Department in a manner prescribed by the Department.
- (h) for purposes of the Young Parents Program, the participant must be 14 through 21 years of age. Once a YPP participant reaches 22 years of age, he or she may no longer participate in YPP. Enrollment is limited to 14 through 20 years of age.

(D) Post-secondary Education. Participation in an educational curriculum shall meet the criteria for participation in the Educational Component when:

- (1) the post-secondary education:
 - (a) equals or exceeds a half-time program, and
 - (b) is included in the approved EDP; and
- (2) the activities may reasonably be expected to lead to employment in the northeast regional labor market. The northeast regional labor market is defined in the *Dictionary of Occupational Titles, Occupational Outlook Handbook* and *Labor Market Surveys*; and
- (3) the activities are creditable toward a certificate, an Associate's degree or other degree; and
- (4) the participant is making satisfactory progress as defined by the educational provider; and
- (5) the participant is attending the scheduled hours per week unless good cause applies (*See 106 CMR 701.380: Good Cause Criteria*); and
- (6) the participant provides verification of participation at time periods determined by the Department and in a manner prescribed by the Department; and
- (7) funding is available by loan, grant or other sources for the participant to participate.

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No funds from the ESP program shall be provided for the cost of tuition, or for other school-related expenses, excluding child-care and transportation costs as specified in 106 CMR 207.210.

207.150: Skills Training Component

The Skills Training component provides individualized vocational training needed by a participant to prepare him or her to obtain and maintain employment. Participation is subject to available program resources, the individual's approved employment development plan and the criteria specified in 106 CMR 207.150(A) and (B).

(A) Activities may include, but are not limited to:

- (1) classroom sessions;
- (2) internships;
- (3) workshops; or
- (4) vocational counseling.

(B) Participation Criteria. The following are the criteria for participation in the Skills Training Component:

- (1) the participant shall be an active recipient; and
- (2) except as specified in 106 CMR 207.115, the participant's program must schedule at least 12 hours of activity per week; and
- (3) the participant must attend the scheduled hours per week, unless good cause applies (*see* 106 CMR 701.380).

207.160: Supported Work Component

The Supported Work component provides the individualized education, training, employment and support services that a participant needs to obtain and maintain employment. This component consists of Pre-worksite training and Worksite placement. Participation is subject to available program resources, the participant's approved Employment Development Plan and the criteria specified in 106 CMR 207.160(A) and (B).

(A) Pre-worksite Training. A participant in Pre-worksite training may engage in the following activities to prepare him or her to obtain and maintain employment.

(1) Activities may include, but are not limited to:

- (a) orientation;
- (b) assessment;
- (c) training in job search techniques;
- (d) job retention strategies;
- (e) resume preparation;
- (f) job development and placement services; and
- (g) other job related training such as vocational skills training, English for Employment and basic literacy instruction.

(2) Participation Criteria. The following are the criteria for participation in Pre-worksite training:

- (a) a participant shall be an active recipient as determined by the Department;
- (b) a participant may engage in a Pre-worksite training on a full-time or part-time basis but the participant's program must schedule at least 20 hours of activity per week; and
- (c) the participant must attend the scheduled hours per week unless good cause applies (*see* 106 CMR 701.380).

(B) Worksite Placement.

(1) A participant who has completed at least 40 hours of Pre-worksite training shall participate in Worksite employment.

An eligible participant shall engage in a highly supervised, subsidized or unsubsidized job placement with a public or private sector worksite.

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- (2) The following are the criteria for participation in Worksite employment:
- (a) participation in Worksite employment shall be full-time based on Department-established standards of at least 30 hours per week; or
 - (b) if 30 hours of Worksite employment is not available, full-time participation may include a combination of training or education programs offered by the Supported Work contractor and a minimum of 20 hours of employment at a Worksite.
- (3) TAFDC eligibility for Worksite participants shall be determined considering the following:
- (a) an individual who is participating in Worksite employment shall be paid by either the Supported Work contractor if it is a subsidized placement or by the Worksite employer if it is an unsubsidized placement;
 - (b) wages received through Worksite employment are considered earned income; and
 - (c) the grant of a Worksite participant shall be calculated in accordance with 106 CMR 204.500.

