

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 706.000: TRANSITIONAL CASH ASSISTANCE PROGRAM (TCAP): AUXILIARY ACTIVITIES

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706.000: Overview of Auxiliary Activities

106 CMR 706.000 describes activities that affect the delivery of benefits and are required to ensure the proper and accurate direction of funds. Unless otherwise specified, 106 CMR 706.000 applies to TAFDC and EAEDC applicants and clients.

Auxiliary activities and the circumstances in which they are required are described in 106 CMR 706.000(A) through (G):

- (A) Inquiries, Requests and Complaints, 106 CMR 706.100;
- (B) Overpayments and Underpayments, 106 CMR 706.200;
- (C) Referral to the Bureau of Special Investigations, 106 CMR 706.240;
- (D) Delivery of Benefits, 106 CMR 706.400;
- (E) Lost and Stolen Checks, 106 CMR 706.500;
- (F) Vendor Payments, 106 CMR 706.600; and
- (G) Quality Control, 106 CMR 706.700.

706.100: Inquiries, Requests, and Complaints

The worker must respond to all appropriate inquiries, requests and complaints regarding Department programs or cases for which he or she is responsible, or refer them to management as appropriate.

706.110 Inquiries

An inquiry is an oral or written request for information about the TAFDC and EAEDC programs in general. Inquiries must be responded to by workers in the area offices or branch offices to which such inquiries are directed.

706.130: Complaints

A complaint is an oral or written communication expressing dissatisfaction with the policies and procedures of the Department or its administration. Complaints may be made by persons, institutions, or other agencies.

706.140: Oral Complaints

In the case of an oral complaint, the worker must attempt to address the complainant's dissatisfaction by providing a prompt interpretation of agency policy. In the event the complainant is not satisfied with the worker's explanations and wishes to go beyond the worker for assurance that he or she is receiving equitable treatment, the worker's immediate supervisor must be available for a three-way discussion of the problem.

The applicant or client must be informed of the right to appeal and have a fair hearing or to have a review without a hearing.

706.150: Written Complaints

In the case of a written complaint, the complaint must be reviewed by the worker or management to determine its validity.

A letter must then be sent to the complainant informing such individual or institution of appropriate action, if any, in relation to the complaint. The letter must inform the complainant of the right to appeal and have a fair hearing or to have a review without a hearing.

706.200: Overpayments and Underpayments

An overpayment exists when an assistance unit receives assistance for which it is not eligible or the assistance exceeds the amount for which it was eligible. However, an unaccessed EBT cash benefit shall not be considered an overpayment.

An overpayment may result from Department error, client error, misrepresentation or withholding of information, or assistance paid pending an appeal as provided in 106 CMR 343.250: *Continuation of Benefits Pending Appeal*.

An underpayment exists when:

- (A) a financial assistance payment received by or for an assistance unit for the month is less than the amount for which the assistance unit was eligible; or
- (B) the Department fails to issue a financial assistance payment for the month to an eligible assistance unit, if such payment should have been issued.

706.210: Correction of Overpayments and Underpayments

The Department has the responsibility to identify and correct overpayments and underpayments. The Department must promptly correct underpayments to current clients and to those who would have been clients if the mistake causing the underpayment had not occurred.

When an underpayment is established, the Department shall send written notice to the client that:

- (1) includes the amount; and
- (2) informs the client of the right to request a fair hearing.

Before an action to recoup an overpayment as provided in 106 CMR 706.290, the Department shall notify the client in accordance with 106 CMR 702.500: *Notification of Proposed Action*.

If both an underpayment and an overpayment exist, the Department may offset one against the other if the existence and amount of both the underpayment and the overpayment can be promptly determined. Otherwise, the Department shall proceed to correct the underpayment and overpayment independently.

Retroactive corrective underpayments shall not be considered as income or as an asset for purposes of determining continued eligibility and amount of assistance either in the month paid or in the following month.

All overpayments are subject to recovery by the Department. Overpayments involving possible fraud shall be referred to the Bureau of Special Investigations (BSI).

706.220: Causes of Overpayments

(A) Department Error. An overpayment may occur as a result of Department error. Department error includes, but is not limited to, failure of the worker to act on information that affects eligibility or the amount of assistance.

(B) Payments Pending a Fair Hearing Decision. An overpayment occurs when the Department's position is upheld on an appeal by a client of a reduction or termination, and aid was paid pending the implementation of the decision.

(C) Client Error, Misrepresentation or Withholding of Information. An overpayment may occur as a result of client error. Client error may occur when the client, because of a misunderstanding of his or her responsibilities, fails to notify the Department of a change in resources or other circumstances within the prescribed ten days of such a change. Certain instances of client error may be fraudulent and should be referred to BSI.

An overpayment may also occur because the applicant or client knowingly misrepresents or withholds information from the Department.

