GUAM RULE AND REGULATIONS

TITLE 26

PUBLIC HEALTH AND SOCIAL SERVICES

UPDATED THROUGH (FEBRUARY 9, 2018)

TABLE OF CONTENTS

DIVISION 1
DIRECTOR OF PUBLIC HEALTH AND SOCIAL SERVICES
(DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES)

Chapter 1. Welfare Division.
- Article 1. Child Welfare Services Act.
- Article 2. Food Stamp Program.
- Article 3. Adoption.
- Article 4. Maternal Child Health Program.
- Article 5. Investigation and Recoupment Office.
- Article 6. Catastrophic Illness Assistance Program.
- Article 7. General Assistance Manual.
- Article 8. Eligibility and Payment Manual.
- Appendices.

Chapter 2. Vital Statistics.

Chapter 3. Food and Drug.

Chapter 4. Public Health and Sanitation.
- Article 1. Zoonosis Control Section - Dog Control.
- Article 2. World Health Organization - "International Health Regulation".
- Article 3. Commercial Quarantine Regulations.
- Article 4. Health Certificate Regulations.
- Article 5. Sanitary Permits.
- Article 6. Public Swimming Pools.
- Article 7. School Sanitation.
- Article 8. Bakeries.
- Article 9. Cosmetology.
- Article 10. Hotels and Motels.
- Article 11. Laundry and Dry Cleaning.
- Article 12. Massage Parlors.
- Article 13. Tattoo Shops.
- Article 14. Garbage Feeding.
- Article 15. Retail Food Store Sanitation.
- Article 16. Rules Governing the Manufacture, Distribution, and Dispensing of Controlled Substances.
- Article 17. Temporary Workforce Housing Regulations.
- Article 18. The Guam Prescription Drug Monitoring Program.
- Article 19. The Construction, Operation and Maintenance of Cemeteries.
- Article 19A. Merizo Public Cemetery.
- Article 20. Rules and Regulations Governing Chemical Toilets.

Chapter 5. Fortified Rice.

Chapter 6. Hospital and Medical Facilities.
Article 1. Public Health and Services Act. (No rules filed.)
Article 2. Ambulance and Emergency Medical Technician.
Article 3. Nursing Homes and Nursing Home Fee.
Article 4. U.S. Public Health Services Act, and Health Resources and Services Administration (HSRA) Program Guidelines, Requirements and Regulations for Federally Qualified Community Health Centers.

Chapter 7. Maternal and Child Health and Crippled Children.

Chapter 8. Public Health Services.

Chapter 9. Social Services.
Article 1. Standards of Assistance (Old Age Assistance, Aid to Families with Dependent Children, Aid to the Blind, Aid to Permanently and Totally Disabled).
Article 2. Day Care Centers for the Elderly and Disabled Adults.
Article 3. Medically Indigent Program.

Chapter 10. Procedures for Isolation and Quarantine.

Chapter 11. The Joaquin (KC) Concepcion II Compassionate Cannabis Use Act of 2013.
Article 1. Qualified Patients and Primary Caregivers.
Article 2. Responsible Official, Medical Cannabis License, and Permit to Operate.
Article 3. Administrative Requirements.

DIVISION 2
GUAM MEMORIAL HOSPITAL

Chapter 15. Board of Trustees.
Article 1. Fees.
Article 2. Abatement Policy and Procedure.
Article 3. Hospitalization of Mentally Ill.
Article 4. End-Stage Renal Disease Patient.

Chapter 16. Procurement Regulations.
Article 1. General Provisions.
Article 2. Procurement Organization.
Article 3. Source Selection and Contract Formulation.
Article 4. Specifications.
Article 5. Procurement of Construction and Services.
Article 6. Modification and Termination of Contracts for

Supplies and Services.
Article 7. Cost Principles.
Article 8. Supply Management.
Article 9. Legal and Contractual Remedies.
Article 10. Compliance With Federal Requirements.
Article 11. Ethics in Public Contracting.

Chapter 17. Credit and Collection.

DIVISION 3
COMMISSION ON POST-MORTEM EXAMINATIONS

DIVISION 4
COMMUNITY ACTION AGENCY

DIVISION 5
GUAM HEALTH PLANNING & DEVELOPMENT AGENCY

Chapter 30. Procedures for Appropriateness Review.

Chapter 31. Certificate of Need Regulations.
Article 1. Certificate of Need Regulations.
Article 2. Certificate of Need Review Procedures.
Article 3. Post Decision Procedures.

DIVISION I
DIRECTOR OF PUBLIC HEALTH AND SOCIAL SERVICES
(DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES)

Chapter 1. Welfare Division.
Chapter 2. Vital Statistics.
Chapter 3. Food and Drug.
Chapter 4. Public Health and Sanitation.
Chapter 5. Fortified Rice.
Chapter 6. Hospital and Medical Facilities.
Chapter 7. Maternal and Child Health and Crippled Children.
Chapter 8. Public Health Services.
Chapter 9. Social Services.

CHAPTER 1
WELFARE DIVISION

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2015 NOTE: Subsection/subitem designations added/deleted/altered pursuant to authority granted by 1 GCA § 1606.

NOTE: Rule making authority cited for formulation of licensing regulations for the Child Welfare Services Act by the Director of Public Health and Social Services, 10 GCA §02403.

Article 1. Child Welfare Services Act.
Article 2. Food Stamp Program.
Article 3. Adoption.
Article 4. Maternal Child Health Program.
Article 5. Investigation and Recoupment Office.
Article 6. Catastrophic Illness Assistance Program.
Article 7. General Assistance Manual.
Article 8. Eligibility and Payment Manual.

APPENDICES
Appendix A. Guam's Plan for Professional Development.
Appendix B. Guam Early Learning Guidelines for Birth to 36 Months, and, Three to Five Years Old.
Appendix C. Current Fee Schedule.

Appendix D. 2008 U.S. Immunization Schedule.
Appendix E. Food Guide Pyramid for Young Children.
Appendix F. Handbook for Public Playground Safety.
Appendix G. [Reserved Pending Promulgation]

ARTICLE 1
CHILD WELFARE SERVICES ACT
RULES AND REGULATIONS FOR LICENSED CHILD CARE FACILITIES AND GROUP CHILD CARE HOMES

§ 1101. General Provisions.
§ 1101.1. Purpose.
§ 1101.2. Applicability.
§ 1101.3. Authority.
§ 1101.4. Title.
§ 1101.5. Definitions.
§ 1102. License to Operate a Child Care Facility.
§ 1102.1. License Required.
§ 1102.2. Exclusions.
§ 1102.3. Application for License.
§ 1102.4. Application Packet.
§ 1102.5. General Information Requirements.
§ 1102.6. Issuance of License.
§ 1102.7. Effective Date of License.
§ 1102.8. Changes to Operation of the Child Care Facility.
§ 1102.9. Advertising.
§ 1102.10. Displaying License.
§ 1102.11. Right of Entry, Inspection, and Investigation.
§ 1102.12. Inspection Frequency.
§ 1102.13. Report of Inspections.
§ 1102.14. Posting.
§ 1102.15. License Fees.
§ 1103. Organization.
§ 1103.1. General.
§ 1104. Health and Safety.
§ 1104.1. General.
§ 1105. Program Requirements.
§ 1105.1. General.

§ 1106. Staff to Child Ratio.
§ 1106.1. General.
§ 1106.2. Existing Child Care Facilities.
§ 1106.3. New Child Care Facilities.
§ 1107. Admissions.
§ 1107.1. General.
§ 1107.2. Illness and Communicable Disease Control.
§ 1107.3. Immunizations.
§ 1107.4. Testing for Tuberculosis.
§ 1107.5. CPR and First Aid.
§ 1107.6. Medication.
§ 1107.7. Food and Nutrition.
§ 1108. Materials and Equipment.
§ 1108.1. General.
§ 1108.2. Storage Spaces.
§ 1108.3. Sleeping Equipment and Bedding.
§ 1109. Personnel.
§ 1109.1. General.
§ 1109.2. Information on Current Staff Members Inclusive of Cooks and Maintenance Personnel.
§ 1109.3. Responsibilities and Qualifications for Early Childhood Director.
§ 1109.4. Responsibilities and Qualifications for Early Childhood Assistant Director.
§ 1109.5. Requirements of Staff Members.
§ 1110. Group Child Care Homes.
§ 1110.1. Group Child Care Homes.
§ 1111. Reporting Requirements.
§ 1111.1. Reporting Child Abuse and Neglect.
§ 1111.2. Reporting Licensing Complaints.
§ 1112. Display of Documents.
§ 1112.1. General.
§ 1113. Records Open to the Public
§ 1113.1. Public Documents.
§ 1114. Transportation Provisions.
§ 1114.1. General.
§ 1115. Communication Between Parents and Early Childhood Providers.
§ 1115.1. General.

§ 1116. Parental Accessibility.
§ 1116.1. General.
§ 1116.2. Refraining from Releasing Children to Family.
§ 1117. Non-Discrimination.
§ 1117.1. General.
§ 1118. Denial, Suspension, or Revocation of License.
§ 1118.1. Denial, Suspension, or Revocation of License.
§ 1118.2. Effect.
§ 1118.3. Suspension in an Emergency.
§ 1118.4. Follow Up to Enforcement Action.
§ 1119. Right to Appeal.
§ 1119.1. General.
§ 1120. Hearing.
§ 1120.1. General.
§ 1121. Serving of Notices.
§ 1121.1. General.
§ 1122. Severability.
§ 1122.1. General.
§ 1123. Child Care Fund.
§ 1123.1. Child Care Revolving Fund; No Commingling.
§ 1123.2. Expenditures from the Fund.
§ 1123.3. No Transfer Authority.
§ 1124. Review.
§ 1124.1. General.

APPENDICES
Appendix A. Guam's Plan for Professional Development.
Appendix B. Guam Early Learning Guidelines for Birth to 36 Months, and, Three to Five Years Old.
Appendix C. Current Fee Schedule.
Appendix D. 2008 U.S. Immunization Schedule.
Appendix E. Food Guide Pyramid for Young Children.
Appendix F. Handbook for Public Playground Safety.
Appendix G. [Reserved Pending Promulgation]

§ 1101. General Provisions.

§ 1101.1. Purpose.

The purpose of these rules and regulations is to formulate

standards for licensed child care facilities and group child care homes that will protect and promote the welfare and positive development of children being served.

§ 1101.2. Applicability.

(a) These rules and regulations are applicable to the following child care licensees, public and private:

(1) child care facilities; and

(2) group child care homes.

(b) These rules and regulations do not apply to Group Family Home, Family Child Care Home, Family Foster Home, and Residential Treatment Facility.

§ 1101.3. Authority.

The Guam Code Annotated authorizes the Department to adopt rules and regulations for licensing all child care facilities, to issue licenses, and to ensure that all provisions of § 2407 of Title 10 GCA, Chapter 2, Article 4 (Public Law 11-99) regarding licensing are carried out. The Department shall inspect all child care facilities as defined in § 1101.5(f). The Department shall, pursuant to the provisions of the Administrative Adjudication Law, adopt minimum standards for licensing. Such standards shall be applicable to all child care facilities, including those operated by the Department, and shall pertain to the following:

(a) the operation and conduct of the facility and responsibility it assumes for child care;

(b) the character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served;

(c) the general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;

(d) the number of individuals or staff required to ensure adequate supervision and care of the children received;

(e) the appropriateness, safety, cleanliness and general

adequacy of the premises, including maintenance of adequate fire prevention and health standards in conformance with existing Guam laws to provide for the physical comfort, care and well-being of children received;

(f) provisions for food, clothing, educational opportunities, programs, equipment and individual supplies to assure the healthy physical, mental and spiritual development of children served;

(g) provisions to safeguard the legal right of children served;

(h) maintenance of records pertaining to the admission, progress, health and termination of care of children;

(i) filing of records with the Department;

(j) discipline of children; and

(k) protection and fostering of the children served.

§ 1101.4. Title.

These rules and regulations shall be known and may be cited as the "Rules and Regulations for Licensed Child Care Facilities and Group Child Care Homes."

§ 1101.5. Definitions.

Wherever the following words appear in these rules and regulations, they shall have the following definitions:

(a) Appeal means a written, signed and dated statement requesting reconsideration or modification of a Departmental decision that negatively affects the license of the child care facility. An appeal is made by the licensee or by the facility's legal entity.

(b) Child means a person under eighteen (18) years of age, *or* a child with a disability up to twenty-one (21) years of age.

(c) Early Childhood Assistant means any person that provides assistance to the teacher who provides primary care for children.

(d) Early Childhood Assistant Director means a person who assists the Early Childhood Director in the management of a child care facility and/or who has the responsibility to administer the facility and to develop the total program in the absence of the Early Childhood Director.

(e) Early Childhood Director means a person having responsibility in the management and administration of the facility, and to develop the total program.

(f) Child care facility means any facility or home licensed by the Department to provide care, education, and supervision for twelve (12) or more children for all or part of a twenty-four (24) hour day, whether or not the facility is operated for profit, or charges for the services it offers.

(g) Cook means any person who prepares meals for children enrolled in a child care facility.

(h) Department means the Guam Department of Public Health and Social Services.

(i) Denial means refusal by the Director to issue a license on a new or renewal application.

(j) Director means the Director of Public Health and Social Services or his/her authorized representative.

(k) Division means the Division of Public Welfare, Department of Public Health and Social Services.

(l) Early childhood provider means a person employed for compensation, and with the knowledge, skills, and abilities in early childhood education, and who is responsible for the physical well-being, direct care, health, safety, supervision, and guidance of children in child care. Education and experience in working with children birth to five (5) years old differentiate the various levels of Initial, Lead and Master Provider. (refer to Appendix A)

(m) Group child care home means a home or facility which provides child care for at least seven (7), and not more than twelve (12) children, during all or part of a twenty-four (24) hour day.

(n) Guam Early Learning Guidelines for Young Children Birth to Thirty-six (36) Months and Ages Three (3) to Five (5) means the voluntary early learning guidelines of what young children birth to five (5) years old should know and be able to do. (Appendix B)

(o) Guam's Plan for Professional Development (Appendix A) means the early childhood education plan, as required by Executive Order 2004-14, and part of Guam's Comprehensive Plan for the Care & Education of Young Children. (Appendix A).

(p) Guardian means the legal guardian of the person of a minor.

(q) Individualized Education Program means the document, commonly referred to as an IEP, describing the child's educational program as required by the Guam Department of Education, Division of Special Education under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Part B to develop for every student with a disability who is found to meet the federal and state requirements for special education, designed to provide the child with a free and appropriate public education.

(r) Individualized Family Service Plan means the document, commonly referred to as an IFSP, that identifies the child's and family's individualized supports and early intervention services that will enhance the child's overall development, as required by the Guam Department of Education, Division of Special Education under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Part C for infants and toddlers with disabilities and their families.

(s) Individuals With Disabilities Education Improvement Act of 2004 means the United States federal law that governs how states and public agencies provide early intervention, special education, and related services to children with disabilities.

(t) Infant means a child from birth through twelve (12)

months of age.

(u) License means a license to operate a child care facility.

(v) License to operate a child care facility (hereafter referred to as "License") means the official document issued by the Department authorizing the operation of a child care facility as defined under the terms of the license. This is issued to a child care facility that has met compliance with the minimum requirements as defined in the licensing laws, rules and regulations for the duration of two (2) calendar years.

(w) Licensee means any entity that is issued a license by the Department.

(x) Maintenance personnel means any person who provides general maintenance or upkeep of the child care facility.

(y) Performing arts studio shall mean any facility which provides a performing arts curriculum for children ages two (2) years and up, for twelve (12) or more children, during a portion of a twenty-four (24) hour day.

(z) Practicum student means any person officially enrolled in any higher educational institution as a student in education, nursing, psychology, social work, early childhood, or related fields with approved practicum under supervision by an instructor and who adheres to a child care facility's policies and procedures.