However, if the financial eligibility of a participant in a Worksite ceases due to an increase in Worksite earnings, the TAFDC case shall remain open at a "zero" grant for the duration of the Worksite employment and the participant and all members of the assistance unit shall be considered to be receiving assistance.

207.170: Community Service Component

An individual who is eligible for TAFDC may participate in the Community Service component as specified below. Participation is subject to available program resources and the individual's approved EDP, if applicable.

(A) Activities. Activities include:

- (1) The required hours per week as specified in 106 CMR 203.400(A)(5) in an uncompensated community service placement(s), except that such placement cannot be in the office of an individual candidate's campaign for public office.

Participation in community service is limited by the federal Fair Labor Standards Act (FLSA). Individuals who choose to participate in community service but cannot meet the required hours due to the FLSA shall participate in an additional allowable activity to meet hourly work program requirements. Individuals who are mandated to participate in the Community Service component may either participate in community service and an additional allowable activity or substitute an allowable activity for community service to meet the hourly requirements described in 106 CMR 203.400(A)(5).

Participation hours should correspond with the dependent child's school hours, when all the dependent children are mandatory full-time school age.

- (2) A combination of employment, education or training and community service when the applicant or recipient is employed fewer than the required hours per week as specified in 106 CMR 203.400(A)(5). The number of hours of community service and/or education or training required is the difference between the required hours per week as specified in 106 CMR 203.400(A)(5) of community service and the number of hours employed.

A participant's Community Service placement may be changed at the Department's discretion. The Director or his or her designee must approve any change in Community Service placement.

(B) Participation Criteria.

- (1) The following individuals may be participants in the Community Service component:
- (a) an individual who volunteers for the Community Service;
 - (b) an individual, unable to obtain a job fulfills the work program requirement by participating in the Community Service;
 - (c) an individual is mandated to participate in the Community Service due to failure to meet another work program requirement.
- (2) The Community Service component participant shall:
- (a) self-arrange a Community Service placement(s) approved by the Department; or
 - (b) select a Community Service placement(s) identified by the Department; or
 - (c) accept a Department-assigned Community Service placement(s) within ten days when the participant has not selected one of the participation options in 106 CMR 207.170(B)(1) or (B)(2). The Department has the primary responsibility to locate a community service site for the participant.

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- (C) Participation Requirements. The Community Service participant must:
- (1) participate for the actual scheduled hours per week as specified in 106 CMR 207.170(A); and
 - (2) be performing satisfactorily in this component, as defined by the provider; and
 - (3) provide verification of placement and/or participation at time periods determined by the Department on a form prescribed by the Department.

207.180: Full Employment Program

The Full Employment Program (FEP) component provides the individual with work experience needed to obtain an unsubsidized job. Individuals will receive a subsidized wage in lieu of TAFDC and Food Stamp benefits.