If there is a reasonable possibility that fraud occurred in an overpayment of benefits, the case should be referred to BSI as provided in 106 CMR 706.240.

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706.230: Bureau of Special Investigations

The Bureau of Special Investigations (BSI) is authorized to investigate all overpayments involving possible client fraud. The worker shall not investigate these cases. BSI has the responsibility to determine if an overpayment resulting from fraud exists.

BSI shall have full access to Department records and files for the purposes of fraud detection and control. Department staff shall cooperate fully with BSI representatives.

706.240: Referral to the Bureau of Special Investigations

Whenever there is a reasonable possibility that fraud occurred resulting in an overpayment of benefits, the case shall be referred to BSI.

All cases of actual or suspected medical vendor fraud or abuse must be referred to MassHealth.

706.250: Recovery

(A) The Department shall act promptly to recover all overpayments from current clients and from previous clients who reapply for and are determined eligible for TAFDC or EAEDC.

The Department shall refer overpayments to BSI whenever there is a reasonable possibility of fraud. In such cases, no recovery may take place until BSI notifies the Department that it has decided not to investigate or its investigation is complete, or unless recovery is being made through the Administrative Disqualification process as provided in 106 CMR 706.345.

(B) The Department shall recover all overpayments from current clients regardless of the amount of the overpayment. The Department shall recover all overpayments from previous clients as provided in 106 CMR 706.280. An overpayment shall be recovered from grantees even if grantees were overpaid in one cash assistance program and is now receiving benefits in another cash assistance program.

(C) If through recoupment, the monthly grant amount is reduced to zero, the assistance unit shall be considered to be still receiving assistance. For TAFDC cases, if through recoupment the monthly grant amount is between zero and \$10, the assistance unit will receive a monthly payment. The minimum monthly payment shall be two dollars for TAFDC and EAEDC.

(D) In instances where clients have used their cash benefits to purchase alcoholic beverages, lottery tickets or tobacco products, the client shall reimburse the Department for the full amount of the purchases.

706.260: Recovery of Overpayments Resulting from Department Error and Payments Pending a Fair Hearing Decision and Non-fraudulent Client Error

(A) Overpayments resulting from Department error and non-fraudulent client error shall be recovered.

(B) Overpayments resulting from assistance paid pending implementation of a fair hearing decision as provided in 106 CMR 343.250: *Continuation of Benefits Pending Appeal* following an appeal of reduction or termination in benefits shall be recovered if the fair hearing decision upholds the reduction or termination. The overpayment in a split fair hearing decision, where the action of the Department is only partly upheld, is the amount found in the fair hearing decision to be incorrectly paid.

(1) The Department shall inform the client that the Department will recover any assistance paid pending implementation of a decision following a fair hearing that is decided in the Department's favor.

(2) The Department shall provide on the notice the option for the appellant to waive the receipt of assistance pending the hearing.

706.270: Recovery of Overpayments Resulting from Possible Fraud

Whenever there is a reasonable possibility that a fraudulent overpayment occurred, recovery shall be made only after review by BSI. If a client agrees with BSI on an amount to be recovered by a grant reduction, the worker shall use this amount to make the recovery.

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If the BSI indicates the cause of the overpayment to be other than fraud, the worker shall institute recovery according to the provisions of 106 CMR 706.250.

706.280: Recovery from Closed Cases

Recovery shall continue after a case closes unless the amount of the overpayment is less than \$125, or meets the minimum recovery threshold established by the Department, whichever is higher. If BSI has determined that the case involved fraud, recovery must be made regardless of the amount of the overpayment. Upon agreement by the Department and the previous client, repayment may be made by a lump sum payment, monthly installments or wage assignment. If the previous client is employed and is in arrears, he or she shall be required to repay the remaining overpayment by wage assignment as provided in 106 CMR 706.295.

Recovery must be made if the overpaid assistance unit again begins to receive assistance, regardless of the amount of the overpayment.

Nothing in 106 CMR 706.280 shall prohibit any other agreed-upon method of payment.

706.290: Recovery from Current Clients

(A) Method of Recovery.

(1) Recovery of an overpayment shall be sought from current clients and previous clients who reapply for and are determined eligible for TAFDC or EAEDC.

(2) The methods of recovery shall be by:

- (a) recoupment, which is the recovery of an overpayment by means of a reduction in the client's grant;
- (b) a lump sum payment;
- (c) installment payments;
- (d) wage assignment as provided in 106 CMR 706.295;
- (e) any combination of the above four methods; or
- (f) any other recovery method permitted by law.

(3) If a client refuses or fails to pay or who has been repaying his or her overpayment to the Department through a lump sum payment and/or installment payments or a combination of methods provided in 106 CMR 706.290(A)(2) misses a payment or is otherwise in arrears, he or she shall be required to repay the remaining overpayment:

- (a) by recoupment; or
- (b) by wage assignment.