(aa) Person means any person or persons, group of persons, agencies, associations, organizations, whether public, private or incorporated.

(bb) Preschooler means a child who is three (3) years to four and a half (4½) years of age.

(cc) Provisional license means a temporary license issued by the Department at the time of a new application or renewal when the facility does not meet all licensing laws, rules and regulations for the duration not to exceed six (6) months.

(dd) Related means any of the following relationships by

blood, marriage or adoption: parent, grandparent, brother, sister, stepparent, stepsister, uncle or aunt.

(ee) Revocation means immediate rescission of a license when the facility exhibits a pattern of non-compliance or an imminent concern arises that jeopardizes the well-being of children.

(ff) School age means a child who is between the age of four and a half (4½) years and twelve (12) years old.

(gg) Staff member means any person that is employed for compensation or otherwise by the child care facility, and is on the premises while children are provided care. This includes, but is not limited to: Early Childhood Director, Early Childhood Assistant Director, Teachers, Early Childhood Providers, and Teachers' Aides.

(hh) Suspension means the deferment of a license for an issue of non-compliance that may be temporary.

(ii) Toddler means a child who is thirteen (13) months through thirty-six (36) months of age.

(jj) Visito*r* means a person visiting for a brief period of time, and who follows the facility's policies and procedures.

(kk) Volunteer means a person offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the early childhood providers.

§ 1102. License to Operate a Child Care Facility.

§ 1102.1. License Required.

(a) Any person, association, corporation, or partnership shall first obtain a license from the Department to operate a child care facility, providing services either with or without compensation.

(b) Any person, association, corporation, or partnership found to be operating or conducting a child care facility without a license shall be found in violation of these rules and regulations and must cease operations immediately until compliance is met.

(c) Before a license is granted, the applicant must certify its

compliance with local officials according to all applicable health, safety, fire, building, and sanitation regulations using a certification of compliance form provided by the Department.

§ 1102.2. Exclusions.

(a) No license is required for the following:

(1) For the care by a relative, with or without compensation, where the person furnishing such care does not regularly engage in such activity, and does not advertise or hold him/herself out as conducting a child care facility;

(2) For the care by parents who, on a mutually cooperative basis, exchange one another's children;

(3) For the care of children in their own home;

(4) For the care of children in a hospital or clinic;

(5) For the care of children in the following educational-type facilities:

(A) An accredited public or private educational institution that operates primarily for educational purposes for those children in grades kindergarten through twelfth (12th) grade. In the event such accreditation does not include early childhood classrooms for those children below kindergarten (i.e., birth to five [5] years), then the educational institution must comply with these rules and regulations and will fall under the jurisdiction of these rules and regulations;

(B) a preschool classroom that is regulated by the Guam Department of Education or the Administration for Children and Families that adhere to federal guidelines and/or mandates, such as the Head Start Performance Standards;

(C) an after-school care program operated directly by an accredited public or private educational facility; or

(D) an after-school care program operated by another entity under contract with the educational facility and the curriculum content of the after-school program is

approved by the Guam Department of Education;

(6) for the temporary care of children in facilities operating in a shopping center, fitness center, hotel, or establishment during any part of a twenty-four (24) hour day, while parents or persons responsible for the children are attending services or engaging in other activities who remain and are on the premises, and care is *not* on a regular basis;

(7) for the temporary care of children during any part of a twenty-four (24) hour day while parents remain and are on the premises participating in religious functions, and care is *not* on a regular basis;

(8) for camps held on a seasonal basis where children are in temporary care during any part of a twenty-four (24) hour day;

(9) for the care of children in child care facilities regulated by the U.S. Department of Defense (i.e., Military Child Care Facilities); and

(10) for skills programs and performing arts programs that teaches a talent, abilities, expertise or proficiency that is not a part of a school, child day care or after school daycare operation; and that the program does not provide primary child care.

(b) The exclusions of this Section do not affect the authority of state and federal governments to inspect any child care facilities and/or private property for compliance.

(c) Child care facilities that meet the criteria for exclusions as stated in this § 1102.2 shall provide the Department with documentation, such as the most current monitoring report, assuring that their facility has passed inspection and/or requirements by their respective accrediting institution or regulatory agency, as applicable.

§ 1102.3. Application for License.

(a) The application to obtain a license or the renewal of a license shall be made on forms approved and supplied by the Department, and shall be completed and submitted within a

minimum of sixty (60) business days prior to the proposed opening date or the date of expiration of the license.

§ 1102.4. Application Packet.

(a) The application packet shall include, but is not limited to, the following:

(1) An application form, which shall include information on owner or licensee. The following information shall be supplied to the Division:

(A) The business name, mailing and physical address, and telephone number of the child care facility;

(B) The name, date of birth, business mailing and physical address, and business telephone number of the person(s) bearing the responsibility for the child care facility;

(C) The name, date of birth, business mailing and physical address, and business telephone number of the person(s) having specific authority and responsibility for overall administration and the services offered;

(D) The name and date of birth of the owner or sponsoring agency (i.e., privately owned, church or agency owned) of the child care facility; and

(E) Other information as required by the Division;

(2) Current copy of the "Rules and Regulations for Licensed Child Care Facilities and Group Child Care Homes";

(3) Copy of applicable child care laws (i.e., Title 10 Guam Code Annotated, Chapter 2, Article 4, Child Welfare Services Act);

(4) Staffing pattern form;

(5) Physician's certification of examination form;

(6) Notice of requirement for submission of documentation, to include police and court clearances for each staff member in the child care facility and a signed consent of release form for the Department to conduct checks in local and

national registries to include, but not be limited to: the Child Abuse and Neglect Registry; the Sex Offender Registry; and any other national background checks as deemed necessary by the Department to ensure the staff's or prospective staff's capacity to provide safe and constructive child care. For Group Child Care Homes, all other adult members living in the home must also comply with these clearances and background checks.

(7) Three (3) separate character reference letters for Early Childhood Directors, for initial or denied applicants, or applicants seeking license reinstatement of a suspended or revoked license; and

(8) Certification of compliance form.

(b) The applicant shall provide and submit documents, not limited to the following:

(1) Early childhood education transcripts (for the Early Childhood Director and Early Childhood Assistant Director);

(2) Verification of early childhood training for staff (i.e., training certificates, transcripts);

(3) A copy of the child care facility's policies and procedures;

(4) A copy of the floor plan layout of the child care facility;

(5) A copy of the parent's handbook;

(6) Resume for the Early Childhood Director and Early Childhood Assistant Director;

(7) Pediatric cardio pulmonary resuscitation (CPR) and pediatric first aid certificates;

(8) A copy of each staff member's health certificate issued by the Division of Environmental Health of this Department;

(9) Most recent copy of the Job-Site Inspection report issued by the Division of Environmental Health of this Department;

(10) A copy of the sanitary permit(s) for the child care facility upon issuance by the Division of Environmental Health of this Department; and

(11) A copy of immunization records for children enrolled.

(c) At no time shall an incomplete application package (for new, renewal, or amendment of licenses) be received by any staff of the Department.

(d) Applicants shall seek and comply with required applicable rules and regulations concerning fire, building, sanitation, plumbing, electrical, mechanical and zoning provided by the appropriate personnel from the Department's Division of Environmental Health, the Guam Fire Department, the Department of Public Works, the Department of Land Management, and the Department of Revenue and Taxation.

(e) Applicants shall maintain accurate records of all information and documents submitted to the Department which shall be readily available for review by the Department upon request during inspection.

(f) New applicants shall be responsible for ensuring that all documents and compliance reports, in addition to the application packet described in this § 1102.4 are submitted to the Department.

(g) Renewal applicants shall submit all documents and compliance reports no less than sixty (60) business days prior to the expiration of the license. Failure to do so may result in non-renewal of license pending submission of required documents and closure of operation upon expiration of current license.

(h) The Department shall conduct a licensing evaluation only after receiving a completed application, and all required documents and reports, to allow sufficient time of thirty (30) days for the licensing worker to conduct inspections and reviews and complete a written report.

§ 1102.5. General Information Requirements.

(a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be

furnished to enable the staff members to make decisions or act on behalf of the child.

(b) The child care facility shall require a completed application with at least one (1) parent's or guardian's signature for each child to be kept on file.

(c) Prior to admission of a child to a child care facility, the licensee shall obtain in writing from the child's parents or guardians the following information:

(1) Completed application form for each child and a copy of child's birth certificate and a current photo;

(2) The child's full legal name, birth date, ethnic background, primary language spoken, current mailing and physical addresses, and preferred names;

(3) The name and physical and mailing addresses of the parents or guardians who are legally responsible for the child;

(4) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the child care facility;

(5) To the extent possible, the names, mailing and physical addresses, and telephone numbers of three (3) person(s) who shall assume responsibility for the child if for some reason the parents or guardians cannot be reached immediately in an emergency;

(6) Name, clinic, and telephone number of child's physician;

(7) Written authorization for emergency care, including provision of health insurance information;

(8) Child health report, that includes the child's immunization record, and other pertinent information regarding the health of the child (i.e., last physical examination report, TB test);

(9) The child's parents' or guardians' current place of employment, address and phone number;

(10) plan for health care in case of an emergency (i.e., insurance provider, insurance number, doctor);

(11) authorization for medical treatment in case of an emergency when parent or guardian cannot be contacted;

(12) date of enrollment in child care facility;

(13) (A) written medical reports and health information shall be on file for each child, including a report of an annual physical examination, up-to-date immunization records, pertinent information regarding any particular health problems, or any specific instructions regarding care or feeding for the child.

(B) These records shall be kept confidential, and information provided only to the Early Childhood Director or the Early Childhood Director's authorized representatives operating the facility or other staff with a need to know, in the event of an emergency, or other staff with the written consent of the parents;

(C) conditional admissions may be granted, provided that the following conditions are met:

(i) the date of each appointment and name of the physician or health institution providing the physical examination must be placed in the child's health folder; and

(ii) proof of medical examination and/or administration of medical services are provided to the child care facility;

(iii) failure to complete the immunizations and clearances within one (1) month of enrollment shall result in the expulsion of the child until such time as the child is in compliance;

(14) eating and sleeping habits;

(15) toileting habits;

(16) allergies;

(17) fears and preferences;

(18) permission to administer medications, indicating frequency and dosage, must be submitted in writing by parents/guardians; and

(19) other information as required by the Division.

(d) The child care facility shall conduct a personal interview with the parent or guardian to verify other pertinent information provided on the child's overall behavior and to acquaint the parent or guardian with the child care facility's policies and procedures.

(e) The child care facility shall secure written permission from at least one (1) parent or guardian before taking children on excursions out of the facility.

(f) The child care facility shall require a "Parent/Guardian Authorization Form to Pick-Up Child" for each child and keep it current and on file.

(g) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the Early Childhood Director or authorized staff members, unless the parents or guardians of the child submit a signed consent form granting written permission for the disclosure, or when an emergency arises necessitating release of the information.

(h) The parents or guardians shall be informed in writing of the child care facility's policy regarding disclosure of information.

§ 1102.6. Issuance of License.

(a) Upon completion of examination and satisfaction that the licensee and the child care facility has reasonably met all qualifications and standards prescribed for the specific category of child care facility, the Department shall issue a license.

(b) The license shall clearly state:

(1) The business name of the child care facility;

(2) The name(s) of the owner(s);

(3) The type of license issued;

(4) The category of the child care facility;

(5) The mailing address and physical location of the child care facility;

(6) Contact telephone number(s);

(7) The age and gender of children to be served;

(8) The capacity of the child care facility;

(9) The issuance and expiration date of the license;

(10) The license number; and

(11) Other conditions or limitations, as deemed necessary by the Department for the license.

(c) The license is non-transferable and shall be valid only with respect to the person, and physical location specified. It shall also be subject to review when there is a significant change in operating policies that affects the health, safety, and care of children and any changes in § 1102.6(b) above.

(d) The Department shall issue the following types of licenses:

(1) License. A license shall be issued to a facility which is found to be in conformity with child care rules and regulations.

(2) Provisional License. A provisional license shall be issued to a newly established or existing child care facility when the facility does *not* meet all licensing laws, rules and regulations. The facility must conform to the requirements on or before six (6) months for a license to be issued. In the event that the conditions are *not* met by the expiration date of the provisional license, the license *shall* be revoked, and the operations of the child care facility shall cease immediately.

§ 1102.7. Effective Date of License.

The effective date of a license shall be as follows:

(a) License.

(1) A license shall expire no later than two (2) years after the date of issuance.

(2) When a license is issued after a provisional license, the expiration date of the license *shall* be two (2) years from the date of issuance of the provisional license.

(3) The license shall be renewed only upon satisfactorily meeting the requirements for application, and the Department's approval.

(b) Provisional License. The expiration date of a provisional license may vary, as determined by the Director, based on a reasonable time for compliance with these rules and regulations, and shall not exceed six (6) months from the date of issuance.

§ 1102.8. Changes to Operation of the Child Care Facility or Group Child Care Home.

(a) The licensee must notify the Division in writing within twenty-four (24) hours or by the next working day, whichever comes first, of any significant changes planned in the operation of the child care facility, including services and staffing that directly or indirectly affects the operation of the program.

(b) No changes shall be made unless approved by the Division and all requirements for changes have been met as determined by the Department.

(c) If the change affects the continued operation of the child care facility, then necessary corrective action must be completed within the prescribed timeframe to come into compliance or sooner as determined by the Director.

(d) Significant changes include, but are not limited to, the following:

(1) relocation of the child care facility;

(2) renovation to existing structure;

(3) increase/decrease in child capacity;

(4) changes in staffing pattern;

(5) changes in policies and procedures;

(6) changes in ownership;

(7) changes in the name of the business operation; and

(8) changes to facility layout.

Such changes shall be taken into consideration at the discretion of the Department to determine status of the license for continued or discontinued operation of services upon meeting requirements and qualifications in accordance to these rules and regulations as deemed necessary.

§ 1102.9. Advertising.

(a) A child care facility licensed by the Department may publish advertisements of the services for which it is specifically licensed. All advertisements shall include the child care facility's license number.

(b) All child care facilities that are required to be licensed and have failed to do so are prohibited from advertising such services.

§ 1102.10. Displaying License.

The license shall be displayed at the child care facility in a prominent and conspicuous location as designated by the Director to be viewed by the public at all times.

§ 1102.11. Right of Entry, Inspection and Investigation.

(a) In exercising its authority to license child care facilities, the Department's designated personnel shall have the right of entry, inspection and investigation.

(b) The Division shall conduct inspections and investigation to ensure compliance with these rules and regulations and to ensure the quality of care of children in child care facilities.

(c) The Division shall review the qualifications of all staff members, review written policies and program provisions, and conduct inspections of the child care facility.

(d) In the event of a complaint or reason to believe that an unlicensed child care facility operation is being conducted, authorized representatives of the Department shall have the right to enter private property to verify and validate the allegations. The Guam Police Department shall render assistance to the Department

in these cases, as needed.

(e) Authorized representatives of the Department shall be authorized to visit a child care facility at any time during the hours of child care operation for purposes of observing, monitoring and inspecting the facilities, activities, staffing and other aspects of the child care facility.

(f) The licensee shall cooperate with the Department by providing access to its facilities, records, staff, and children in care. Failure to comply with reasonable requests may constitute grounds for denial, suspension or revocation of the license.

§ 1102.12. Inspection Frequency.

An inspection of a child care facility shall be conducted at least once every twelve (12) months. Additional inspections shall be conducted as often as necessary for the enforcement of these rules and regulations.

§ 1102.13. Report of Inspections.

(a) Whenever an inspection of a child care facility is made, identified deficiencies shall be recorded on the inspection report as approved by the Director or his/her authorized representative. The inspection report shall summarize the requirements of these rules and regulations. Inspection remarks shall be written to reference, by section number, the section violated; shall state the correction to be made, indicating the time period(s) for correction, which shall be reasonable depending on the nature of the non-compliance; and the time required for correction.