- (A) Activities. Activities in the Full Employment Program include:
- (1) full-time employment of 35 to 40 hours per week as defined by the employer; and
 - (2) completion of an EDP as specified in 106 CMR 207.110.
- (B) Participation Criteria. The following are the criteria for participants in the Full Employment Program:
- (1) the individual may volunteer to participate in FEP;
 - (2) the individual may meet the work program requirements by participating in the Full Employment Program;
 - (3) the individual or the employer may terminate the placement by contacting the Department worker;
 - (4) if after six months the individual has not obtained an unsubsidized job, the EDP may be reassessed;
 - (5) if after nine months the individual has not obtained an unsubsidized job, the EDP shall be reassessed; or
 - (6) if after 12 months the individual has not obtained an unsubsidized job, the EDP shall be reassessed and the individual may be reassigned to another employer in the Full Employment Program or to the Structured Job Search Component as defined in 106 CMR 207.135.
- (C) Benefits of the Full Employment Program. A participant in the Full Employment Program shall:
- (1) receive a per hour wage from the employer equal to the current state minimum wage or current federal minimum wage, as applicable;
 - (2) remain eligible for MassHealth;
 - (3) have an Individual Asset Account established in which \$1 will be credited for each hour the participant works. The funds from the Individual Asset Account shall be paid to the participant following his or her termination from the Full Employment Program. This amount shall be in addition to the wage received from the employer;
 - (4) receive training experience or on-the-job training;
 - (5) be entitled to sick leave, vacations, and other benefits provided to other new employees;
 - (6) be considered to be an employee of the individual employer providing the employment and shall be entitled to all benefits required by state and federal law;
 - (7) be eligible for workers' compensation, when appropriate; and
 - (8) be eligible for transitional child-care services (TCC) and transitional medical assistance (TMA) for 12 months when the TAFDC case is terminated due to earnings.
- (D) Impact on TAFDC and SNAP Benefits.
- (1) The assistance unit shall receive a supplement payment when the Full Employment Program gross income minus 20% and minus the allowable dependent care deduction, as specified in 106 CMR 204.275: *Dependent Care Deduction*, is less than the combination of the TAFDC and SNAP benefits that the assistance unit would have received, based on the size of the assistance unit and any other income. The amount of the supplement payment is the result of the above calculation.
 - (2) The Individual Asset Account established for the participant is a noncountable asset until such time as the participant receives the funds upon termination of FEP employment.
See 106 CMR 204.140(Y): Noncountable Assets and 204.120(K): Countable Assets.

207.185: Post-employment Services Component

The Post-Employment Services component is a voluntary program to provide current and former recipients with services that lead to career advancement and employment stability.

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Participation is subject to the requirements specified in this section and the availability of funding and resources. The Department shall determine eligibility for and authorize receipt of Post-Employment Services. Post-Employment Services may only be provided by service providers under contract with the Department and may vary by service provider. Post-Employment Services may only be provided if services are otherwise unavailable (including services provided by the Access to Jobs program and the Welfare-to-Work program).

(A) Eligible Participants. The following individuals are eligible to participate in the Post-Employment Services component:

- (1) current and former TAFDC recipients who are working; and
- (2) current and former recipients who are in the job search phase of a Department-approved job readiness or employment activity.

In order to participate, the individual must first be accepted for participation by the authorized Post-Employment Services provider.

Eligibility for the Post-Employment Services component is limited to 12 months beyond the case closing date.

(B) Services. Services in the Post-Employment Services component may include, but are not limited to:

- (1) transition support services;
- (2) employee work force retention services;
- (3) skills and educational advancement services; and
- (4) re-employment and job upgrade services.

(C) Participation Criteria. The following are the criteria for participation in the Post-Employment Services component.

- (1) The individual is accepted for participation in the Post-Employment Services component by the Post-Employment Services provider;
- (2) The individual must attend a program orientation as required by the service provider;
- (3) The individual must attend case management sessions as required by the service provider;
- (4) The individual must participate in Post-Employment Services activities as scheduled by the service provider; and

The individual may terminate participation by notifying their Post-Employment Services provider.

207.190: Vocational Rehabilitation Services

The Vocational Rehabilitation Services component is a program to help increase participation in employment activities and help recipients reach self-sufficiency.

Participation in the component is subject to available funding and the criteria specified in 106 CMR 207.190(A)(1) and (2).

(A) Eligible Participants. The following individuals are eligible to participate in Vocational Rehabilitation Services:

- (1) an applicant; and
- (2) an active recipient, as determined by the Department.

(B) Vocational Rehabilitation Services Activities. Activities may include, but are not limited to:

- (1) Orientation;
- (2) Assessment;
- (3) Placement;
- (4) Initial Employment Supports;
- (5) Flexible Supports; and
- (6) Benefits Planning Assistance and Outreach.

(C) Vocational Rehabilitation Services Participation Criteria. The following are the criteria for participants in the Vocational Rehabilitation Services components. The participant must:

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- (1) complete an EDP in accordance with 106 CMR 207.110;
- (2) if Work Program required, participate in a program for the required hours per week as specified in 106 CMR 203.400(A)(5) unless good cause applies (*see* 106 CMR 701.380);
- (3) if Exempt, attend the scheduled hours per week;
- (4) be making satisfactory progress as defined by the Vocational Rehabilitation Services provider; and
- (5) provide verification of participation at time periods determined by the Department in a manner prescribed by the Department.