(B) Amount of Recovery.

(1) The Department shall recover overpayments on a monthly basis, in an amount equal to:

- (a) 10% of the appropriate TAFDC Payment Standard or EAEDC Standards of Assistance;
- (b) an amount that exceeds 10% of the appropriate TAFDC Payment Standard or EAEDC Standards of Assistance, if the client agrees, through an arrangement with BSI or the Department;
- (c) a judgment or order of the court; or
- (d) a repayment agreement established by a fair hearing or an administrative disqualification hearing.

706.295: Recovery by Wage Assignment

(A) Any judgment or order of the court requiring repayment to the Department, any overpayment established by fair hearing or administrative disqualification hearing or any voluntary agreement to repay an overpayment, shall include an assignment to the Department of a portion of the grantee's salary, wages, earnings or other periodic income pursuant to M.G.L. c. 18, § 30.

(B) The applicant or client must be informed that to implement wage assignment, the Department will have access to information available to and provided by the Department of Revenue including, but not limited to, 14-day labor reporting information and wage information.

The Department need not obtain prior approval to acquire and use information for the reasons indicated in 106 CMR 706.295.

706.296: Recovery of Legal Counsel Fee

Upon notification by a Massachusetts Clerk of Court that a client owes any portion of the counsel fee assessed under M.G.L. c. 211D, the Department shall recover the amount from the client's cash benefits in accordance with 106 CMR 706.290(A)(2)(a).

706.300: Definition of an Intentional Program Violation (IPV)

An Intentional Program Violation (IPV) is any action by an individual for the purpose of establishing or maintaining eligibility or for increasing, or preventing a reduction in, the amount of the grant by intentionally:

- (A) making a false or misleading statement or misrepresentation, either orally or in writing, concealing or withholding of facts from the Department; or
- (B) taking any other act intended to mislead, misrepresent, conceal or withhold facts or to propound a falsity.

706.305: Intentional Program Violations (IPV) Disqualification Penalties

(A) IPV/ Disqualification Penalties. Unless the conditions in 106 CMR 706.305(B) apply, an individual found to have committed an IPV by an Administrative Disqualification Hearing (ADH) or a court of appropriate jurisdiction provided in 106 CMR 706.350, shall be ineligible to participate in the TAFDC or EAEDC assistance programs for a period of six months for the first finding, 12 months for the second finding, and permanently for the third finding.

The Department shall disqualify only the individual found to have committed an IPV, not the entire assistance unit. However, if the disqualified individual is a member of the filing unit, his or her income shall be considered available to the assistance unit. The period of disqualification shall begin in the first possible month following the date written notification of the ADH decision is sent to the individual.

If the individual is no longer participating in the assistance programs or has been previously disqualified from eligibility, the IPV disqualification shall be deferred until such time as he or she applies or reapplies after the disqualification period expires, and is determined otherwise eligible. An individual who is sanctioned for any other reason shall have his or her IPV disqualification deferred until such time as the sanction has ended and the individual is determined otherwise eligible.

If the individual waives his or her rights to an ADH in accordance with 106 CMR 706.340 or signs a consent agreement with a court of law, the length of the disqualification period shall be determined by regarding each waiver or agreement as one finding that an IPV was committed.

Once disqualification commences, it shall continue uninterrupted regardless of current eligibility. In cases of an individual's disqualification resulting from a prior receipt of assistance, the disqualification will be postponed until after assistance is approved for the disqualified individual. Recovery of any overpayment, in accordance with 106 CMR 706.290, shall continue regardless of eligibility status.

(B) Court Convictions for Fraud.

(1) A grantee who is convicted of felonious fraud against the Department's programs for an amount of \$1,000 or more is permanently ineligible to receive:

- (a) TAFDC for himself or herself, if the fraud was committed on or after November 11, 1995; or
- (b) EAEDC for himself or herself, if the fraud was committed on or after May 1, 1996.

In a two-parent household, both parents shall be ineligible for public assistance.

(2) An individual convicted in a federal or state court of having made a fraudulent statement or representation with respect to his or her place of residence, in order to receive assistance simultaneously from two or more states, is ineligible to receive TAFDC for a ten-year period if the fraud was committed on or after September 26, 1996.

The ten-year period begins on the date of the fraud conviction.

706.310: Warning to Applicants and Clients

At the time of application, the Department shall inform all applicants, in writing, of the disqualification penalties, in accordance with 106 CMR 706.305, for committing an Intentional Program Violation (IPV).

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The Department shall notify all current clients, in writing, of the IPV disqualification penalties, provided in 106 CMR 706.305.

706.315: Introduction to Administrative Disqualification Hearings (ADH)

An ADH shall be conducted by the Division of Hearings to determine if an Intentional Program Violation (IPV) has been committed, unless a determination is made by a court of law pursuant to 106 CMR 706.355. An ADH may be initiated by the Department if there is reason to believe an IPV was committed.