(b) A copy of the inspection report shall be furnished to the person in charge of the child care facility at the conclusion of the inspection.

(c) The inspection report is a public document that *shall* be made available for public disclosure to any person who requests the documents pursuant to § 1113.1.

§ 1102.14. Posting.

Copies of the most current inspection report *shall* be posted adjacent to the license in a prominent and conspicuous location as

designated by the Director, or the Director's authorized representative, to be viewed by the public at all times.

§ 1102.15. License Fees.

(a) The Department shall charge non-refundable fees as prescribed by the Department for the following (Appendix C):

(1) New License

(2) Renewal License

(3) Duplicate License

(4) Amended License

(5) Provisional License (New or Renewal)

(b) Fee schedule amendments shall be promulgated pursuant to Article 3, Rule-Making Procedures, Chapter 9, Title 5, Guam Code Annotated.

§ 1103. Organization.

§ 1103.1. General.

(a) Each licensee which is a person, partnership, corporation, limited liability corporation, limited liability partnership, or association shall be organized according to its legal status as required by local law and applicable rules and regulations.

(b) There shall be an internal structure which provides for an appropriate governing authority which is:

(1) responsible for the development and enforcement of operating policies, procedures of child care staff employment, maintain adequate financial resources for the satisfactory care of children, and the total organization of child care services; and

(2) located so as to be familiar with, and accountable for, all aspects of the operation of the child care facility for and reasonably accessible to the Division.

§ 1104. Health and Safety.

§ 1104.1. General.

(a) The requirements for sanitation, health and safety shall be adopted and in compliance with the Division of Environmental Health, Department of Public Health and Social Services' applicable mandates and rules and regulations pertaining to child care facilities.

(b) No employer, owner, manager or person in charge or control, shall permit any person to enter the premises, knowing such person to have, or having reason to believe that he has,

(1) a disease in communicable form as set forth in Chapter 4 of this Title, or

(2) is a carrier of such disease; and

(3) no person shall work in a child care facility, whether in his own or another's employ, knowing himself to have, or having reason to believe that he has, any such disease.

(c) If an employer, owner, manager or person in charge or control suspects that any employee has any such disease in communicable form or is a carrier of such disease, he shall notify the Director immediately.

(d) Persons with cuts or sores shall not be allowed to handle food that may become contaminated by such handling.

(e) A placard containing the provisions of this Section shall be posted in a place where it will be seen by each employee.

§ 1105. Program Requirements.

§ 1105.1. General.

(a) Child care facilities shall implement developmentally appropriate practices. The Department has developed voluntary early learning guidelines that facilities may use as a guide in developing and/or adopting a developmentally appropriate curriculum. (Appendix B: The Guam Early Learning Guidelines for Young Children Birth to 36 Months and the Guam Early Learning Guidelines for Young Children Ages Three to Five).

(b) Child care facilities that provide after school programs for older children shall implement age-appropriate curriculum.

(c) The program shall promote building positive relationships among children and adults to increase and/or maintain a sense of self-worth and responsibility to a community.

(d) The program shall implement a curriculum that is in harmony with goals that promote learning and development in the cognitive, social, emotional, language, aesthetic and physical areas.

(e) The program shall promote effective teaching strategies within its curriculum that reflect culture, language and developmental needs of children to increase learning and development.

(f) The program shall have in place, different assessments, formal or informal, that provide information on individual learning and development to ensure appropriate instruction, intervention, and/or evaluation that meet individual needs and program goals.

(g) The program shall promote health, safety, and nutrition where children and adults are protected from illness and harm.

(h) The program shall employ staff with the knowledge, skills, and abilities to foster children's learning and development and support families' needs and interests.

(i) The program shall build partnerships with families to support active involvement in their children's growth and development.

(j) The program shall connect with community resources to support program goals, such as health, curriculum, transitions, diversity, and inclusion.

(k) The program shall have well-maintained indoor and outdoor physical environments that are appropriate, safe, and accessible.

(l) The program shall have well-managed policies and procedures promoting a system where children, families, and staff receive high-quality experiences.

(m) The Early Childhood Director shall seek authorization

from the parent or guardian of a child who has an Individualized Family Service Plan or Individualized Education Plan to assist in meeting the developmental and educational needs of a child with a disability.

§ 1106. Staff to Child Ratio.

§ 1106.1. General.

(a) The number of children per staff member shall not exceed:

Age of Child	Child:Staff Ratio	Effective Date of Compliance For Existing Child Care Facilities
Birth to 12 months	4:1	January 1, 2013
13 months to 2 years	7:1	January 1, 2013
13 months to 2 years	6:1	January 1, 2014
25 months to 3 years	10:1	January 1, 2013
37 months to 4 years	15:1	January 1, 2013
4 years and up	20:1	January 1, 2013

(b) Other hired staff members that do not provide direct care and education to children shall not be counted under the staff to child ratio (i.e. cooks, maintenance, and housekeeping personnel).

(c) Early Childhood Directors are not counted in the child to staff ratio.

(d) No child shall be left without adult supervision at any time. The staff to child ratio shall be maintained during all hours of operation. Staff members shall be within sight and sound of each child in the child care facility at all times. Staff members who provide direct care and education to children shall not engage in other activities while performing their regular duties, unless used for educational purposes (e.g. light housekeeping duties).

(e) During nap time, the staff to child ratio must be maintained and physically present in the same space as the children's sleeping area.

§ 1106.2. Existing Child Care Facilities.

All existing child care facilities currently in operation shall be required to come into compliance with § 1106.1 on the effective dates of compliance as stated in § 1106.1(a).

§ 1106.3. New Child Care Facilities.

(a) A new child care facility is any person or entity that is issued a new license to operate a child care facility after the promulgation of these rules and regulations.

(b) A new child care facility shall be required to come into compliance with § 1106.1 upon issuance of a license to operate, and the effective dates of compliance stipulated in § 1106.1(a) are applicable to the new licensee.

§ 1107. Admissions.

§ 1107.1. General.

(a) Operators of child care facilities shall provide appropriate care to help the child grow and develop physically, mentally, socially, emotionally, and spiritually at his or her own pace, ensuring the child's overall welfare.

§ 1107.2. Illness and Communicable Disease Control.

(a) A general health screening and inspection shall be conducted daily on each child as soon as possible after the child enters the child care facility and whenever a change occurs while that child is in care.

(1) Information on each child shall be gathered by completing the health screening and inspection, by inquiring with the child's parents, and when possible, through a conversation with the child.

(2) A record of any and all concerns shall be documented in writing.

(3) The health screening and inspection shall address:

(A) observed changes in behavior or appearance from behaviors observed during the previous day's attendance; and

(B) other signs or symptoms of illness (such as fever, drainage from eyes, vomiting, diarrhea, etc.)

(b) Isolation Area. Each child care facility shall have a designated isolation area for a child who becomes ill at the facility.

(1) Such area shall be adequately ventilated and equipped with a bed, mat, or cot and materials that can be easily sanitized.

(2) Linens and disposables shall be changed after each use with used linens and disposables contained in a closed container in the isolation area until it can be cleaned or disposed of properly.

(c) Any child showing signs of an infectious illness must be sent to the isolation area to be kept separate and apart from the other children.

(1) The parent or guardian must be notified immediately to arrange alternative measures for the child's care.

(2) A staff member or an available responsible adult shall remain with the child at all times.

(d) (1) The rules and regulations of the Department on communicable diseases shall be followed where children show symptoms of communicable diseases.

(2) The child care facility shall post a communicable disease placard subject to the provisions of § 2414 of Title 10 GCA, Chapter 2, Article 4 on communicable diseases.

(e) Children who have been determined to have an infectious illness or communicable disease shall not return to the child care facility without medical authorization.

(f) A child may be excluded from the child care facility (i.e. sent home) as soon as possible if the child exhibits any condition or illness as listed in the current communicable disease report, or illnesses as recommended and listed in guidelines developed by the American Academy of Pediatrics for exclusion of children from the child care facility. (www.aap.org)

§ 1107.3. Immunizations.

(a) All children attending a child care facility shall receive immunizations according to the Department's requirements in conformity with the Advisory Committee on Immunization Practices (ACIP), U.S. Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, and the American Academy of Pediatrics (AAP), unless excluded from the immunization requirements due to religious exemptions (as approved by the Department) or medical contraindications (as certified by a Guam licensed medical physician). (See Appendix D for Recommended Immunization Schedules)

(b) Exemption from immunization for religious belief shall be documented by a written, signed and dated statement from the child's parent or guardian, that such vaccination or immunization would be against their religious belief and would not constitute a contagious health risk for the public at large, as certified by the Director. (P.L. 24-154, § 3322.a.)

(c) Exemption from immunization for any medical reason shall be documented by a written, signed, and dated statement by a Guam licensed medical physician that said child should be exempt from this Section where such medical contraindication to his or her receiving a specific vaccine exists. (P.L. 24-154, § 3322.a.) The child care facility has the right to exclude children who do not meet the immunization requirements as stated under Subsection (a) of this Section.

(d) Original statements (not copies) shall be kept in the child's record at the Bureau of Communicable Disease Control of the Department for compliance purposes. A copy of the certificate for medical and religious exemptions shall be included in the child's record in the facility.

(e) Child care facilities shall require parents or guardians to ensure their children receive all follow-up immunizations needed to complete the recommended series. A copy of the immunization records *shall* be filed in the child's record at the Bureau of Communicable Disease Control of the Department.

(f) Parents or guardians shall be given a grace period, not to exceed thirty (30) calendar days from the last assessment of the child's immunization record, to obtain required immunization(s) in

the recommended series.

§ 1107.4. Testing for Tuberculosis.

No child shall be permitted to attend a child care facility unless they have on file with the Early Childhood Director of the child care facility a report of a Tuberculosis (TB) Skin Test result.

(a) If the child is entering from the United States (its states or territories), such test must have been conducted within one (1) year prior to enrollment. If the child is entering from an area other than the United States (its states or territories), such test must have been conducted within six (6) months prior to enrollment.

(b) If a child has had a positive TB Skin Test, a Certificate of TB Evaluation must be obtained from the Department. If this Certificate indicates that the child is TB contagious, the child shall be permitted entrance to the child care facility only after he or she is certified as non-contagious by the Department.

§ 1107.5. CPR and First Aid.

(a) CPR. At least two (2) staff involved in providing direct care and education of children shall complete and maintain certification requirements in pediatric first aid, and safety and management of blocked airway and rescue breathing, including cardio pulmonary resuscitation (CPR). At least one (1) certified staff shall be on the premises at all times children are in their care.

(b) First Aid Kit. At least one (1) first aid kit containing materials to administer first aid must be maintained on the premises of all child care facilities at all times and wherever children are in care, including field trips and outings away from the facility. A complete first aid kit must also be present in vehicles used in the transportation of children during field trips and outings away from the facility.

(1) Each kit shall be in a closed container and labeled "First Aid."

(2) The kits shall be accessible to the staff members at all times and kept out of the reach of children.

(3) Each first aid kit shall be replenished and updated on a regular basis. Contents with elapsed expiration dates shall be discarded in a proper manner.

§ 1107.6. Medication.

No medication shall be given without the signed consent of a parent, and prescription drugs shall be given only when prescribed for a child by a licensed physician.

(a) Prescription and non-prescription medication brought to the child care facility by the parent or guardian shall:

(1) be in the original container;

(2) be properly labeled;

(3) be dispensed according to written directions on the prescription label or printed manufacturer's label;

(4) be stored separately and locked out of children's reach; and

(5) be stored at the proper temperature as required by the manufacturer.

(b) Prescription medication must have a label stating the name of the physician, the child's name, the name of the medication, and medication directions.

(c) For the purposes of dispensing non-prescription medication that is not brought in by the parent, in the event of an emergency non-prescription medication can only be dispensed if the facility has prior written authorization from the parent or guardian to do so. Any medication dispensed under these conditions must be documented in the child's file, and the parent or guardian must be notified on the day of occurrence.

(d) If the parent or guardian notifies the child care facility of any known allergies to medication, written documentation must be maintained in the child's file, must be shared with the staff, and must be posted with the stored medication.

(e) Any medication administered by any staff of the child

care facility shall be documented and recorded in a medication administration log.

§ 1107.7. Food and Nutrition.

(a) Food and Nutrition Policies and Plans. The facility shall have a food handling, feeding, and nutrition plan that addresses the following items and delegates responsibility for each:

(1) food handling, preparation, and service;

(2) staffing; and

(3) nutrition education for parents, staff, and children.

(b) Meals Prepared and/or Served On-Site.

(1) A child care facility that prepares and cooks meals for children shall provide adequate nutritious food appropriate to the age of the child at normal meal time intervals, and shall follow the U.S. Department of Agriculture's (U.S.D.A.) Food and Nutrition Guidelines and Food Guide Pyramid for Young Children (Appendix E) based on the latest recommendations adopted by U.S.D.A. For current and updated information on nutrition guidelines recommended by the U.S.D.A., please refer to their website at www.usda.gov.

(2) Meal and snack menus shall be planned, written and posted at the beginning of each week.

(A) Menus shall be dated and posted in the food service area and in a conspicuous area easily accessible to parents or guardians.

(B) Any menu substitution shall be noted on the menu.

(c) A child care facility where parents or guardians provide meals for their children should promote an understanding of the importance of nutritious meals and snacks, as recommended by the U.S.D.A. Food and Nutrition Guidelines.

(d) (1) If a special diet is required for a child by a physician, a copy of the physician's order, a copy of the diet and a sample

meal plan for the special diet shall be maintained in the child's file.

(2) If the parent or guardian notifies the child care facility of any known food allergies, written documentation must be maintained in the child's file.

(3) Special food restrictions must be shared with the staff, and must be posted in a conspicuous location in the kitchen area to serve as a reminder for staff members.

(e) Food Service.

(1) Children shall be supervised during all meal times. All food shall be served in individual containers for each child.

(2) Infants shall be fed by a staff member, and at *no* time shall propped bottles be permitted when feeding infants. There shall be no automatic feeding devices unless medically prescribed. All bottles shall be individually labeled with the child's name.

(3) Heated foods and bottles must be tested before feeding to ensure heat is evenly distributed, and to prevent injury to children.

(4) Child care facilities shall provide sufficient seating so that children are seated at tables for meals.

(5) Food shall not be used as a reward or as punishment.

§ 1108. Materials and Equipment.

§ 1108.1. General.

The selection, quantity, arrangement and use of available materials and equipment shall be age-appropriate, durable, meet the recommendations of the U.S. Consumer Product Safety Commission (CPSC), including the latest version of the CPSC Handbook for Public Playground Safety (Appendix F), and meet the recommendations of the Americans with Disabilities Act (ADA) for all children, including children with special needs.

(a) The DPHSS shall review Appendix F and develop

rules and regulations based upon the U.S. Consumer Product Safety Commission Handbook for Public Playground Safety which should be applicable for Guam, within one hundred twenty (120) days of the enactment of this Act.

(b) The rules and regulations shall be promulgated pursuant to the AAA rule-making procedures.

(c) The materials and equipment shall:

(1) provide opportunities for indoor or outdoor play, exploration, expression, experimentation and discovery;

(2) provide opportunities for learning concepts and skills in different developmental domains;

(3) represent the diversity of children, families, culture, age, gender, language and abilities;

(4) provide safe, but challenging learning opportunities where problem solving is practiced; and

(5) support the curriculum, meet the goals and objectives of the program, and foster desired outcomes for children.

§ 1108.2. Storage Spaces.

(a) Storage spaces for individual storage of children's clothing and personal belongings *shall* be available and labeled.

(b) Storage spaces for accessible play materials and equipment used by the children shall be available.

(c) Storage spaces for other equipment, materials, and supplies used by staff shall be available, but secure and out of children's reach.