207.200: Failure to Meet Employment Development Plan (EDP) Requirements or the Work Program Requirements

An individual who, without good cause as specified in 106 CMR 701.380, fails to meet the Work Program requirements or fails to fulfill the obligations of the EDP, excluding a recipient who is in receipt of an extension of benefits beyond the 24-month period as specified in 106 CMR 203.200 *et seq.*, shall be sanctioned.

Before determining whether an individual has failed to comply with the Work Program requirements or to fulfill the obligation of an EDP without good cause, the Department shall review all good cause criteria with the individual to determine if good cause exists. Review of the good cause criteria by the Department with the individual shall be conducted via correspondence unless the individual requests to speak, either in person or telephonically, with his or her worker.

The individual shall be sanctioned according to the following:

- (A) Consequences of Failure to Fulfill EDP Obligations.
- (1) Upon the first failure to fulfill an obligation of the EDP, the individual is given a written warning of the consequences of subsequent failures.
 - (2) Upon the second or subsequent failure to fulfill an obligation of the EDP, the individual is mandated to participate in the TEMP Community Service Program (TEMP). The EDP is updated.
 - (3) Upon the first failure to participate in mandated participation in TEMP, the individual is ineligible for assistance until the individual meets the Work Program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5), begins or resumes participation in TEMP, works at a job for compensation, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, for a period of two consecutive weeks.

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(4) Upon the second or subsequent failure of a grantee to participate in mandated participation in TEMP, the assistance unit is ineligible for assistance until the individual meets the Work Program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5), begins or resumes participation in TEMP, works at a job for compensation, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, for a period of two consecutive weeks.

(5) Assistance to the remaining member(s) of the assistance unit shall be in the form of vendor payments to the extent possible.

(B) Consequences of Failure to Comply with Work Program Requirements.

(1) Upon the first failure to comply with the Work Program requirements, excluding the Full Employment Program, the individual:

(a) is mandated to participate in TEMP and the EDP is completed; and

(b) is ineligible for assistance until the individual meets the Work Program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5), begins or resumes participation in TEMP, works at a job for compensation, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, for a period of two consecutive weeks.

In a two-parent assistance unit both parents are ineligible for assistance until both parents work at a job meeting the required hours per week as specified in 106 CMR 203.400(A)(5) for compensation or participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities for two consecutive weeks unless only one parent is required to meet the Work Program requirements. In this situation only the one parent who fails to meet his or her Work Program requirements is ineligible.

(2) Upon the first failure to participate in mandated participation in the TEMP Community Service Program (TEMP), the individual is ineligible for assistance until the individual meets the Work Program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5) or begins or resumes participation in TEMP, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, for a period of two consecutive weeks.

(3) Assistance to the remaining member(s) of the assistance unit shall be in the form of vendor payments to the extent possible.

(C) Consequences of Failure to Obtain a Job Through Full Employment Program.

(1) An individual failing after three attempts to obtain a job through the Full Employment Program, without good cause as specified in 106 CMR 701.380, shall be mandated to participate in the TEMP. The EDP is updated.

(2) Upon the first failure to participate in mandated participation in the TEMP, the individual is ineligible for assistance until the individual meets the Work Program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5) or begins or resumes participation in TEMP, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, for a period of two consecutive weeks.

(3) After the second or subsequent failure by a grantee to participate in mandated participation in TEMP, the assistance unit is ineligible for assistance until the individual meets the Work Program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5) or begins or resumes participation in TEMP, participates in other work program activities as listed in 106 CMR 203.400(A)(2) or a combination of these activities, for a period of two consecutive weeks.

(4) Assistance to the remaining member(s) of the assistance unit shall be in the form of vendor payments to the extent possible.