706.320: Advance Notice of an Administrative Disqualification Hearing (ADH)

The Department shall provide a written notice at least 30 days before the ADH as provided in 106 CMR 706.325. The notice shall contain:

- (A) The date, time and place of the hearing;
- (B) The charge(s) against the individual;
- (C) A summary of the evidence, and how and where it can be examined;
- (D) A warning that failure to appear without good cause, in accordance with 106 CMR 343.320(D), will result in a decision by the hearing officer based solely on the information provided by the Department at the hearing;
- (E) A statement that good cause for failure to appear at the originally scheduled hearing must be presented to the Division of Hearings within ten calendar days of the originally scheduled hearing in order to receive a new hearing;
- (F) A statement that a postponement of the hearing may be requested if the request is made to the Division of Hearings at least ten calendar days in advance of the ADH. However, the hearing shall not be postponed for more than 30 calendar days and only one postponement shall be permitted;
- (G) A description of the Intentional Program Violation (IPV) penalties provided in 106 CMR 706.305.
- (H) A statement that the hearing does not preclude the Commonwealth from prosecuting the individual in a civil or criminal court action or from collecting an overpayment;
- (I) A listing of individuals or organizations that may provide free legal representation;
- (J) A statement that the individual may waive his or her right to an ADH; and
- (K) A statement that the individual has the right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against him or her in a court of law.

706.325: Timeliness Standards

The Department shall provide written notice to the individual suspected of an Intentional Program Violation (IPV) at least 30 days in advance of the Administrative Disqualification Hearing (ADH). ADH decisions shall be made within 90 days of the date of the notice.

The Department must implement the ADH decision effective beginning the first possible month following the date the individual receives written notification of the decision, consistent with the requirements of 106 CMR 706.305.

706.330: Consolidation of Administrative Disqualification Hearing (ADH) with Fair Hearing

To determine the amount of the overpayment claim, the Department may combine a fair hearing and an ADH if the factual issues arise out of the same or related circumstances. The individual shall receive prior notice that the hearings will be consolidated and that the claim amount may be determined as a result. The individual shall also be informed that due to the consolidation, he or she shall not have the right to a subsequent fair hearing to dispute the claim amount. The timeliness standards of 106 CMR 706.325 shall be in effect.

The regulations governing fair hearings, as provided in 106 CMR 343.000: *Fair Hearing Rules* apply to ADHs. If, however, the Fair Hearing regulations conflict with 106 CMR 706.300 through 706.365, the provisions of the latter shall apply.

706.335: The Administrative Disqualification Hearing (ADH)

If the individual or his or her representative fails to appear at the ADH without good cause, in accordance with 106 CMR 343.320(D), the ADH shall still be conducted. The hearing officer is required to carefully consider the evidence and determine if an Intentional Program Violation (IPV) was committed based on a preponderance of the evidence standard. If the individual is found to have committed an IPV, but the Director of the Division of Hearings later determines that there was good cause for the failure to appear, the previous decision shall be void and the Department shall conduct a new hearing. The individual has ten days from the date of the originally scheduled hearing to present evidence of good cause for failure to appear.

706.340: Waiver of an Administrative Disqualification Hearing (ADH)

A waiver form allowing the individual to forgo the ADH may be issued along with the advance notice of the ADH. An individual suspected of an Intentional Program Violation (IPV) may complete, sign and return the waiver form to the Department. By doing so, the individual will have agreed to all penalties and requirements, including repayment, incumbent upon an individual who is found guilty of an IPV.

The waiver form shall include:

- (A) The date the signed waiver must be received by the Department, with the signatures of the accused individual and the grantee, if the accused individual is not the grantee;
- (B) A statement of the accused individual's right to remain silent concerning the charges and that anything said or signed by the individual concerning the charges may be used against him or her in a court of law;
- (C) A statement that signing the waiver will result in automatic disqualification for the appropriate period and recoupment, even if the individual does not admit to the facts as presented by the Department; and
- (D) The opportunity for the accused individual to specify whether or not he or she admits to the charges cited in the ADH advance notice.

706.345: Results of an Administrative Disqualification Hearing (ADH) or Waiver - Notification

- (A) If the hearing officer determines the individual did not commit an Intentional Program Violation (IPV), the Department shall inform that individual in writing of such finding.
- (B) If the hearing officer determines the individual committed an IPV, the Department shall inform the individual in writing of such findings, and that he or she will be disqualified from the program for the appropriate time period in accordance with 106 CMR 706.305. The notification shall contain the following information:
  - (1) The period of disqualification; and
  - (2) The adjusted grant level and the right of the assistance unit to a Fair Hearing regarding the new grant level unless the hearing has already been consolidated with an ADH or a waiver or consent agreement has been filed.
- (C) Recoupment of any overpayment shall be as provided in 106 CMR 706.290.