§ 1108.3. Sleeping Equipment and Bedding.

The following sleeping equipment shall be safe, sturdy, clean, age-appropriate and available:

(a) an individual bed, cot, crib, sleeping bag, mat, or pad, for each child who rests; and

(b) a clean sheet or cover to be used on the sleeping

equipment for each child.

§ 1109. Personnel.

§ 1109.1. General.

(a) There shall be a sufficient number of qualified staff to carry out the program of the child care facility at all times.

(b) Child care facilities shall develop and record policies pertaining to personnel practices.

(c) The child care facility shall ensure that all new employee hires, including submission of clearance documents, are reported to the Division prior to their employment.

§ 1109.2. Information on Current Staff Members Inclusive of Cooks and Maintenance Personnel.

(a) The following information shall be supplied to the Division for all staff members:

(1) name, date of birth, age, home address and telephone number;

(2) education transcripts and/or Early Childhood Care and Education (ECCE) certificate;

(3) work experience;

(4) physician's certification of examination form;

(5) health certificate(s);

(6) police and criminal court clearances;

(7) consent of release to perform a check of the Child Abuse and Neglect Registry Clearance; and

(8) other information as requested by the Division.

(b) A listing of all practicum students and/or volunteers who serve twenty (20) or more hours per week shall also be supplied to the Division.

§ 1109.3. Responsibilities and Qualifications for Early Childhood Director.

(a) Responsibilities of Early Childhood Director. There shall be

a responsible Early Childhood Director, or their designee, in charge of the child care facility at all times during their hours of operation.

(1) To be in charge means that the responsible person is on the premises, and available to staff, parents or guardians, and children. It precludes outside employment which interferes with these duties.

(2) The Early Childhood Director shall not be a full-time teacher or early childhood provider.

(3) The Early Childhood Director shall be responsible for the overall administration of the child care facility's policies and procedures.

(4) When the Early Childhood Director is required to be absent temporarily from the child care facility, arrangements shall be made for the Early Childhood Assistant Director, or a staff member who is at least twenty-one (21) years of age and meets the requirements of no less than an Early Childhood Lead Provider, to act as a substitute for a maximum of one (1) month. After one (1) month, the Early Childhood Director shall hire an Acting Director if prolonged absence is necessary.

(b) Qualifications of Early Childhood Director. The qualifications for the Early Childhood Director shall be as follows:

(1) The Early Childhood Director shall be at least twenty-one (21) years of age.

(2) The Early Childhood Director shall have education and experience which will provide the knowledge, skills, and attributes and qualities necessary to carry out an effective program of quality child care as set forth in these laws, rules and regulations.

(3) The minimum education and training requirement for an Early Childhood Director is Level 3 Early Childhood Master Provider/Early Childhood Director as indicated in Guam's Plan for Professional Development. (See Appendix A).

§ 1109.4. Responsibilities and Qualifications for Early Childhood Assistant Director.

(a) Responsibilities of Early Childhood Assistant Director. The Early Childhood Assistant Director shall be responsible and work with or alongside the Early Childhood Director to carry out the program of the facility under the guidance of the Early Childhood Director.

(b) Qualifications of Early Childhood Assistant Director. The Early Childhood Assistant Director *shall* meet the same minimum education and training requirements as an Early Childhood Director as stated in § 1109.3(b)(3).

(c) The Early Childhood Assistant Director shall be at least twenty-one (21) years of age.

§ 1109.5. Requirements of Staff Members. Each staff member shall be qualified through training, experience, skills, and education, as indicated in Guam's Plan for Professional Development. (Appendix A).

(a) Educational requirements of staff members shall be as follows (as referenced in Guam's Plan for Professional Development):

By 2014, twenty-five percent (25%) of early childhood providers employed by the child care facility shall meet the requirements of a Level 2 Early Childhood Lead Provider.

(b) (1) All staff members shall have a physical examination from a licensed physician indicating that the individual is in good health, and free from highly contagious diseases and any disability which would limit his/her ability to adequately care for children.

(2) This physical examination report shall be renewed annually, and shall be kept on file in the facility.

(c) All staff members shall have a valid health certificate pursuant to Title 10 GCA, Chapter 22, and applicable rules and regulations.

(1) These documents shall be renewed annually, with copies prominently posted in the facility as required.

(2) Each staff member must comply with having their health certificate on their person at all times while working, as required by applicable rules and regulations.

(d) (1) Operators of child care facilities must obtain a valid sanitary permit pursuant to Title 10 GCA, Chapter 21, and applicable rules and regulations.

(2) This permit shall be renewed annually, and prominently posted in the facility as required.

(e) (1) The Early Childhood Director shall provide information on workshops, seminars, training sessions or courses available to all staff members to encourage staff growth and development.

(2) Training topics should include, but is not limited to, one (1) or more of the following topical/competency areas (as referenced in Guam's Plan for Professional Development):

(A) Child Development Theory and Practical Application;

(B) Healthy and Safe Environments;

(C) Adaptations and Modifications;

(D) Working with Families;

(E) Observation and Assessment; and

(F) Professional Conduct and Ethics.

(f) Volunteers and practicum students are required to have a valid health certificate and physical examination prior to providing services.

(g) Licensees shall be responsible for ensuring that licensees and all staff members are free of serious emotional problems which limit their ability to care for children, and that they demonstrate evidence of the ability to deal effectively with practical problems of daily living and of child care.

(h) Licensees and all staff members shall be of reputable and responsible character, and shall not have a criminal history

record, employment history or background which poses a risk to children in their care, such as the following:

(1) conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children and any other conviction, the circumstances of which indicate that the applicant or employee may pose a danger to children;

(2) the type of criminal offense, when it occurred, and evidence of rehabilitation may be considered in determining whether the criminal history record poses a risk to the health, safety or well-being of children in their care;

(3) an employment history indicating violence, alcohol or drug abuse and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children;

(4) documented history of an individual who was found to be in non-compliance and violation of licensing laws, rules and regulations, and failed to conform to standards; and

(5) background information which shows that the individual has been identified as the substantiated perpetrator of child abuse or neglect.

(i) Staff members directly responsible for the care and education of children shall have the following minimum qualifications:

(1) be at least eighteen (18) years of age or older; and

(2) complete requirements for a Level 1 Initial Early Childhood Provider within twelve (12) months of employment as indicated in Guam's Plan for Professional Development.

(j) Staff members shall demonstrate that they have:

(1) the capacity to perform the duties required for the care and education of children;

(2) the ability to respect the individual child's uniqueness and level of adjustment into the child care facility; and

(3) the ability to work positively with children, co-workers and parents, and deal effectively with practical problems of daily living.

§ 1110. Group Child Care Homes.

§ 1110.1. Group Child Care Homes.

Applicability. All the rules and regulations of this Chapter are applicable to Group Child Care Homes, except for § 1109.3 - § 1109.5, et seq. All Group Child Care Homes shall comply with the following:

(a) Requirements for Group Child Care Home Providers. The requirements for group child care home providers shall be as follows:

(1) demonstrate and maintain the capacity to perform the duties required for the care and education of children;

(2) demonstrate and maintain the ability to respect the individual child's uniqueness and level of adjustment;

(e) demonstrate and maintain the ability to work harmoniously with parents and other co-workers; and

(4) demonstrate and maintain an understanding of developmentally appropriate practices in early childhood education.

(b) Qualifications of Group Child Care Home Providers. The qualifications for group child care home providers shall be as follows:

(1) Child care providers shall be free of serious emotional problems that interfere with their ability to care for children, and must demonstrate evidence of ability to deal effectively with practical problems of daily living, child care, and work positively with children, co-workers and parents.

(2) Child care providers shall have the following minimum qualifications:

(A) be at least twenty-one (21) years of age or older (each additional provider in a group child care home shall be at least eighteen [18] years of age);

(B) receive fifteen (15) hours of annual training in the areas of, but not limited to, health, safety, nutrition, and child development; and

(C) maintain certification in Pediatric CPR and Pediatric First Aid.

(3) (A) Child care providers in contact with children must have a physical examination from a licensed physician indicating that the individual is in good health, and free from highly contagious diseases and any disability which would limit his/her ability to care for children.

(B) This physical examination report shall be renewed annually, and shall be kept on file in the group home facility.

(4) (A) Child care providers shall have a valid health certificate pursuant to Title 10 GCA, Chapter 22, and applicable rules and regulations.

(B) These documents shall be renewed annually, and kept on file and/or prominently posted in the facility as required.

(5) Child care providers, and all other adult members in the home, shall obtain a Police Clearance, a Criminal Court Clearance listing the types of criminal convictions, if any, and a Clearance from the Child Abuse and Neglect, and Sex Offender Registries.

§ 1111. Reporting Requirements.

§ 1111.1. Reporting Child Abuse and Neglect.

(a) Pursuant to the Child Abuse and Neglect Reporting Act (Title 19 GCA, Chapter 13, Article 2 §13201), a person required to

report suspected child abuse or neglect is defined as:

> "Any person who in the course of his or her employment, occupation, or practice of his or her profession, comes into contact with children. Such persons shall report when they have reason to suspect on the basis of their medical, professional, or other training and experience that a child is an abused or neglected child."

(b) (1) No person may claim "privileged communication" as a basis for his or her neglect or failure to report suspected child abuse or neglect, or to provide the Division's Child Protective Services Section, or the Guam Police Department, with required information.

(2) Such privileges are specifically abrogated with respect to reporting suspected child abuse or neglect and providing information to the Department.

(c) The child care facility shall require each staff member to be knowledgeable and informed of their individual mandatory responsibility to report all incidents of child abuse or neglect to the Division's Child Protective Services Section accordingly.

(d) At the time of admission, the child care facility shall provide to the child's parent or guardian information that explains how to report suspected child abuse or neglect, and that the facility is mandated to report any suspected child abuse or neglect to the proper authorities.

§ 1111.2. Reporting Licensing Complaints.

(a) The child care facility shall provide written information detailing the steps to report any licensing, health, and safety violations against a child care facility at the time of admission, to the child's parent or guardian, and to potential staff members prior to recruitment.

(b) The information must include the name, mailing address, and telephone numbers of the Division's Child Licensing Program.

§ 1112. Display of Documents.

§ 1112.1. General.

The following documents shall be posted in a prominent and conspicuous location, as designated by the Director, to be viewed by the public at all times in the child care facility:

(a) License to Operate a Child Care Facility;

(b) Sanitary Permit;

(c) Copy of Health Certificates;

(d) Daily Schedule;

(e) Fire Evacuation Plan;

(f) Fire Extinguisher Signs;

(g) Earthquake Preparedness Procedures;

(h) Exit Signs;

(i) Daily Menu (If applicable);

(j) Inspection reports conducted by the Department of Public Health & Social Services, Guam Fire Department, Department of Public Works, and Department of Land Management;

(k) Grading Placards issued by the Division of Environmental Health;

(l) No Smoking Signs;

(m) First Aid Kit Signs;

(n) Communicable Disease Prevention Poster;

(o) Emergency phone numbers, to include, but *not* be limited to, the fire department, the police, and emergency medical services, and be placed conspicuously next to all operating phone lines; and

(p) Other emergency procedures established by the child care facility.

§ 1113. Records Open to the Public.

§ 1113.1. Public Documents.

(a) The Division's licensing records are considered open records and are available to the public.

(b) Responses to requests for records are conducted by the Division in conformance with the guidelines of the Sunshine Reform Act of 1999 (Title 5 GCA, Chapter 10, Article 1).

(c) Exceptions are:

(1) the name and identifying information of someone who reports an alleged violation of the laws, or rules and regulations, or who make allegations during an investigation unrelated to the original report;

(2) information identifying children's names;

(3) criminal history information;

(4) reports and records received from other agencies including police, court clearances and child protection reports;

(5) certain confidential information from other agencies;

(6) personal references requested by the Division;

(7) scholastic records, health reports, physical, social or psychological;

(8) information about pending court cases; and

(9) information about an abuse or neglect investigation that has *not* been completed.

§ 1114. Transportation Provisions.

§ 1114.1. General.

When transportation is provided by a child care facility, children shall be protected by adequate supervision, safety precautions, and liability and medical insurance coverages, as follows:

(a) The vehicle and driver providing transportation shall be in compliance with all relevant motor vehicle and traffic laws.

(b) During any field trip or excursion operated or planned by the child care facility, the staff to child ratios as provided in

§ 1106.1(a) shall apply.

(c) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development.

(d) Infants, toddlers, and preschoolers transported in vehicles by staff members, either to or from the child care facility, or for any program activities, shall be properly secured in an age and size appropriate child passenger restraint system, approved safety belts, or safety harnesses, which meets federal motor vehicle safety standards and in accordance with the manufacturer's operating instructions as mandated by Guam law.

(e) Children shall not be allowed to ride in the back of pick-up trucks, or in jeeps or other open-air vehicles that are not fully enclosed.

(f) Children shall be supervised in the vehicles at all times.

§ 1115. Communication Between Parents and Early Childhood Providers.

§ 1115.1. General.

(a) Early childhood providers shall communicate and maintain an open door policy with parents or guardians including, but not limited to, the following information:

(1) information and instructions related to the child; and

(2) health, safety, child development, or behavior of the child to the parents or guardians.

(b) Parents or guardians are encouraged to notify the child care facility immediately of a concern which should be addressed immediately and expect feedback from the child care facility in a timely manner, no later than two (2) business days.

§ 1116. Parental Accessibility.

§ 1116.1. General.

(a) During the hours of operation, a child care facility shall allow access by parents or guardians having legal custody of a child

in care to those areas of the child care facility that is licensed for child care. This is to allow parents or guardians the opportunity to observe their child and the operation of the child care facility.

(b) Access to a child care facility by parents or guardians with legal custody of children in care does not have to be arranged in advance with the child care facility.

§ 1116.2. Refraining from Releasing Children to Family.

(a) If a parent or authorized person is found to be behaving in a way that impairs that person's ability to care for the child (i.e., drunken behavior, belligerent), or lacks suitable equipment (i.e., an appropriate child passenger restraint system), the child care providers shall refrain from releasing the child to the family.

(b) Child care providers shall contact appropriate law enforcement agents, as needed.

§ 1117. Non-Discrimination.

§ 1117.1. General.

(a) A child care facility shall not discriminate against any person on the grounds of race, color, national origin, age, sex, religion or disability in admission to, participation in, or receipt of the services and benefits of any of its programs and activities, or in employment.

(b) Furthermore, a child care facility shall not deny or provide for the access and accommodation of persons with disabilities in compliance with the Americans with Disabilities Act of 1990 (Title 42 United States Code, Section 12101).

(c) Child care facilities shall also conform to any Guam laws and applicable rules and regulations governing persons with disabilities and other protected groups.

§ 1118. Denial, Suspension, or Revocation of License.

§ 1118.1. Denial, Suspension, or Revocation of License.

(a) The Department may suspend any license to operate a child care facility under, but *not* limited to, the following conditions:

(1) (A) Any environmental health violation under Title

10 of the Guam Code Annotated, Chapters 20 through 40, and those applicable rules and regulations.

(B) The Director has general supervision of environmental health and shall be responsible for carrying out the provisions of this Code;

(2) If the operation of the child care facility otherwise constitutes a substantial or serious hazard to public health;

(3) If the applicant or licensee failed to comply with these rules and regulations, the corrective action in the inspection report, Notice of Adverse Action, and suspension;

(4) If the applicant or licensee failed to pay a fine after either failing to appeal the assessment of a fine within the prescribed time or after a hearing where assessment of a fine was upheld; or

(5) If the applicant or licensee submitted any misleading or false statement or report required in these rules and regulations.