207.205: Restoration of TAFDC Benefits and ESP Participation

To restore eligibility for TAFDC when the individual or the assistance unit is determined ineligible for TAFDC as specified in 106 CMR 207.200, the individual must begin or resume participation in the ESP component or obtain a job of at least the required hours per week as specified in 106 CMR 203.400(A)(5) for a period of two consecutive weeks, or be determined exempt in accordance with 106 CMR 203.100 or have good cause as specified in 106 CMR 106 CMR 701.380.

The Department shall notify the individual as to how the individual can end ineligibility and request restoration of TAFDC benefits. Individuals may request restoration of TAFDC benefits at any time.

207.205: continued

(A) For a request for restoration within five calendar days of the date of ineligibility: if the individual or assistance unit is determined to be eligible for TAFDC upon request for restoration of TAFDC benefits, the grant shall be increased or restored retroactive to the date of ineligibility provided that:

- (1) the individual requests restoration of TAFDC benefits within five calendar days of the date of ineligibility; and
- (2) the individual meets the ESP participation requirements for employment for two consecutive weeks.

(B) For a request for restoration of TAFDC benefits more than five calendar days after the date of ineligibility: if the individual does not request restoration of TAFDC benefits within five calendar days of the date of ineligibility and the individual or assistance unit is determined to be eligible, the date of TAFDC eligibility shall be the date of the request for restoration of TAFDC benefits, if all other eligibility conditions are met, but only after the individual has participated in the ESP component or employment for two consecutive weeks.

207.210: Employment Services Program Support Services

(A)(1) Child Care Eligibility. The Department shall determine eligibility for child care services for individuals who have an approved Employment Development Plan or Extension Agreement and who meet the participation requirements of 106 CMR 207.115 or who are former recipients in accordance with 106 CMR 207.210(A)(1)(f) regardless of whether they do or do not have an approved Employment Development Plan. The following individuals shall be eligible for child care services:

- (a) an employed TAFDC grantee or a teen parent who is not the grantee, who:
 1. is included in the assistance unit; or
 2. would be included in the assistance unit but for a sanction due to child support in accordance with 106 CMR 203.700 or immunization requirements in accordance with 106 CMR 203.800 and who is subject to the Work Program requirements in accordance with 106 CMR 203.400.

Such child care services may be authorized as long as the individual remains employed and a recipient of TAFDC.

- (b) a TAFDC grantee or a teen parent who is not the grantee who is required to participate in an ESP component activity or has volunteered to participate in an ESP component, including self-initiated educational activities as included in the Employment Development Plan and who:
 1. is included in the assistance unit; or
 2. would be included in the assistance unit but for a sanction due to child support in accordance with 106 CMR 203.700 or immunization requirements in accordance with 106 CMR 203.800 and who is subject to the Work Program requirements in accordance with 106 CMR 203.400.

- (c) a teen parent receiving SSI or a teen parent for whom state and/or federal foster-care maintenance payments are being provided, and receives TAFDC for his or her children.
- (d) a grantee who is no longer receiving TAFDC benefits, but is meeting participation standards for an ESP education or training activity that began prior to case closing. These services shall last no longer than the completion date of the ESP education or training activity or six months beyond the case closing date, whichever is sooner.

- (e) is an ineligible TAFDC grantee due to his or her noncitizen status, but who is required by the Department to participate in the Community Service component of ESP in accordance with 106 CMR 203.400(A).
- (f) a former TAFDC grantee who is currently employed and whose TAFDC case closed within the prior 12 months. A grantee who is terminated from TAFDC shall be eligible to receive authorization for Transitional Child Care services for any time during the 12 consecutive months from the case closing date regardless of his or her ESP participation when:
 1. he or she is employed;
 2. he or she cooperates with the child support enforcement requirements, unless good cause for refusing to cooperate is determined to exist in accordance with 106 CMR 203.740; and
 3. all necessary information for determining eligibility has been provided.

207.210: continued

(g) an individual who is ineligible for TAFDC in accordance with 106 CMR 701.110(D), who has a dependent child receiving TAFDC and who is:

1. employed; or
2. subject to the Work Program requirements in accordance with 106 CMR 203.400; or
3. required to participate in an ESP component activity or has volunteered to participate in an ESP component, including self-initiated educational activities as included in the Employment Development Plan.