706.346: Out-of-state Intentional Program Violation Disqualification (IPV) Referrals for TAFDC

The disqualification of an individual for an IPV in a TANF program in another state shall be applicable in Massachusetts as if it originated in Massachusetts. Penalties arising from the disqualification of an individual for an IPV in another state shall be in accordance with 106 CMR 706.305.

706.350: Civil and Criminal Prosecution

A case of an alleged Intentional Program Violation (IPV) may be taken to a court of appropriate jurisdiction for civil or criminal prosecution.

706.355: Duties and Limitations on the Department with Respect to Court Ordered Disqualification

The Department shall disqualify an individual found guilty of an Intentional Program Violation (IPV) by a court, unless otherwise ordered by the court. The Department shall initiate the disqualification period in the first possible month following the date the disqualification was ordered, as provided in 106 CMR 706.305.

706.360: Notification of Court Imposed Disqualification

If a court finds an individual guilty of an Intentional Program Violation (IPV), a written notice shall be sent before the period of disqualification, whenever possible. This notice shall inform the member of the disqualification.

706.365: Overturned Intentional Program Violation (IPV) Disqualification

In cases where a determination of an IPV is overturned or reversed by a court of appropriate jurisdiction, the Department shall reinstate the individual in the assistance unit if otherwise eligible. The Department shall restore any benefits that were lost as a result of the disqualification.

706.400: Delivery of Benefits

(A) Requirement. The monthly grant is paid to the grantee in two installments. These installments and any retroactive or additional payments are made by one of the following methods:

- (1) Direct Deposit to his or her bank account as provided in 106 CMR 706.410;
- (2) Electronic Benefit Transfer (EBT) as provided in 106 CMR 706.420; or
- (3) mailing a check as provided in 106 CMR 706.400(C).

(B) Exceptions. The full monthly grant is not paid by the above methods when:

- (1) a grantee does not receive a monthly grant in accordance with 106 CMR 706.400(D);
- (2) a grantee is a participant in the Full Employment Program as provided in 106 CMR 707.180: *Full Employment Program*; or
- (3) a partial or full monthly grant is made to the client as:
  - (a) a vendor payment in accordance with 106 CMR 706.600. The balance of the monthly grant, if any, will be paid to the client in accordance with 106 CMR 706.400(A);
  - (b) an immediate needs payment in accordance with 106 CMR 702.130: *Responsibility for Eligibility Determination*; or
  - (c) an immediate assistance pending replacement payment in accordance with 106 CMR 706.530.

(C) Mailing a Check.

- (1) When a grantee is temporarily absent from the Commonwealth in accordance with 106 CMR 703.360: *Temporary Absence*, the local office director or designee may authorize delivery of checks to the temporary out-of-state address.

In cases where checks are sent to a temporary out-of-state address, continued residence or intent to retain residency must be verified by one of the following, provided it bears the name and Massachusetts address of the client:

- (a) a current rent receipt;
- (b) a current gas bill;

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- (c) a current electric bill;
  - (d) a current telephone bill; or
  - (e) any other form of documentation that the supervisor has determined will verify the continued residence or intent to retain residency.
- (2) In other situations, the Department may, at its discretion, authorize delivery of checks to grantees.
- (3) To avoid the misdirection of checks, the worker must require verification of address from an applicant or client who moves and requests a change of address.
- Acceptable verification includes a rent receipt, statement from the new landlord, or a gas, electric or telephone bill that shows the new address.

(D) Minimum Monthly Payment. The smallest monthly grant paid for TAFDC is \$10. The smallest monthly grant paid for EAEDC is \$2. If the grant amount is greater than zero, but less than the smallest monthly grant paid for the cash program, the grantee is considered to be receiving assistance, but will not receive a monthly payment.

706.410: Direct Deposit

(A) Requirements.

- (1) The grantee with an active account at a banking or financial institution shall have his or her grant deposited directly to that account.
- (2) The grantee who establishes an account is required to cooperate with the Direct Deposit process.

Failure to meet the requirements in 106 CMR 706.410(A)(1) and (2) shall result in the grantee being sanctioned in accordance with 106 CMR 706.410(D).

(B) Exemptions. The local office director or designee may waive the Direct Deposit requirements when the bank or financial institution, is not accessible by public transportation. Exemptions are limited to the following situations:

- (1) a grantee who does not have access to public transportation within one mile of his or her residence or within one mile of the financial institution; or
- (2) a disabled grantee who can demonstrate that he or she would be unable to meet this requirement due to lack of accessible transportation services.

(C) Exception. Direct Deposit is not required when the grantee is a battered victim and the co-holder of the account has a history of physical or emotional abuse as provided in 106 CMR 704.120(B)(3)(a).