(b) The Department may deny or revoke any license to operate a child care facility under, but not limited to, the following conditions:

(1) Violating the provisions of § 2408 of the Child Welfare Services Act (Title 10 GCA, Chapter 2 Article 4);

(2) Upon a substantial or serious violation under these rules and regulations, which affects the health and safety of children in care by a child care facility or by any of its employees;

(3) Any substantiated charge of child abuse or neglect;

(4) The applicant or licensee submitted any misleading or false statement or report required in these rules and regulations;

(5) The applicant or licensee refused to submit any report or make available any records required under § 1102.0 of these rules and regulations;

(6) The applicant or licensee refused to admit, at a reasonable time, any employee of the Department authorized by the Director to investigate or inspect, in accordance with § 1102.11 of these regulations; or

(7) The applicant or licensee failed to obtain a license prior to opening the child care facility.

§ 1118.2. Effect.

(a) (1) Upon suspension or revocation, the licensee shall immediately return the license to the Division, and the licensee shall immediately cease all operations.

(2) The licensee must provide its roster of enrolled children and emergency contact numbers to the Division's inspector, who shall ensure that all measures are taken to contact the parents/guardians of all the children to be picked up.

(b) Whenever a license is suspended, a provisional license may be issued to resume operation.

(1) The child care facility must submit a corrective action plan within the prescribed time frame to come into compliance.

(2) When the child care facility submits documentation or all corrective actions have been taken, the license will be upgraded back from its provisional license to license status.

(c) When a licensee fails to come into compliance after being issued a provisional license, the license shall be revoked.

(1) A licensee shall not qualify for a license from the Department for one (1) year after a final decision has been rendered to revoke the license.

(2) Thereafter, the licensee shall be eligible to operate a child care facility only if compliance of these rules and regulations can be demonstrated.

(d) The licensee shall not be eligible to operate a child care facility if convicted of a crime against persons, and/or listed in the Child Abuse Registry and/or the Sex Offender Registry as indicated

in § 1109.5 (h).

§ 1118.3. Suspension in an Emergency.

(a) (1) The Department may suspend any license without a prior hearing if failure of the licensee to comply with any these rules and regulations results in an emergency situation which endangers the life, health, or safety of the children or the staff present in the child care facility.

(2) The licensee shall be notified of any such suspension of a license by written notice that is either hand-delivered, mailed via first class mail, certified or registered, return receipt requested, or delivered by courier requiring a signed receipt.

(b) If the Department receives a request for a hearing within five (5) business days following the licensee's receipt of such notice, a hearing shall be held within ten (10) business days of the receipt of such request for hearing. The suspension shall remain in effect pending such a hearing.

(c) (1) The sole issue at the hearing shall be whether the Department has reasonable cause to believe that the licensee's failure to comply with these rules and regulations resulted in an emergency situation which endangered the life, health, or safety of the children or the staff present in the child care facility.

(2) If a report indicates that any abuse or neglect occurred in a licensed child care facility or during participation in a licensed child care facility related activity, it shall be prima facie evidence that an emergency existed.

(d) The licensee shall notify the parents or guardians of all children enrolled in the child care facility, and all funding agencies of any such suspension of a license within two (2) business days of the receipt of notice from the Department.

(e) Upon suspension, the licensee *shall* immediately return the license to the Division and cease providing services.

§ 1118.4. Follow-up to Enforcement Action.

(a) Upon the expiration of the timeframe(s) prescribed in a

corrective action plan for compliance, inspection report, or notice of adverse action, the Division staff will determine compliance by visiting the child care facility or program, reviewing documents, and/or verifying compliance through whatever other means the Division deems suitable.

(b) If a determination of non-compliance is made, the Division shall request an additional corrective action plan or notice of adverse action. The Department may, in addition to any of the actions listed above, levy an administrative penalty; or deny, suspend or revoke a license.

(c) These rules and regulations shall in no way limit the Department's authority to visit any child care facility subject to licensure or approval by the Department to determine compliance with these rules and regulations, nor do these regulations limit the Department's authority to deny, suspend or revoke a license.

§ 1119. Right to Appeal.

§ 1119.1. General.

(a) Any child care facility receiving a notice indicating that the Director has initiated an action to deny, suspend or revoke its license shall result in the licensee being informed of its right to appeal and the procedures to file an appeal.

(b) Except for a suspension in an emergency as outlined in § 1118.3 of these rules and regulations, a child care facility affected by an adverse action may initiate an appeal by means of a written request to the Department within ten (10) working days after the licensee has been served by written notice that is either hand-delivered, mailed via first class mail, certified or registered, return receipt requested, or delivered by courier requiring a signed receipt.

(c) Failure to request within the timeframe will constitute a waiver of right to a hearing.

§ 1120. Hearing.

§ 1120.1. General.

(a) Except for a suspension in an emergency as outlined in § 1118.3 of these rules and regulations, whenever a license is to be

denied, suspended or revoked, the licensee shall be notified in writing through a Notice of Adverse Action by the Director ten (10) days prior to the effective date of the agency's action to deny, suspend or revoke the license.

(1) An opportunity for a hearing will also be provided upon service of the Notice of Adverse Action for an administrative penalty.

(2) A child care facility may request for a hearing on any actions taken of denial, suspension or revocation taken by the agency.

(b) (1) Upon receipt of a request for a hearing, the Director shall arrange to hear the appeal of the child care facility within twenty (20) working days following the receipt of the written request.

(2) The Director shall make a final determination to repeal or stay any denial, suspension or revocation described in § 1118.1 upon the completion of a hearing.

(c) If no written request for a hearing is filed within ten (10) working days of receipt of the notice, the Department's disciplinary action is sustained as noted in the Notice of Adverse Action, and the child care facility will be notified of the decision in writing.

§ 1121. Serving of Notices.

§ 1121.1. General.

(a) A notice provided for in these rules and regulations is properly served when it is delivered

(1) to the licensee or

(2) to the person in charge of the child care facility, or

(3) when it is hand-delivered, or

(4) mailed to the licensee via first class mail, certified or registered, return receipt requested, or

(5) delivered by courier requiring a signed receipt to the last known address of the licensee.

(b) A copy of the notice shall be filed in the records of the Bureau of Social Services Administration, Division of Public Welfare, Department of Public Health and Social Services.

§ 1122. Severability.

§ 1122.1. General.

If any phrase, clause, sentence, section, subsection, provision, or part of these rules and regulations or its applicability to any person or circumstance, if for any reason is held to be unconstitutional or invalid, the remaining portions of these rules and regulations, or the application of these rules and regulations to other persons or circumstances shall not be affected.

§ 1123. Child Care Fund.

§ 1123.1. Child Care Revolving Fund; No Commingling.

(a) As provided pursuant to § 2416 of Article 4 of Chapter 2, Division 1, Title 10, Guam Code Annotated, there is created, separate and apart from other funds of the government of Guam, a reserve fund known as the Child Care Revolving Fund (the Fund).

(b) The Fund shall not be commingled with the General Fund or any other funds of the government of Guam and shall be deposited into a separate account.

§ 1123.2. Expenditures from the Fund.

(a) All proceeds from fees and fines collected pursuant to these rules and regulations shall be deposited into the Fund and shall be expended by the Department solely in support of the functions of the Division of Public Welfare of the Department of Public Health and Social Services, including, but not limited to:

(1) recruitment of child care licensing staff;

(2) professional development;

(3) training;

(4) technical assistance and tuition assistance for child care professionals and licensing staff; and

(5) quality care and education of children.

(b) Any unexpended balance of the Fund shall be carried over to the next fiscal year and shall not decrease the local budget based on the fees and fines collected in this Fund from the previous budget year.

(c) Funds shall be expended solely for the purposes provided for pursuant to Article 4 of Chapter 2, Division 1, Title 10, Guam Code Annotated, and these Rules.

(d) The Department shall report monthly and maintain full compliance with all financial reporting requirements of the government of Guam pursuant to applicable law.

(e) Reports shall be submitted to *I Liheslaturan Guåhan* via the office of *I Maga'lahen Guåhan* [Governor of Guam].

§ 1123.3. No Transfer Authority.

The money placed in the Fund is not subject to any transfer authority of *I Maga'lahen Guåhan* [Governor of Guam].

§ 1124. Review.

§ 1124.1. General.

(a) The Department shall review and update these regulations as needed, but in no event longer than five (5) years after the date of the initial promulgation of these Rules and Regulations, and at a minimum of every five (5) years thereafter.

(b) The DPHSS shall review Appendix A page 8, positions 1, 2, and 3 and develop rules and regulations within one hundred twenty (120) days of the enactment of this Act. The rules and regulations shall be promulgated pursuant to the AAA rule-making procedures.

ARTICLE 2
FOOD STAMP PROGRAM

2018 NOTE: Subsection designations have been added/altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1201. Authority and Responsibility.

§ 1202. Conducting the Investigation and Referral of Same.
§ 1203. Conducting Administrative Disqualification Hearing.
§ 1204. Referral of Cases for Prosecution.
§ 1205. Implementation of Decisions.
§ 1206. Fair Hearing.
§ 1207. Collection of Claims Against Households.
§ 1208. Method of Collecting Payments.
§ 1209. Procedures for Reduction of Food Stamp Allotment.
§ 1210. Claims Discharged Through Bankruptcy.
§ 1211. Interstate Claims Collection.
§ 1212. Submission of Payments FNS-209.
§ 1213. Returned Coupons.
§ 1214. Accounting of Claims.
§ 1215. Reporting of Disqualified Individuals.
§ 1216. Forms.

NOTE: Rule-making authority cited for formulation of regulations for the Food Stamp Program Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, 10 GCA §2701. Added by P.L. 15-35. These Rules and Regulations were filed with the Legislative Secretary on April 17, 1984.

§ 1201. Authority and Responsibility.

(a) Program Authority and Coverage. The authority to formulate rules of procedures for investigations against individuals suspected of food Stamp Program abuse and misuse is derived from Public Law 15-35, specifically, Sections 9131 and 9132; Sections 3500 and 3700 of the Guam Food Stamp Certification Manual; Section 273.16 (Disqualification for Intentional Program Violation) § 3500 and 273.18 (Claims Against Households) § 3900 of Federal Register/Vol. 48, No. 32 Rules and Regulations. The rules of procedure herein promulgated will cover the Food Stamp Program.

(b) Responsibility to Implement Policy Provisions.

(1) Departmental Memorandum No. 81-57, created the Investigative and Recovery Services Section and vested in it the functions to investigate complaints of abuse and misuse of program benefits; to report program violations to appropriate authorities, such as the Administrative Disqualification Hearing Official or the Office of the Attorney General; to

collect claims established against households, and to develop and carry out needful rules to effectively accomplish the foregoing functions.

(2) Scope of Operation. The Investigative and Recovery Services Section shall initiate actions against alleged program violations. These actions generally begin with the receipt of complaints; determination whether complaints warrant conducting investigations; case investigations referral of case investigations to appropriate authorities, implementation of decision and collection of claims.

It is the intention of these regulations to be in accordance with the Administrative Adjudication Law and the procedures enumerated therein, but also to enact further policies and procedures concerning disqualification hearings. The sequences of actions include but are not limited to the following:

(A) Entertaining all claims reports submitted by the programs and reviewing and determining which claims reports warrant investigation for possible intentional program violation;

(B) Entertaining complaint reports and programs' investigative referrals, reviewing and assessing them for possible intentional program violation and investigation;

(C) Conducting full investigations of cases selected for intentional program violation and preparing investigation reports;

(D) Preparing and submitting documents and papers for administrative disqualification hearing or for prosecution;

(E) Rendering support in connection with administrative disqualification hearing and referral for prosecution:

(F) Implementing decisions of the administrative disqualification hearing official, the court, waived hearings and consent agreement;

(G) Collection of claims;

(H) Enforcement of all provisions necessary and proper to achieve the program objectives of the Department.

(c) IRSS Support for Administrative Disqualification Hearing Official. To enable the hearing official to carry out his responsibility, the Investigative and Recovery Services Section Supervisor shall designate staff member(s) to render necessary administrative services in conjunction with hearings, implementation of decisions including liaison work with the Attorney General's Office pursuant to applicable laws and procedures and any agreement which may be established.

(d) Hearing Authority. The hearing authority shall be the Director of the Department, or some other Department official designated by the Director to render the final administrative decision in a hearing.

(e) Hearing Official.

(1) Designation. The hearing official shall be designated by the Director of the Department, together with the Attorney General and in accordance with the Administrative Adjudication Law.

(2) Hearing shall be conducted by an impartial official who: does not have any personal stake or involvement in the case; was not directly involved in the initial determination of the action which is being contested; and was not the immediate supervisor of the eligibility worker who took the action.

(f) Power and Duties of Hearing Official. The hearing official shall:

(1) Administer required oaths or affirmations;

(2) Insure that all relevant issues are considered;

(3) Request, receive and make part of the record all facts determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with the due process of insure an orderly hearing;

(5) Provide a hearing record and recommendation for final decision by the hearing authority.

(g) Definitions.

(1) Administrative (Agency or Procedural) Error: An error committed by any eligibility worker or any staff which affects the participation or benefits of household.

(2) Administrative Disqualification Hearing: A hearing conducted to determine whether or not the charge(s) of intentional program violation is true.

(3) Allotment: The amount of food stamp entitlement.

(4) Assistance Payment Worker (APW): Refers to any employee under the Social Services Division responsible for receiving, reviewing, recertifying benefit applications or establishing claims.

(5) Benefits: Any issuance of food stamp coupons or public assistance grant to which a household is entitled.

(6) Case: The matter being investigated and to be presented for certain determination.

(7) Case Name: The individual whose name, appearing in the application for food stamp benefits, identifies the responsible persons for a certain household.

(8) Case Number: The food stamp number assigned to a case name.

(9) Case Worker: Same as APW.

(10) Claim: A collectible dollar value of over issued benefits imposed on a household.

(11) Claim Determination Report (CD): Report establishing claims against households who has been over issued or overpaid in a good stamp benefit or allotment.

(12) Complaint: An allegation of abuse and misuse of the Food Stamp Program. A CD referred to IRSS for collection shall also be treated as a complaint.

(m) Complaint of Intentional Program Violation: A bill containing charge(s) of intentional program violation filed with the Disqualification Hearing Officer or to the Attorney General's Office for administrative disqualification hearing or for prosecution.

(n) Decision: The determination of the Administrative Disqualification Hearing Officer or the court relative to the complaint filed.

(o) Demand Letter: IRSS Form #6 requesting the household to repay the over issuance.

(p) Department: The Department of Public Health and Social Services. [16]

(q) Disqualification: Action taken against an individual declaring him ineligible to receive food stamp benefits owing to an intentional program violation.

(r) Disqualification Consent Agreement: An understanding reached between the household and a prosecutor, or between the household and the court on a certain term and conditions on a referred case whereby the household accepted the consequences of disqualification and other attendant penalties, hence avoiding a court proceeding.

(s) Evidence: Proof, either written or unwritten of allegations at issue between parties.

(t) Facts: Truth; reality; to have existed or happened.

(u) Fair Hearing: As used in this manuals shall mean a hearing conducted on the question of the amount of the claim. It also means an administrative procedure to provide the household the opportunity to question the actions of program workers which affect the level of benefits participation.

(v) FNS*:* Food and Nutrition Service.

(w) Hearing Authority: The Director of the Department of Public Health and Social Services.

(x) Hearing: As used in the manual shall mean administrative disqualification hearing.

(y) Hearing Official or Officer: The official designated by the hearing authority to conduct the administrative disqualification hearing.

(z) Inadvertent Household Error: An error unintentionally committed by the household.

(aa) Intentional Program Violation: An action of the household which indicated an intent to commit a violation against the Food Stamp Program.

(bb) Investigate: To examine, inquire, search into the particular of a given issue, problems or allegations.

(cc) IRSS: The Investigative and Recovery Services Section. It shall also mean the IRSS acting in behalf of the Department.

(dd) IRSS Case Number: The IRSS Number assigned to every complaint for purpose of control, files and identification.