If child care payment is provided by some other source, such as child care provided as part of a WIA-Title I-funded education, skills training program or VISTA, the individual shall not be considered, by the Department, to be eligible for child care.

(2) Child Care Authorization While Waiting to Start an Activity. Child care services may be authorized for a period not to exceed two weeks while waiting to start an activity and/or a period not to exceed one month in which child care arrangements would be lost and a subsequent component activity or the resumption of the current activity is scheduled to begin within the month.

This provision includes:

- (a) individuals in accordance with 106 CMR 207.210(A)(1);
- (b) individuals who are work-sanctioned and trying to cure the sanction; and
- (c) individuals who have applied for an extension of benefits beyond the 24-month period in accordance with 106 CMR 203.210 and who are meeting the Basic Job Search and Structured Job Search requirements in accordance with 106 CMR 207.130.

(3) Child Care Eligibility for ESP Participants, Employed Recipients or Employed Former Recipients. An ESP participant, employed recipient or employed former recipient may receive child care services for his or her dependent child, a child ineligible for TAFDC due to the Family Cap provisions specified in 106 CMR 203.300, or foster child, any of whom is:

1. under the age of 13;
2. age 13 or older and physically or mentally incapable of caring for himself or herself, as certified by a competent medical authority as defined in 106 CMR 701.600;
3. under court supervision; or
4. an SSI child in the home who, except for SSI eligibility, would be eligible for TAFDC as a dependent child.

(4) Sources and Payment of Child Care Services. Child care services shall be arranged through or coordinated by designated agencies under contract with the Office of Child Care Services. The child care options shall be explained to the individual by the agencies under contract with the Office of Child Care Services. Payment of child care services shall be made by the Office of Child Care Services in accordance with its regulations and policies.

(5) Verification. An ESP participant, employed recipient or former recipient must submit verification of participation or wage verification and receipt of child care services to the Department at time periods determined by the Department on a form prescribed by the Department and signed by the employed recipient, former recipient or the participant and the provider of the component activity for an ESP participant.

(6) Termination or Denial of Child Care Eligibility. The Department may terminate or deny eligibility for child care services for circumstances including, but not limited to, the following:

- (a) the ESP participant no longer meets the participation requirements as specified in 106 CMR 207.115; or
- (b) the former recipient is no longer employed.

When the Department terminates or reduces eligibility for child care services, the Department shall send the applicant, recipient, or former recipient and the regional child care resource and referral agency, or other authority designated by the Office of Child Care Services a timely notice of the termination or reduction in eligibility for child care services, in accordance with 106 CMR 343.140. The applicant, recipient, or former recipient may appeal any reduction or termination of child care eligibility, in accordance with 106 CMR 343.230 and 106 CMR 343.250. When an appeal is received within the advance notice period, the benefits may be provided in accordance with 106 CMR 343.250 and 106 CMR 343.640. Assistance provided pending the appeal is subject to recoupment by the Office of Child Care Services. The applicant, recipient or former recipient may not appeal to the Department any issue regarding payment for child care.

207.210: continued

When child care eligibility is denied, the applicant, recipient, or former recipient shall be sent a notice of denial and of the right to appeal in accordance with 106 CMR 343 *et seq.*

The only appealable issue shall be whether or not the applicant, recipient or former recipient is eligible for child care, as provided in 106 CMR 207.210(A).

(B) Transportation Payments.

(1) Eligibility. Transportation payments shall be provided to ESP participants who have an approved employment development plan, to the extent that resources permit, and subject to:

- (a) meeting the participation requirements specified in 106 CMR 207.115;
- (b) not receiving or eligible to receive transportation payments for the same costs from some other source, such as a WIA Title I-funded program or an educational loan or grant;
- (c) meeting participation standards for an ESP education or training activity whose duration has lasted beyond the end of the 24-month time-limited benefits. These payments shall last no longer than 60 days beyond the end of the 24-month time-limited benefits;
- (d) the limit set forth in 106 CMR 207.210(B)(2); and
- (e) verification of participation.