(D) Sanction for Noncompliance with Direct Deposit Requirement. A grantee who fails to comply with the Direct Deposit shall be sanctioned by a denial or a reduction of cash benefits in an amount equal to his or her portion of the assistance grant. In an assistance unit with no other dependents, benefits shall be terminated.

A sanctioned TAFDC grantee is still subject to other TAFDC provisions including, but not limited to, Time-Limited benefits as provided in 106 CMR 703.120: *TAFDC Time-limited Benefits*, and the Work Program requirements as provided in 106 CMR 703.150: *TAFDC Work Program*.

706.420: Electronic Benefit Transfer (EBT)

(A) Requirement. Payment of cash benefits not made through Direct Deposit or check shall be made through the electronic benefit transfer (EBT) method at the discretion of the Department. Refer to 106 CMR 706.400.

(B) EBT Accessibility. Cash benefits paid through EBT shall be accessible to the grantee or to an authorized payee as designated by the grantee. Refer to 106 CMR 701.370: *Authorized Payee - Electronic Benefit Transfer (EBT)*. The grantee and/or the authorized payee must use his or her EBT card and personal identification number (PIN) to have access to EBT for the withdrawal/debit of cash benefits.

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(C) Replacement of Electronic Benefit Transfer Card (EBT). Replacement of a lost or stolen EBT Card shall be in accordance with 106 CMR 701.450: *Electronic Benefit Cards*.

(D) Inactive EBT Accounts. When an EBT cash benefit authorization remains unaccessed for 90 consecutive days, the Department shall notify the grantee that the EBT cash benefits have been expunged. These expunged EBT cash benefits may be restored to the grantee within the next six months upon request. The local office director or designee must approve or deny the request for restoration of the expunged cash benefits. Situations when the restorations may be approved include, but are not limited to:

- (1) temporary absence in accordance with 106 CMR 703.360: *Temporary Absence*;
- (2) hospitalization; or
- (3) an emergency that prevented the client from accessing the EBT cash benefits within the 90 days.

Expunged EBT cash benefits that are not restored within the following six months, shall be permanently expunged.

(E) Special Rules Regarding Recovery of Unaccessed EBT Cash Benefits.

- (1) Unaccessed EBT cash benefits may be recovered immediately in their entirety if it has been confirmed that the benefits were issued when the grantee was ineligible by reason of being incarcerated in a penal institution.
- (2) Unaccessed EBT cash benefits may be recovered in their entirety within 48 hours of issuance if the issuance was due to Department or banking error. After the 48 hours have elapsed, with the exception of circumstances described in 106 CMR 706.420 (E)(1), recovery must be made as provided in 106 CMR 706.290.

(F) EBT High Balances. Notices requesting a case review will be sent to grantees who have EBT balances higher than \$4,000. Grantees must contact the Department within 30 days of the notice. Failure to contact the Department shall result in case termination. If the case is terminated and a case review is subsequently held, the Department must re-open the case if all other eligibility requirements are met. If the EBT balance is \$5,000 or higher, and the grantee fails to complete the case review, the Department shall expunge and recoup any amount in excess of \$5,000.

706.430: Check Cashing Requirements

All parties cashing Commonwealth of Massachusetts, Department of Transitional Assistance checks, such as banks, credit unions, check cashers, retailers, grocers and other financial and/or commercial entities, must verify that the identity of the person attempting to transact the check is that of the named check payee.

The check cashing party must obtain two forms of identification (such as a driver's license, Massachusetts ID, Social Security card or MassHealth card) from him or her. One document must include a photo-identification card.

If a photo-ID is not available, the check cashing party must obtain three other forms of ID. Then, the check cashing party must:

- (1) Verify that the photograph on the identification, if any, matches the person attempting to transact the check;
- (2) Write the appropriate information (*e.g.*, Date of Birth, Social Security Number, Driver's License Number, *etc.*) taken from the three other alternative IDs onto the back of the check;
- (3) Write the birth date of the person transacting the check onto the back of the check;
- (4) Verify that the signatures on the alternative IDs matches that of the endorsement on the back of the check being cashed; and
- (5) If possible, take a picture of the client transacting the check.

Failure to follow the above requirements shall result in the refusal by the Commonwealth to indemnify check cashing parties from any losses incurred by cashing Department checks.

706.500: Lost and Stolen Checks

(A) When a client reports that a check is lost or has not been received, the worker must determine:

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- (1) the address to which the check was mailed; and
- (2) whether or not the check has been returned to the Department.

(B) If the client has reason to believe that the check has been stolen, he or she must report the theft to the police.

(C) The client may request a replacement check when:

- (1) a check has been returned to the Department; or
- (2) a check has not been returned to the Department; and
  - (a) four days (including the check date) have elapsed; and
  - (b) he or she signs a form prescribed by the Department. The client must be advised of the need to return the original check if it is received at a later date.