(ee) Manual: Shall refer to the Rules of Procedure for Conducting Investigations, Administrative Disqualification Hearing, Referral of Cases for Prosecution, Implementation of Decision and Claims Collection/ Control and Reporting.

(ff) Over issuance: Any issuance of benefits or allotment which exceed the established level of eligibility.

(gg) Overpayment: Same as Over issuance.

(hh) Overpayment Report: Report establishing a claim against household who has been over issued or overpaid a public assistance grant.

(ii) Program: The Food Stamp Program.

(jj) Staff or Staff Member: Shall mean any investigative staff or IRSS.

(kk) Waiver: As used in this manual shall mean the signing of an agreement by household accepting the consequences of disqualification from the program and other attendant penalties hence avoiding the administrative disqualification hearing.

§ 1202. Conducting the Investigation and Referral of Same.

(a) Review and Designation.

(1) IRSS Supervisor Reviews and Designates Investigations. All complaints received by the Investigative and Recovery Services Section shall be routed to the Investigative and Recovery Services Section Supervisor for review and designation as to type of investigation to undertake.

(2) The Investigations Report. All investigations conducted by the Investigative and Recovery Services Section shall be reduced into writing, clearly supported with facts relevant to the allegations. The basic elements of investigations, namely information gathering; interviewing; use of witnesses; search of records and files on right sources; case file reviews; documents organization and presentation; data or evidence analysis; well thought out and effective reporting; knowledge of fundamental purposes of the program all welded together with the proper discharge of one's duties and exercise of authority will insure protection of the program while being firm and fair with the clients.

It is intended to facilitate the foregoing by the use of IRSS Form-1, "Case Investigation: Brief explanations of IRSS Form-1, follows:

(A) IRSS Case Number: self-explanatory;

(B) Case Data: self-explanatory;

(C) Nature of Complaint: the action and activity of household that contradicts provisions of program.

(D) Investigations: activities carried on by a staff (i.e. record search, interviews, visits to premises and households, gathering evidence, writing notes and report, subject matter discussed with contacts and households, information obtained, office interview, trustworthiness of

data and information, time and place in reference to all activities.

(1) *Evidence and facts: a summary of evidence and facts established;

(2) *Witness(es) who may be available or arranged;

(3) *Testimonies: written testimonies which may be used;

(4) *Exhibits, legal papers, waiver of rights, notes and other associated with investigation.

(V) Violations: list program provisions violated;

(VI) Action that can be taken: actions necessary to satisfy the program.

(3) Criteria for Designation of Investigation to Probable Intentional Program Violation.

(A) Case Open by CD. If the cause(s) of the Over issuance as pointed out in the "Claim Determination" established by the Food Stamp Program clearly indicated to be household error.

(B) Referral for Investigations. Any complaints of possible violation of the Food Stamp Program received by the Investigative and Recovery Services Section not prompted by CD.

(4) Investigative and Recovery Services Section Supervisor shall designate cases for administrative disqualification hearing and prosecution pursuant to Section 3501 and Section 3507.12 of the Certification Manual.

(5) Review of Case Prior to Referral. All case investigations shall be reviewed by a reviewer to be designated by the Administrator of the Division of Social Services before being referred for administrative disqualification hearing or for prosecution. (IRSS Form-2).

(6) Completed Case Investigation Referral to Program.

Completed case investigation shall be submitted to the Investigative and Recovery Services Section Supervisor for clearance and referral to program for claim determination, if investigation was not prompted by a prior filing of CDs; or, unless, investigation would clearly alter the CD if originated by CD.

(7) Reconfirm Case Returned by Program. If a case investigation is referred to program for claims establishment pursuant to Section 3700 of the Certification Manual and then returned to the Investigative and Recovery Services Section, IRSS Supervisor shall review it and reaffirm whether to proceed with administrative disqualification hearing or prosecution.

(b) Preparation and Filing of "Complaint of Intentional Program Violation". If a case has been determined for referral to either administrative disqualification hearing or for prosecution, IRSS Supervisor shall review it to insure the accuracy of facts and evidence of violations and the proper organization of investigation report.

If investigation report is found to be in order, IRSS Supervisor shall file it to the appropriate authorities in accordance with established procedures. (IRSS Form-7 and Form-8).

§ 1203. Conducting Administrative Disqualification Hearing.

If a case is filed for an administrative disqualification hearing the following steps shall be taken:

(a) Coordination with Hearing Official and Scheduling of Hearing. IRSS staff designated for administrative support to the Administrative Disqualification Hearing Officer shall deliver the accusation, hereinafter referred to as the "Complaint of Intentional Program Violation" to the office of the hearing official. IRSS staff and hearing officer shall develop hearing schedule. IRSS staff shall receive complete instructions pertaining to the hearing of specific case.

(b) Advance Notice of Hearing and Option to Waiver of Right to an Administrative Disqualification Hearing.

(1) IRSS shall provide written notice to the household member accused of intentional program violation at least 30 days in advance of the date of disqualification hearing is scheduled. The notice shall be mailed certified mail-return receipt requested or provided by any other method as long as proof or receipt is obtained.

The notice contains information that the household member accused or program violation need to know in order to exercise his or her rights; take the opportunity to exercise options offered or made available by the Department and to assist in complying with hearing requirements and procedures.

At a minimum, the following information are included in the notice:

(A) The date, time, and place of hearing;

(B) The charge(s) against the household member;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the household member or representative will have ten days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

(E) A warning that a determination of intentional program violation will result in a 6-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the Department believes is applicable to the case scheduled for a hearing;

(F) A listing of the household member's rights;

(G) A statement that the hearing does not preclude the state or federal government, from prosecuting the household member for intentional

program violation in a civil or criminal court action, or from collecting over issuance;

(H) If there is an individual or organization available that provides free legal representative, the notice shall advise the household member of the availability of the service; and

(I) A provision advising of option to sign a waiver of rights to an administrative disqualification hearing. (IRSS Form-3)

(c) Attendance at Hearing. The hearing shall be attended by a staff member of the IRSS who conducted the case investigation and by the household member and/or its representative. The hearing may also be attended by friends or relatives of the household member if the household member so chooses. The hearing official shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

(d) Household Member's Rights During Hearing. The household member may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household member feel most at ease. The household member or its representative must be given adequate opportunity to:

(1) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the eligibility worker to establish the household's eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the IRSS shall provide a free copy of the portions of the case files that are relevant to the hearing.

Confidential information that is protected from release and other documents or records which the household would not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

(2) Present the case or have it presented by a legal counsel or other person.

(3) Bring witnesses.

(4) Advance argument without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(7) At the hearing, the hearing official shall advise the household member or representative that they can refuse to answer questions during the hearing.

(e) Hearing Conducted Even Without Household Member or Representative. Even if the household member or its representative failed to appear at the scheduled hearing, the hearing official shall conduct the hearing and carefully consider the evidence and, based on clear and convincing evidence, determine if intentional program violation was committed.

(f) Rehearing After a Good Cause. If within ten days subsequent to the failure of the household to appear at the scheduled hearing the household member presented to the hearing official reasons indicating a good cause for failure to appear, and if the household member is already found to have committed an intentional program violation during the hearing at which the household member was absent, and further, if the hearing official shall have accepted a good cause for failure to appear, the decision shall no longer remain valid and a new hearing shall be conducted.

The same procedures shall govern a rehearing after a good cause as that of a regular administrative disqualification hearing.

(g) Decision Time frame and Format. If the hearing official made a determination on the case, he shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNS regulations and respond to reasoned arguments made by the household member or representative. Within 90 days of the date the household member is notified in writing that a hearing has been scheduled and conducted, the hearing official shall arrive at a decision and notify the household member of such decision. (IRSS Form-4).

(h) Criteria for Determining Intentional Program Violation. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrate that the household member committed, and intended to commit intentional program violation as stipulated in Section 3503 of the Certification Manual.

(i) Other Consequences After an Adverse State Hearing.

(1) No further administrative appeal procedure exists after an adverse hearing.

(2) The determination of intentional program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision.

(3) The household member, however, is entitled to seek relief in a court having appropriate jurisdiction.

(4) The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(j) Notification of Hearing Decision.

(1) No Intentional Program Violation. If the hearing authority finds that the household member did not commit intentional program violation, he shall provide a written notice which informs the household member of the decision. (IRSS Form-5).

(2) Commission of Intentional Program Violation. If the hearing authority finds that the household member

committed intentional program violation, he shall notify the household member of the decision prior to disqualification. (IRSS Form-5)

(k) Waived Hearings.

(1) The hearing official shall cause to be delivered, the ""Advance Notice to an Administrative Disqualification Hearing and Advise of Option to Sign a Waiver of Rights to an Administrative Disqualification Hearing"" (IRSS Form-3) to the household member suspected of intentional program violation.

(2) Other Consequences After Waiver of Rights to an Administrative Disqualification Hearing.

(A) Appeal. No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed.

(B) The disqualification penalty cannot be changed by a subsequent fair hearing decision.

(C) The household member, however, is entitled to seek relief in a court having appropriate jurisdiction.

(D) The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1204. Referral of Cases for Prosecution.

(a) IRSS Supervisor Determine Appropriate Cases. The IRSS Supervisor shall determine appropriate cases for referral for prosecution based on any one or a combination of any of the following criteria and other referral mutually agreed upon:

(1) If the household member suspected of committing intentional program violations is extremely uncooperative and

every step to reach an understanding or to, at least, initiate discussion between the IRSS and the suspected household member have been employed but were proven futile;

(2) If the amount of claim in an alleged intentional program violation case meets the criteria contained in any agreement established between the Department and Office of the Attorney General;

(3) If the individual is suspected of committing more than one act or intentional program violations. (IRSS Form-8)

(b) Coordination for Referred Cases. Once a case has been referred for prosecution pursuant to an arrangement or agreement between the Attorney General's Office and the Department, the IRSS shall stand by to extend necessary support and coordination.

(c) Disqualification Consent Agreement.

(1) Individual suspected of committing intentional program violation could sign disqualification consent agreement for cases of deferred adjudication. These are cases in which a determination of guilt is not obtained from the court due to the accused individual having met the terms of a court order or which are not prosecuted due to the accused having met the terms of an agreement with the prosecutor. (Include in agreement with Attorney General's Office.).

(2) When cases are referred for prosecution and as a result of unusual lapse of time, a notification by the Attorney General's Office or the court that the suspected individual has met the terms of a court order, or which are not prosecuted due to the accused individual having met the terms of an agreement with the Attorney General's Office, the suspected individual shall be notified that he/she can, if desired, a sign a disqualification consent agreement, consonant with Section 3508.10 to 13 of the Certification Manual.

(3) Investigative and Recovery Services Section shall notify the remaining household member pursuant to Section 3508.30 of the Certification Manual.

§ 1205. Implementation of Decisions.

(a) Administrative Disqualification Hearing Decision. If the hearing authority handed down a decision, whether in favor of the suspected individual or the Department and the notice of decision has been returned to the Investigative and Recovery Services Section for necessary follow up action, IRSS shall:

(1) Forward hearing decision to household member. (IRSS Form-5)

(2) Forward copy of decision to program together with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(3) Send household member a demand letter. (IRSS Form-6)

(4) Sign repayment agreement with household member if not already done so or if prior signed agreement would be altered by decision. (IRSS Forms 12 and 13)

(b) Waiver of Rights to an Administrative Disqualification Hearing. If disqualification is the result of a waiver of rights to and administrative disqualification hearing and the waiver meets all conditions and has been returned to the Investigative and Recovery Services Section for necessary follow up action, IRSS shall:

(1) Send to household member information on actions taken as a result of such waiver. (IRSS Form-5).

(2) Forward copy of waived rights (IRSS Form-3) to program with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(3) Send household member a demand letter. (IRSS Form-6)

(4) Sign repayment agreement with household member if not already done so, or if prior signed agreement would be altered by the effect of waiver.

(c) Court Decision.

(1) Decision in Favor of the Department. If the court shall rule that an intentional program violation was committed and which decision was conveyed to the Department, the

Department shall:

(A) Forward court decision to household member through notice of decision. (IRSS Form-5)

(B) Forward copy of decision (IRSS Form-5) to program with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(C) Forward to the household member demand letter. (IRSS Form-6)

(D) Sign repayment agreement with household member if not already done so, or if prior signed agreement would be altered by the decision. (IRSS Forms-12 or 13)

(2) Court Fails to Impose Period of Disqualification.

(A) If the court fails to impose a disqualification period, the Department shall impose it according to Sections 3502 and 3507.21.

(B) Inform household member of court decision together with supplemental action the Department will take. (IRSS Form-5)

(C) Forward copy of decision with supplemental action of Department (IRSS Form-5) to program with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(D) Forward to household member demand letter. (IRSS Form-6)

(E) Sign repayment agreement with household member if not already done so, or if prior signed agreement would be altered by the decision. (IRSS Forms-12 or 13).

(3) Reversed Disqualification. In a case where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, the Department shall:

(A) Forward copy of court decision. (IRSS Form-5)

(B) Forward court decision to program. (IRSS Form-5)

(C) IRSS follow up requirements specified in Section 3600 of the Certification Manual.

(d) Disqualification Consent Agreement. If the disqualification results from the signing of disqualification consent agreement, between the household member and the prosecuting authority the Investigative and recovery Services Section shall, upon receipt of such consent agreement coordinate with the household member and the program for the purpose of:

(1) Carrying out the requirements resulting from the disqualification consent agreement.

(2) Sending to household demand letter. (IRSS Form-6)

(3) Signing repayment agreement with house hold member if not already done so, or when prior signed agreement would be altered by the effect of a consent agreement. (IRSS Forms-12 or 13)

§ 1206. Fair Hearing.

(a) Fair Hearing Procedures.

(1) Rights to a Fair Hearing. Unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing; the household member who has been found guilty of intentional program violation is entitled to a fair hearing. Such fair hearing, however, is limited to the question of the amount of the claim.

(2) Notification of Fair Hearing. IRSS, in conveying a decision to the household member of a disqualification through the "Action Taken on Your Administrative Disqualification Hearing", and demand requesting a fair hearing. A self-addressed envelope shall be furnished in order to return request on time. Additionally, a form for withdrawal shall be included. (IRSS Forms-9 and 10)

(3) Coordination with Fair Hearing Official. If a

household submit a request for a fair hearing in response to IRSS correspondence, IRSS shall forward such request to the fair hearing official and wait for the decision.

(4) Validating a Fair Hearing Request. The fair hearing request must, in order to be valid, satisfy the following:

(A) Conform with Section VI, A, 1.

(B) Request form properly filled in and returned to the Department, c/o IRSS, no later than 30 days as of the date of notification.

(C) If not withdrawn ten days prior to its scheduled return.

(5) Role of IRSS in a Fair Hearing. The IRSS role in a fair hearing request shall extend to the forwarding of the notice, receiving the request, routing of request to the fair hearing officer, awaiting for the result of the fair hearing and implementing the decision.

§ 1207. Collection of Claims Against Households.

(a) Inadvertent Household Error and Agency Error Claims. The IRSS shall initiate collection actions on all inadvertent household or administrative error claims, unless the claim is collected through offset and other conditions as described herein:

(1) Benefit Restoration. If the program referred a case of a household member whose benefits have been under- issued, IRSS shall determine whether there is an existing claim filed against the household. If there is a claim the amount of under-issuance shall be reduced from the total amount of the claim. Changes caused by the transaction must be properly recorded.

(2) Claims Less Than $35.00. If a claim is less than $35.00 and it cannot be recovered by reducing the household's allotment, IRSS shall suspend collection action until such time that multiple Over issuance for a household total $35.00 or more. IRSS shall inform household of this policy. (IRSS Form-11)

(3) Lost contact. If there are sufficient documentation

showing that the household member cannot be located, suspend collection action.