(2) Allowable Costs. The allowable costs for transportation payments shall be determined in accordance with 106 CMR 207.210(B)(2)(a) or (b) for the ESP participant who meets the conditions specified in 106 CMR 207.210(B)(1).

(a) The transportation payment for participants using public bus or rail shall be for the verified actual cost to the participant of transportation to and from the activity, plus the cost, if any, to the participant of transporting a dependent(s) to and from dependent care. The payment shall be based on the actual cost of transportation to the participant per month of verified participation. The total payment for allowable transportation costs shall not exceed an amount determined by the Department.

(b) The transportation payment for participants using any means other than public bus or rail shall be in accordance with the provider's contract with the Department.

(3) Verification.

(a) Participants who arrange transportation to and from the activity(ies), as specified in 106 CMR 207.210(B)(1), by public bus or rail shall provide the following verifications:

1. At the start of the activity(ies), the actual cost of transportation shall include the cost of transporting dependents to and from dependent care and shall be based on the means of transportation and the number of days of the activity(ies); and
2. Thereafter, verification of participation in the component(s), as specified in 106 CMR 207.210(B)(1), shall be on a form prescribed by the Department to be signed by the participant and provider of the component activity(ies) each month.

(b) Participants who arrange transportation to and from the activity(ies), as specified in 106 CMR 207.210(B)(1), by any means other than public bus or rail are provided transportation payments to and from a component activity by a transportation provider under contract with the Department. These participants shall provide the following verifications:

1. At the start of the activity(ies), verification that transportation to and from the component activity(ies) shall be provided by a transportation provider under contract with the Department and the number of days in a month of the component activities. This verification shall be submitted to a Department worker once unless the ESP participant's circumstances change; and
2. Thereafter, verification of participation in the component, as specified in 106 CMR 207.210(B)(1), shall be on a form prescribed by the Department to be signed by the participant and provider of the component activity each month.

(4) Payment of Transportation Costs. Payment of transportation costs shall be in accordance with the following:

(a) the authorization for and payment of transportation by public bus or rail shall be made by the Department in accordance with the provisions of 106 CMR 207.210(B), provided however, that the ESP participant is responsible for the actual cost of transportation he or she uses; or

(b) The authorization for and payment of transportation for any means other than public bus or rail shall be made by the transportation provider under contract with the Department and shall be in accordance with the transportation provider's contract.

207.230: ESP Educational Component and Child-care Services for Nonrecipient Minor Parent Under Age 18

A state-funded program shall provide a nonrecipient minor parent under 18 years of age with participation in the ESP Educational Component provided that participation shall be limited to high school or a GED program and services shall be limited to ESP child care for his or her dependent child(ren) while he or she is attending high school or a GED program. The minor parent must meet all of the conditions specified below:

- (A) the minor parent and his or her dependent child(ren) are living with his or her natural or adoptive parent(s);
- (B) the minor parent is attending high school or a GED program on a full-time basis;
- (C) the noncitizen minor parent meets the noncitizen criteria as specified in 106 CMR 203.675; and
- (D) the gross income of the parent(s) of the minor parent with whom he or she lives does not exceed 200% of the Federal Poverty Level as specified in 106 CMR 204.236(A)(1)(b). To determine the appropriate Federal Poverty Level Standard, the assistance unit must include the minor parent, his or her dependent child(ren), the natural or adoptive parent(s) of the minor parent with whom he or she is living, and any siblings or half-siblings of the minor parent under 18 years of age living in the same home. If the minor parent is unable to obtain income verification from his or her parent(s), a self-declaration from the minor parent that his or her parent(s) has refused to provide the income verification may be accepted to establish financial eligibility.

207.250: Appeals

If an individual's assistance is denied, reduced, or terminated as a result of a failure or refusal to cooperate with the requirements of the Employment Services Program (ESP), the individual shall be afforded an opportunity for a fair hearing in accordance with the provisions of 106 CMR 343.000: *Fair Hearing Rules*.

The individual maintains the right to request a fair hearing regarding his or her ESP status and/or participation during any phase of the ESP program.

REGULATORY AUTHORITY

106 CMR 207.000: M.G.L. c. 18.