706.510: Authorization of a Replacement Check

(A) Unless the weight of the evidence indicates that the client or his or her designee has transacted the check claimed to be lost or stolen, the Department must approve a request for a replacement check when:

- (1) the original check is reported lost or stolen and four days (including the check date) have elapsed; or
- (2) the original check has been returned to the Department and the client has corrected the circumstances that made the check undeliverable.

(B) If 30 or more days have elapsed since the issuance of the check, the local office director or his or her designee must approve or deny the replacement request.

Situations when the local office director or designee may approve the replacement request include, but are not limited to:

- (1) temporary absence in accordance with 106 CMR 703.360: *Temporary Absence*;
- (2) hospitalization; or
- (3) an emergency that prevented the client from cashing the check within 30 days.

706.520: Issuance of a Replacement Check

Before issuing a replacement check, the Department shall:

(A) request a stop payment order on the original check if the original check has not been cashed; or

(B) if the original check has been cashed, require the client to sign a form prescribed by the Department attested that the endorsement is not his or hers.

706.530: Immediate Assistance Pending Replacement

If immediate assistance is needed pending the arrival of the replacement check, food or shelter invoices, or both, must be authorized. The amount of such invoices must be deducted from the amount of the replacement check. If the check is not subsequently replaced, the amount of such invoices shall be considered an overpayment. This overpayment shall be subject to the overpayment regulations in 106 CMR 706.200.

706.600: Vendor Payments

Vendor payments are money payments made directly to a provider of goods and services on behalf of clients of EAEDC or TAFDC. Financial assistance in the form of vendor payments must be provided when:

(A) The grantee fails to meet certain TAFDC eligibility requirements as provided in 106 CMR 706.610;

(B) The grantee has demonstrated an inability to manage funds or a presumption of mismanagement exists as provided in 106 CMR 706.620(A);

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- (C) The grantee requests that vendor payments be established; or
- (D) Certain TAFDC- or EAEDC- related benefits are authorized.

The institution of vendor payments must be approved by the supervisor. When vendor payments are authorized as an alternative to full, direct money payments, the grantee must be given the opportunity to participate in determining the payment plan and in the selection of the vendor, to the extent possible.

706.610: Vendor Payments for TAFDC Sanction Situations

Assistance in the form of vendor payments is required when the grantee does not meet the requirements of:

- (A) the Employment Services Program (ESP) as provided in 106 CMR 707.000: *Transitional Cash Assistance Program: Employment Services Program*;
- (B) the Child Support Enforcement Division (CSED) of the Department of Revenue as provided in 106 CMR 703.500 through 703.530;
- (C) the Work Program as provided in 106 CMR 703.150: *TAFDC Work Program*;
- (D) Immunizations as provided in 106 CMR 703.160: *TAFDC Immunizations*;
- (E) cooperation with the Department in identifying and providing information that would assist the Department in pursuing any third-party liability for medical services as provided in 106 CMR 703.540: *TAFDC Cooperation in Obtaining Third-party Liability Coverage for Medical Services*;
- (F) teen parent school attendance as provided in 106 CMR 703.181: *TAFDC Teen Parent School Attendance*; and
- (G) Direct Deposit as provided in 106 CMR 706.410.

Vendor payments are also required when a grantee becomes ineligible due to a sanction.

Assistance in these cases is provided in the form of vendor payments to the extent possible. Any remaining portion of the grant to which the assistance unit is entitled must be made to the grantee.

Vendor payments may be terminated, with a return to direct money payment status, only when program requirements are met.

706.620: Vendor Payments for Mismanagement of Funds

Vendor payments are required when a grantee has demonstrated an inability to manage funds such that the grant has not been used in the best interests of the child or the assistance unit. This means that the grantee has mismanaged funds to such an extent that allowing him or her to manage the grant would constitute a threat to the health or safety of the assistance unit. Mismanagement must last for a period of at least one month before a finding of financial mismanagement can be made.

When it appears that a grantee has demonstrated mismanagement of funds, the worker shall proceed to establish mandatory vendor payments on the basis of mismanagement.

When vendor payments are established on the presumption of financial mismanagement, the worker must refer the grantee to a social service agency specified by the Department for counseling. A statement of the specific reasons that demonstrate the need for vendor payments must be in the case record.

- (A) Presumption of Mismanagement. The Department reserves the right to presume mismanagement when one of the following situations exists: shelter costs, including, but not limited to, rent, heat, fuel, and utilities have not been met.

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Although other relevant considerations may be taken into account, the Department shall consider the following situations as exceptions to presumption of mismanagement.

- (1) The assistance unit has experienced some emergency or extraordinary event so that it was appropriate for available funds not to be spent on shelter costs; or
- (2) The assistance unit has withheld the payment for shelter costs as a reasonable exercise of consumer rights when there is a legitimate dispute as to whether terms of an agreement have been met.