(4) Postponing Collection of Inadvertent Household Error Claim. If an inadvertent household error claim case is being referred for possible prosecution or for administrative disqualification, IRSS shall attempt to reach an accord with household for the purpose of determining whether the household desires to continue payment as per agreement or postpone it.

(b) Intentional Program Violation Claim. The IRSS shall collect intentional program violation claim unless:

(1) The household has repaid the Over issuance already as an inadvertent household error.

(2) There is ample documentation which show household cannot be located.

(c) Demand Letter.

(1) Demand Letter Issued for All Claims. For all types of claims, the IRSS shall collect them through the initial step of issuing demand letter to the household, and in accordance with Sections 3704.31, 3704.32, and 3704.33 of the Certification Manual. (IRSS Form-6)

(2) Referral of Non responding Household to Program. If the household member against which collection action has been initiated for payment of an inadvertent household error or intentional program violation claim is currently participating in the program and does not respond to the written demand letter within 30 days of the date the notice is mailed, the IRSS shall immediately refer the matter to the Food Stamp Program for reduction of household food stamp allotment. See Section IX for procedures.

(3) Effecting Suspension After Non-respondence. If any nonparticipating household or if any currently participating household against which collection action has been initiated for repayment of an administrative error claim does not respond to the first demand letter, additional demand letters

shall be sent at reasonable intervals, such as 30 days, until the household has responded by payment or agreeing to pay the claim, until the criteria for suspending collection action, as specified in Section 3705 of the Certification Manual, have been met, or until other collection actions are initiated.

(4) Other Collection Actions. The IRSS May pursue other collection actions through the small claims court or other courts as the situation may warrant.

(d) Suspending And Terminating Collection of Claims.

(1) Suspending Collection of Inadvertent Household and Administrative Error Claims.

(A) An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in Section 3704.11 of the Certification Manual. If collection action was initiated and at least one demand letter has been sent, further collection action of an inadvertent household error claim against a non-participating household or of any administrative claim may be suspended when:

(i) the household cannot be located; or

(ii) the cost of further collection is likely to exceed the amount that can be recovered.

(2) Suspending Collection of Intentional Program Violation Claims. The IRSS may suspend collection action on intentional program violation claims at any time if it has documentation that the household cannot be located. If the IRSS has sent at least one demand letter for claims under $100, at least two demand letters for claims for more than $400, further collection action of any intentional program violation claim against a non-participating household may be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(e) Terminating Collection of Claims. A claim may be determined uncollectible after it is held in suspense for three years. The IRSS may use a suspended or terminated claim to offset

benefits in accordance with Section 3600 of the Certification Manual.

§ 1208. Method of Collecting Payments.

(a) Methods of Collection. IRSS shall collect payments for any claims against household as follows:

(1) Lump sum.

(2) Partial payment and the rest in monthly installments.

(3) In installments.

(b) The household may make payments in cash, money order, checks or in food coupons.

(c) Types of Repayment Agreements. IRSS may negotiate repayment agreement with household as follows:

(1) Routine Payment Agreement. Repayment agreement which assure the liquidation of benefits over issuance within a 36 months period. (IRSS Form-12)

(2) Compromised Repayment Agreement. Repayment agreement which, due to family circumstances, and as a result of a financial assessment (IRSS Form-14), the original amount of Over issuance has been reduced to allow household to liquidate obligation within a period of three years. It is to be noted however that IRSS may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with Section 3600 of the Certification Manual. (IRSS Form-13).

(d) Delinquent Payment, Renegotiation, Reduction of Allotment.

(1) If the household failed to make a payment in accordance with the established repayment schedule (either a lesser amount of non-payment), the IRSS shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the IRSS. (IRSS Form-15).

(2) If the household responds to the notice, the IRSS shall

take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiate, and if the IRSS concurs with the request, negotiate a new payment schedule. (IRSS Form-16).

(C) If the household requests renegotiation of the amount of repayment schedule but the IRSS believes that the household member's economic circumstances have not changed enough to warrant the requested settlement, the IRSS may continue renegotiation until a settlement can be reached. The IRSS shall invoke allotment reduction against a currently participating household for repayment of an inadvertent household error or intentional program violation claim if a settlement cannot be reached.

(D) If a currently participating household against which an inadvertent household error or intentional program violation claims has been established fails to respond to the notice, the IRSS shall invoke allotment reduction. The IRSS may also invoke allotment reduction if such household member responds by requesting renegotiation of the amount of its repayment schedule by the IRSS believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is invoked to notice of adverse action is required.

(E) In cases where the household is currently participating in the program and payment schedule is negotiated for repayment of an inadvertent household error or intentional program violation claim, the IRSS shall insure that the negotiated amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain

unchanged regardless of subsequent changes in the household's monthly allotment.

§ 1209. Procedures For Reduction of Food Stamp Allotment.

(a) The IRSS may collect payments for inadvertent household error claims and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotment.

(b) IRSS shall collect payments for administrative error claims from households currently participating in the program by reducing the household's food stamp allotment if the household prefers to use this method of repayment. (IRSS Form-17)

(c) Prior to reduction, the IRSS shall inform the household of the appropriate formula for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment (i.e., the amount of food stamps the IRSS expects will be recovered each month), and of the availability of other methods of repayment. (IRSS Form-18)

(d) The IRSS may reduce the household's allotment to recover any amounts of any inadvertent household error or intentional program violation claim not repaid through a lump sum payment, unless a payment schedule has been negotiated with the household.

(e) The provision for a $10 minimum benefit level for households with one and two members only, as described in Section 2905.22(b), shall apply to the allotment prior to reduction in accordance with the section.

(f) The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

(1) Inadvertent Household Error Claims. For inadvertent household error claims, the amount of food stamps shall be the greater of ten percent of the household's monthly allotment or $10 per month.

(2) Administrative Error Claims. For administrative error claims, the amount of food stamps to be recovered each month from a household choosing to sue this method shall be negotiated with the household. Choice of this option is entirely

up to the household and no household shall have its allotment reduced by an amount with which it does not agree for payment of an administrative error claim.

(3) Intentional Program Violation Claims For intentional program violation claims, the amount of food stamps shall be the greater of twenty percent of the household's monthly entitlement or $10 per month.

(g) How to Effect Reduction.

(1) When a decision has been reached, with or without the concurrence of the household, as the case may be, as to the amount of the claim to be applied against a benefit allotment, IRSS shall prepare a "Notice of Food Stamp Allotment Reduction" which notice shall contain the following information:

Name of Household;

Case Number;

IRSS Case Number;

Check one of the following:

_____ inadvertent household error claim

_____ administrative error claim

_____ intentional program violation

Amount to be Reduced;

Effective Date of Reduction;

Period Reduction to Cover.

(2) IRSS shall prepare separate ledger to account for food coupons recovered by allotment reduction in as much detail as needed for administrative, statistical and other purposes.

(3) Each month, the IRSS shall pick up consolidated data (print out) of allotment reduction and compare against notice. Should errors occur, immediate recertification shall be made.

§ 1210. Claims Discharged Through Bankruptcy.

The Department shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owning food stamp claims. The Department shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extend as FNS. Acting as FNS, the Department shall have the power and authority to file objections to discharge, proof of claims, exception to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amount collected under this authority shall be transmitted to FNS as provided in Section 3708 of the Certification Manual.

§ 1211. Interstate Claims Collection.

In cases where a household moves out of Guam, the Department shall initiate or continue collection action against the household for any over issuance to the household which occurred while it was under the Department's jurisdiction.

IRSS, upon knowing to which state or jurisdiction a household has moved should make contact and ascertain whether the household has been enrolled in the Food Stamp Program under that jurisdiction.

IRSS should inform the jurisdiction of the facts of the over issuance and its intention to pursue collection action.

Guam's share of any collected claims should be retained. Arrangement with the other jurisdiction should be made for purpose of informing Guam of collected claims from the household.

§ 1212. Submission of Payments FNS-209.

(a) The Department shall retain the value of funds collected for inadvertent household error, intentional program violation, or administrative error claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of household member being disqualified.

The Department's letter of credit will be amended on a quarterly basis to reflect the Department's retention of 25 percent of the value of inadvertent household error claims

collected and 50 percent of the value of intentional program violation claims collected, as well as full retention by FNS of all administrative error over issuance recoveries.

(b) The Department shall submit quarterly, Form FNS-209, Status of Claims Against Households, to detail the Department activities relating to claims against households.

This report is due no later than 30 days after the end of each calendar year quarter and shall be submitted to FNS even if the Department has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional program violation claims each quarter on Form FNS-209, the Department shall also report these amounts on other letter of credit documents as required.

In accounting for inadvertent household error and intentional program violation claims collections, the Department shall include cash or coupon repayments and the value of allotments recovered or offset by restoration of lost benefits. However, the value of benefits not issued during periods of disqualification shall not be considered recovered allotments and shall not be used to offset an intentional program intentional program violation claim.

In addition, the Department shall establish controls to insure that officials responsible for intentional program violation determinations will not benefit from the Department's share of recoveries.

(c) The Department may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that intentional program violation was committed, or receiving from an individual either a signed waiver or consent agreement, at the rate applicable to intentional program violation claims, once the determination or signed document is obtained. In such cases, the Department shall make a note in an attachment to the quarterly reporting form specified in Section 3708.10 which shows the additional amounts retained on amounts already recovered as a result of the change in status of the claim.

(d) Refund. If a household has overpaid a claim, the Department shall pay the household any amounts overpaid as soon as possible after the overpayment becomes known.

The household shall be paid by food stamps if still active in the program or cash if not participating in the program. (IRSS Form-20)

Overpaid amounts of a claim which have previously been reported as collected via the FNS-209 and which have been repaid to the household shall be reported in the appropriate column on the FNS-209 for the quarter in which the repayment occurred. The appropriate retention rate shall be applied to the reduced collection total.

(e) In cases where FNS has billed the Department for negligence, any amounts collected from households which were caused by the Department's negligence will be credited by FNS. When submitting these payments, the Department shall include a note as an attachment to the quarterly reporting from specified in Section 3708.20 which shows the amount that should be credited against the Department's bill.

§ 1213. Returned Coupons.

(a) Inter-Departmental Agreement.

The inter-departmental agreement between the Department of Public Health and Social Services and the Department of Administration established a system and procedures for receipts, accounting and control of all payments of claims against households for over issued benefits in the form of:

(1) Cash (cash, money order or check).

(2) Food stamp coupons.

Methods and procedures for security, accounting, destruction, and reporting of returned food stamp coupons as required under Section 3709 of the Certification Manual are clearly established in the Interdepartmental Agreement. The Inter-Departmental Agreement is attached as part of this manual.

§ 1214. Accounting of Claims.

(a) IRSS shall establish and maintain a system to account for all claims against households. This system shall insure a complete documentation of each claim from the time it is submitted as a complaint to its final disposition.

(1) Claim File. Each claim established shall contain at a minimum a "Claim Determination Report, Repayment Agreement, and Payment Record." All other documents relative to the claim, such as demand letter delinquent notices, investigation reports, hearing or court decisions shall be made part of the file.

(2) Classification. A system of classification shall be established to allow identifying the status of the claim at any given time, that is whether active, delinquent, suspended, terminated, closed, etc.

(3) Locator Card. Each claim established shall also have a locator card. The locator card system should complement the file.

(4) Offset. Insure that benefit restoration are offset against existing claims.

(5) Delinquent Account. Insure a complete identification of delinquent account.

(6) Payments Documentation. Report all payments received.

§ 1215. Reporting of Disqualified Individuals.

(a) Department to Report. The Department shall report to FNS those individuals disqualified for intentional program violation, individuals who signed consent agreements and individuals disqualified based on court prosecution. This information shall be submitted to FNS so that it is received no later than 30 days after the date the disqualification took effect, or could have taken effect for a currently ineligible individual whose disqualification is pending future eligibility. (Form FNS-209)

(b) Data Furnished to Other Public Assistance Program. IRSS

shall provide above data to the Welfare, Medicaid, Food Stamp Program and to other jurisdictions.

(c) In cases where the imposition of a disqualification penalty is being held pending the future eligibility of a household member found to have committed intentional program violation, the Department shall submit a report revising the original disqualification report once the individual begins the period of disqualification in accordance with instructions provided by FNS.

(d) In cases where the disqualification for intentional program violation is reversed by a court of appropriate jurisdiction, the Department shall submit a report to purge the file of the information relating to the disqualification which was reversed in accordance with instructions provided by FNS.

§ 1216. Forms.

IRSS Form 1 Case Investigation

IRSS Form 2 Request for Case Review

IRSS Form 3 Advance Notice of Your Administrative Disqualification Hearing

IRSS Form 4 Advise of Option to Sign a Waiver of Rights to an Administrative Disqualification Hearing.

IRSS Form 5 Action Taken on Your Administrative Disqualification Hearing.

IRSS Form 6 Demand Letter for Over issuance

IRSS Form 7 Complaint of Intentional Program Violation

IRSS Form 8 Complaint of Intentional Program Violation

IRSS Form 9 Request for a Fair Hearing

IRSS Form 10 Withdrawal for Fair Hearing Request

IRSS Form 11 Suspension and Activation of Claim

IRSS Form 12 Repayment Agreement (Routine)

IRSS Form 13 Repayment Agreement (Compromised)

IRSS Form 14 Monthly Financial Assessment

IRSS Form 15 Payment Delinquent Notice

IRSS Form 16 Repayment Agreement (Renegotiated)

IRSS Form 17 Request to Reduce Food Stamp Allotment

IRSS Form 18 Notice of Food Stamp Allotment Reduction

IRSS Form 19 Refund of Overpaid Claim

IRSS Form 20 Food Coupon Payment Daily Log

IRSS Form 21 Food Coupon Payment Monthly Report

FORM FNS-524 (3-83) Disqualified Recipient Report

FORM FNS-209 (2-83) Status of Claim Against Households

FORM FNS-471 (9-81) Coupon Account and Destruction Report

ARTICLE 3

ADOPTION POLICIES AND CONTROL

§ 1301. Definition of Services.
§ 1302. Intent of the Law.
§ 1303. Adoption as Permanency Plan.
§ 1304. Assurances and Ranges of Services.
§ 1305. Pre-Placement Services.
§ 1306. Evaluative Study of the Child.
§ 1307. Recruitment of Adoptive Parents.
§ 1308. Selection of Adoptive Parents-Adoption Screening Committee.
§ 1309. Voluntary Termination of Parent-Child Relationship.
§ 1310. Preparation for Placement.
§ 1311. Post-Placement Services or Removal.
§ 1312. Court-Referred Adoption Studies.

NOTE: Rule-making authority cited for formulation of regulation for Adoption Policies and Control Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, § 2401, 10 GCA added by P.L. 11-99. These Rules and Regulations were filed with the Legislative Secretary on April 25, 1984.

§ 1301. Definition of Services.

Adoption services can generally be defined as an option means and alternative for children who do not have the opportunity for a permanent home and familial relationship with their natural parents and wherein stable, nurturing, permanent family ties can best be established through legalized adoption.

§ 1302. Intent of the Law.

(a) According to Section 221.1 of the Civil Code of Guam and Public Law 13-133, the purpose of the adoption law is: "to protect and promote the welfare of children, natural parents and adoptive parents and thereby promote the welfare of the Territory of Guam."

(b) The law, therefore, provides several basic safeguards, including the requirement that:

(1) the child be legally free for adoption; that natural parent's consent or termination of their parental rights have been secured by judicial decree;

(2) that the child is placed in an adoptive home by Social Services, except in relative adoptions;

(3) that social studies be submitted and considered prior to judgment on adoption petitioners;

(4) and that the child live in the adoptive home for a period of one year under the guidance and supervision of Social Services.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.**§ 1303. Adoption as Permanency Plan.**

A child shall be placed for adoption only upon a determination of either one of the following:

(a) Parent(s) relinquishing or giving child up for adoption.

(b) Court/agency determining that adoption is an appropriate goal to meet the physical and emotional needs of the child.