(B) Number of Vendor Payments. The number of vendor payments authorized in cases of mismanagement depends on the circumstances of the case. If the grantee has had difficulty with the management of all budgetary items, the worker shall provide for assistance for all items, except personal care, in the form of vendor payments.

If the grantee has had difficulty with only certain items, such as rent, the worker shall make vendor payments for such items only.

(C) Review of Cases Involving Mismanagement. Cases in which vendor payments are based on financial mismanagement must be reviewed, for the purpose of determining whether the need for vendor payments continues. Vendor payments are terminated when there is evidence that the grantee is now able to manage direct money payments.

706.630: Voluntary Vendor Payments

An applicant or client may, at any time, request that vendor payments be established. The request must be made in writing by the applicant or client and must be filed in the case record. Voluntary vendor payments shall continue until the applicant or client requests in writing that they be terminated.

706.640: Vendor Payments for EAEDC- or TAFDC- Related Benefits

Vendor payments are also used to provide certain EAEDC- or TAFDC- related benefits. If the benefit is provided as an advance on the grant, the amount of the vendor payment must be deducted from the amount of the grant on which it was drawn.

Other benefits may be provided in addition to the TAFDC or EAEDC grant as provided in 106 CMR 705.00: *Transitional Assistance Cash Programs (TCAP): Related Benefits.*

706.650: Determination of Amount of Vendor Payments

A vendor payment for housing must be made in the amount of the rent or mortgage payment contracted for by the applicant or client.

A vendor payment for fuel or utilities must be made in the amount of the monthly cost of the fuel or utility averaged over a 12-month period, as determined by the applicant's or client's arrangement with the fuel or utility company.

The total amount provided by vendor payments cannot exceed the total amount of the grant for which the assistance unit is eligible.

706.660: Vendor Payments for Housing

When a vendor payment is made for rental housing, the worker must obtain written certification from the City, the Town Board of Health, or, if in Boston, the Inspectional Services Department, Housing Division, stating that the housing complies with the minimum standards for health and safety, established by that agency or municipality.

If the housing does not meet these requirements, vendor payments will not be made and the worker shall make a referral to the Department of Children and Families (DCF) if appropriate.

706.670: Notification of Request for Vendor Payments

An applicant or client must be given written notification whenever the Department receives a vendor's request that vendor payments for mismanagement be established on the basis of nonpayment of bills. If a presumption of mismanagement exists, or if the Department otherwise finds that mismanagement exists, the worker shall establish a mandatory vendor payments as provided in 106 CMR 706.620. The applicant or client must be given written notification of the disposition of the vendor's request.

706.680: Notification of Vendor Payment Status

(A) Applicant or Client Notification. An applicant or client whose grant is provided, in whole or in part, in the form of vendor payments must be given written notification of the payment status. This notification must include the requirement that the Department must provide one month notice to a vendor prior to the termination of a vendor payment, the reason for the status and the right to a fair hearing.

(B) Vendor Notification. The Department must provide written notification to a vendor whenever a vendor payment is started or terminated; and except as provided in 106 CMR 706.690, the Department must send written notice one month in advance of the date of terminating a vendor payment. However, the local office director or designee may waive this requirement under certain circumstances as determined by the Department.

706.690: Exceptions to Advance Vendor Notification

(A) The Department is not required to send a written notice to a vendor one month in advance of a vendor payment termination when:

- (1) the client has verified, by the Board of Health or appropriate code enforcement authority, the existence of a health and/or safety code violation;
- (2) the client's assistance is terminated;
- (3) the client's monthly grant amount is less than the amount of the vendor payment;
- (4) the client has verified that the last month's rent was paid as part of a lease agreement;
- (5) the TAFDC client is participating in the Full Employment Program as provided in 106 CMR 707.180: *Full Employment Program*; or
- (6) the local office director or designee has waived this requirement as provided in 106 CMR 706.680(B)(2).

(B) In cases of these exceptions, the Department is required to send a written notice to the vendor no later than the date of termination of the vendor payment.

706.700: Quality Control

Quality Control is a system of continuing review designed to measure the accuracy of decisions on eligibility and the amount of assistance for TAFDC, MassHealth, SNAP benefits and EAEDC. The Division of Quality Control has responsibility for administering the review system.

706.710: Requirement of Cooperation with Quality Control Reviews

If a client or applicant's case is selected for a Quality Control review, the grantee is required to cooperate with the review process as a condition of continued eligibility. Cooperation includes, but is not limited to, a personal interview with the Quality Control reviewer and the furnishing of information and verifications necessary to determine eligibility and the amount of assistance.

REGULATORY AUTHORITY

106 CMR 706.000: M.G.L. c. 18, § 10.