§ 1304. Assurances and Range of Services.

(a) Services provided by the department shall thus:

(1) Insure that the rights of the legal parents are respected.

(2) Insure that the best interests of the child are protected.

(3) Insure that the adoptive parents are able to provide suitable care and supervision for the healthy growth and development of the child.

(b) The range of services provided shall include:

(1) Evaluative study of child's needs and potentialities.

(2) Recruitment, study and selection of prospective adoptive homes.

(3) Securing legal Termination of Parental Rights (TPR) when appropriate or required by law.

(4) Providing pre-placement and post-placement support services for children and adoptive parents.

(5) Conducting independent adoptive home studies for Superior Court and for off-island adoption agencies.

(6) Conducting an island-wide public information campaign concerning children with special needs and their need for permanent homes when appropriate.

§ 1305. Pre-Placement Services.

The caseworker assigned to the parents of the child to be adopted shall be responsible for the following:

(a) Counseling parent(s) to help them make a free and voluntary decision.

(b) Counseling parent regarding the service alternatives to relinquishment and adoption.

(c) Discussing the meaning, procedures and consequences of adoption and relinquishment (TPR) procedures.

(d) Providing on-going counseling to the parent and child, when appropriate.

§ 1306. Evaluative Study of the Child.

An evaluative study of the child's needs and potentialities shall

be conducted to:

(a) Understand the child and assess the health, physical and personality characteristics, current development and special needs.

(b) Determine whether the child's needs can best be met in adoptive placement.

(c) Determine what kind of family should be selected for the child.

§ 1307. Recruitment of Adoptive Parents.

(a) The Agency shall recruit, study and approve adoptive applicants for children in need of adoption.

(b) Information about the Department's adoption program shall be provided by the intake worker to all who make such requests.

(c) The Agency shall accept all applications made by individual wishing to apply. An adoption questionnaire will also be completed by these individuals. Applications are valid from one year of date received and should be renewed annually. The Agency will send out reminders for renewal if at all possible. There shall be no discrimination against applicants because of ethnicity, sex, marital status, or lifestyle. However, with regard to age, applicants must be at least 18 years old, and 10 years older than the prospective adoptive child.

(d) Applications shall be filed and applicant names placed on a waiting list in order of date received.

(e) Once applications are submitted, no further contact is made unless, upon review of application , clarification is needed regarding points on the application or if the applicant is considered one of the three applicants pre- selected for a prospective adoptive child. A pre-adoption home study will then be conducted on these applicants.

§ 1308. Selection of Adoptive Parents - Adoption Screening Committee.

(a) Purpose: The Adoption Screening Committee (ASC) has the responsibility of reviewing adoption applications and eventually selecting adoptive parents for each child legally available for

adoption and/or given up to this agency for placement.

(b) Composition of Committee: The Adoption Section Committee shall be composed of, but not limited to, the following four (4) on-going members:

(1) The Adoption Supervisor.

(2) Natural Parent's caseworker or child(ren)'s caseworker.

(3) Adoption caseworker not involved in the case.

(4) A third social worker or other staff assigned by the Adoption Supervisor.

(c) Chairman of the Committee. The Chairman of the Committee shall be appointed by the Adoption Supervisor. Said Supervisor may assume the position of Chairman and shall have equal voting rights. The duties of the Chairman shall include:

(1) Making arrangements for the group to meet initially, as soon as possible, but no later than a month prior to the estimated date of delivery (EDD) of the natural mother. Otherwise, if child is already born, the ASC shall meet as soon as possible.

(2) Designating assignments or tasks for the members, who shall meet at least weekly until adoptive parents are selected for the child.

(d) Recording of Committee Decisions: The Chairman shall designate a secretary to record the step-by-step decisions made by the committee, including the names of applicants screened and reasons for their acceptance or rejection in the deliberations. The decision of the Committee regarding the Adoptive Parents chosen shall be preliminary, pending concurrence by the Social Services Administrator, who shall review the minutes and home studies of the Applicants, and provide the Committee with written feedback within five (5) working days thereafter.

(e) Considerations in the Screening Process:

(1) The Committee shall first make reasonable efforts to respect the natural parent(s) wishes regarding the religion, race

and/or age of the prospective adoptive parent(s).

(2) The Committee shall next make reasonable efforts to match each child with an applicant who has requested a child with similar characteristics as to age and sex.

(3) If more than one applicant meets the above criteria, the committee shall give preference to childless applicant(s). Among childless applicants, those who applied first shall be preferred.

(f) Criteria For Selection of Adoptive Parent(s):

(1) The primary consideration in selection Adoptive Parent(s) should be the special needs and "best interests" of the child.

(2) The capabilities of the potential parents to meet these needs is the next factor in matching child with Adoptive Parents.

(3) If at all possible, the child will be matched with characteristics of the potential Adoptive Parents (e.g., ethnicity, physical characteristics, etc.) to increase the chances of the child "fitting in" with the family.

(4) Handicapped or disabled children, or those with special needs, may have other specific criteria made applicable - to be determined by the Adoption Selection Committee, as needed.

(5) For all Native American (Indian) children, efforts must be made to place these children with American Indian families, in accordance with the Indian Child Welfare Act of 1978 (P.L. 95-608).

(6) The Adoption Selection Committee shall compile a list of Specific Criteria to be used for selection on a case by case basis.

(g) Procedures in Making Selection:

(1) The Committee, when using the above priorities and criteria for selection, shall narrow down the applicants to three (3) names.

(2) Chairman shall assign an applicant to each committee member to interview individually and to conduct a pre-adoption home study. All applicants must be interviewed.

(3) Upon completion of home studies, the committee will review each home study and request another interview of all three applicants, if necessary, in order to make the final selection.

(4) Selection of the family at this point, however, must be recognized as preliminary, dependent on adjustment of child and family, and prior concurrence by the Social Services Administrator on the decision of the Committee.

(h) Procedures involving the Adoptive Child:

(1) Prior to birth, after the natural parent(s) has signed initial "Relinquishment of Parental Rights" papers, the caseworker shall make arrangement with the hospital involved to take custody of child immediately upon discharge from the hospital. The following guidelines should be adhered to:

(A) Copy of Relinquishment papers shall be given to hospital officials, particularly Obstetrics department.

(B) OB Nurse shall be given instructions that the mother shall not see the newborn, if that decision has been made, and that the mother has chosen not to take part in the childbirth-child care classes.

(C) Adoption worker shall request that the agency be informed of discharge date of the mother and child. Adoption worker shall make arrangements with the hospital personnel to have the mother discharged sooner than the child's discharge.

(2) The newborn child shall be taken by the natural parent's caseworker to a previously arranged foster home, if an adoptive home has not yet been selected.

(3) Caseworker shall immediately afterwards, or prior to placement, if possible, secure an Ex Parte Order from the Court, granting the Division of Social Services the temporary legal custody of said child, pending the Termination of

Parental Rights and subsequent adoption.

(4) A Power of Attorney should also be prepared, signed by the caseworker and the Administrator of Social Services, and provided to the prospective adoptive parents or foster family so that they can arrange for medical treatment of the child or any of the child's routine legal affairs which require a parent's consent.

(5) For older children, follow guidelines stipulated in number 3 and 4.

§ 1309. Voluntary Termination of Parent- Child Relationship.

(a) A parent, or parents, may voluntarily consent to the relinquishment of a child and termination of their parental rights for the purpose of adoption.

(b) Parent(s) requesting such services should be provided with counseling to ensure that they are fully aware of the legal and emotional effects of termination of their rights as parents, especially irreversibility once Termination of Parental Rights is granted by the Court.

(c) Counseling should also include discussion of alternatives other than termination of parental rights.

(d) Upon mutual agreement between agency and the parent(s) that termination is in the best interest of both parent(s) and child, the following steps shall be taken:

(1) The parent(s) must sign the Consent for Relinquishment form before a notary public.

(2) A temporary order of custody shall be obtained by the agency, pending the filing of the petition and the termination hearing.

(3) The child will be placed in a relative or foster home and, if old enough to understand the proceedings, should be counseled regarding the termination and eventual adoption.

(4) The Termination of Parental Rights (TPR) Petition shall be filed in Superior Court as soon as possible and shall include to the best information or belief of the petitioner:

(A) the name and place of residence of the petitioner;

(B) the name, sex, date and place of birth, and residence of the child.

(C) the basis for the court's jurisdiction;

(D) the relationship of the petitioner to the child, or the fact that no relationship exists;

(E) the names, addresses, and dates of birth of the biological and/or legal parents;

(F) where the child's parent is a minor, the names and addresses of said minor's parents or guardian of the person;

(G) the names and addresses of the person having legal custody or guardianship of the person or acting ""in loco parentis"" to the child or the organization or authorized agency having legal custody or providing care for the child;

(H) the grounds on which termination of the parent-child relationship is sought;

(I) the names and addresses of the person and authorized agency or officer thereof to whom or to which legal custody of the child might be transferred.

(5) After the petition is filed, a hearing date should be set.

(6) A TPR social study should be prepared by the caseworker and shall include:

(A) legal status of child

(B) social history

(C) proposed plans for child

(D) all other facts pertinent to the parent-child relationship

(E) recommendation and reasons as to whether or not the parent-child relationship should be terminated.

(F) where the parent is a minor, if the report does not

include a statement of consent with the parents of said minor, the reasons shall be set forth.

(e) Upon the completion of the Termination of Parental Rights (TPR) proceedings, freeing child for adoption, every effort shall be made by the agency to find suitable adoptive home for the child as soon as possible.

§ 1310. Preparation For Placement.

(a) Placement of a child in a adoptive home shall be made only after the child and the adoptive parents are prepared for it.

(b) The social worker shall prepare the following persons for placement;

(1) The Child: Except for infants, preparation should be consistent with the child's age, emotional maturity and understanding. Preparation shall include:

(A) Worker shall help child understand why he is being place, why his family and/or foster family cannot take care of him, when she/he is going, what adoption is like and what adoption means.

(B) Pre-placement visits between child and adoptive family will be arranged by the Agency, the number of contacts dependent on the child's readiness to make the transfer.

(C) Joint efforts of worker and foster parents in oral discussion with the child regarding the child's move to the new home.

(2) The Foster Parents (who are given interim care to the child):

(A) The Social Worker shall give the foster parents at least two-weeks notice on the plans for child's removal and notify the foster parents of the exact date of removal as soon as this is established.

(B) Worker shall counsel family regarding removal of the child, their feelings, fears, questions, "letting go", etc.

(3) The Adoptive Parents:

(A) The Social Worker shall give adoptive parents any appropriate information obtained in the study of the child and natural parent(s) (except parent(s)' identity) including all aspects of the child's physical, medical, emotional, intellectual, and behavioral development.

(B) Review with the adoptive parents the child's needs and adjustments the child will be experiencing.

(C) Review, interpret and discuss with the adoptive parents all information of the child, their interactions and reactions to the child.

(D) Worker must be available to family and child to answer questions and facilitate understanding between child and family.

(c) Adoption of Child by Foster Parents:

(1) Adoption of a child in foster care by the foster parents will be considered by the Agency under the following conditions:

(A) The Adoption Selection Committee determines that this is in the best interests of the child.

(B) Child has lived in the foster home for at least a year and has developed ties with the family; or

(C) The child is "hard-to-place" because of age, racial background, physical or mental handicap, questionable health or social background etc., and foster parents are willing to adopt the child, having prior knowledge of these factors.

(2) The foster home shall then be re-evaluated in terms of adoption and include:

(A) Foster parents' feelings about adopting a child whose whereabouts are known to the natural parents.

(B) Their capacity to give security to the child under the above circumstances.

(C) A formal application for adoption to be submitted to the agency as soon as possible.

§ 1311. Post-Placement Services or Removal.

(a) After the child is placed in an adoptive home, there shall be a supervisory period of up to one (1) year prior to the consummation of the adoption, during which time the Department shall give supportive assistance to the adoptive parents in adjusting to the child and integrating the child into the family. It will consist of scheduled visits, at least quarterly, in which the worker will monitor the child's and family's adjustment to each other.

(b) The Department may remove the child from the adoptive home at any time prior to the completion of the adoption whenever such action is necessary to protect the well-being of the child. The worker shall discuss the plan to remove the child and basis for such action with the adoptive parents prior to actual removal. Any substantiated child abuse investigation involving said Adoptive Parent(s) shall be grounds for removal of the child and cancellation of proposed adoption. The child shall then revert to foster care status, pending selection of alternative Adoptive Parents, if possible.

(c) Legal Proceedings Prior to Adoption:

(1) Upon general satisfaction with the progress of adoptive placement at the completion of the one-year residency requirement, the Adoption Unit shall.

(A) In cases where the Department of Public Health and Social Services has legal custody of minor(s) to be adopted, forward a Consent to Adoption to the Director of Public Health and Social Services for his signature.

(B) Release the Consent to Adoption to the Adoption Parent and direct them to proceed with the filing of the Adoption petition.

(2) Upon receipt of a court order to conduct the routine Adoption investigation, the Department shall prepare and submit the final Adoption Home Study to the Superior Court of Guam, with recommendation for or against the Adoption.

§ 1312. Court-Referred Adoption Studies.

(a) Provision of Services: The Department shall accept orders from the court to conduct an adoption home study for a child who is already in an adoptive home but who was not placed by the Department, i.e. Independent Adoption. This includes two (2) types of cases:

(1) Step-parent or relative adoptions, wherein the child is presently residing with the petitioner, or

(2) Non-relative adoptions, wherein the child may or may not have been residing with the petitioners.

(b) Deadline for Home Studies: The Department will request the court to have a 45-day period to submit completed home studies, unless specified in the court order. Extensions may be requested by the department if necessary.

(c) Focus of Services: The focus of service is an evaluative study of the adoptive child, his parents, and adoptive petitioners to assure that:

(1) the rights of the natural or "birth" parents have been protected.

(2) The best interests of the child are secured.

(3) The petitioners are able to provide suitable care and supervision for the healthy growth and development of the child.

(d) Adoption Home Study: The petitioners must provide the worker with the following documents, where applicable:

(1) Copy of Birth Certificates, Marriage Certificates, Divorce Decrees.

(2) Employment Verification.

(3) Financial Statement

(A) Monthly net and gross income(s).

(B) Other income, assets including home and cars.

(C) Savings which banks and amounts.

(D) Expenses, debts.

(E) Insurance - Life, medical, which companies.

(4) Physical examination of petitioners and child(ren) to be adopted.

(5) References from two non-relatives:

(A) name

(B) length of relationship and type

(C) impressions or attitudes toward petitioners in performing role as parents.

(6) Police clearance from place of current or previous residence.

(e) Home Study Format:

ADOPTION COURT REPORT

IN THE MATTER OF THE ADOPTION

OF	Adoption Case No.
NAME: _____	CSW Case No.
BY	Court Report No.
NAME: _____	

1) Summary of Contacts Date, Type of Contact, Name

2) Referral:
   A) Date agency received referral
   B) Indicate name of referring agency and reason for referral

3) Legal Status of Child
   A) Name, date of birth, place of birth, legal and natural parents, if children are born out of wedlock, and birth certificate number.

4) Child to be Adopted:
   A) Discuss his/her educational background/ achievements.
   B) Physical description - hair, eyes, height, weight.
   C) Behavior (describe) discuss development and adjustment of child in home.
   D) Discuss history of previous placement.
   E) Child's attitude toward adoptive parent (if child is over 12 years.)

5) Background of Petitioner(s):
   A) Name of male or female petitioner, date of birth, place of birth, parents.
   B) Educational background - high school, college, employment.
   C) Discuss childhood history, attitude of child-rearing by his parents.
   D) Discuss number of siblings and their relationship.
   E) Discuss physical description (optional if report is for Guam court).
   F) Discuss goals or plans in life as it relates to child(ren) (long term) Advantage - disadvantage Plans for care of child(ren)

6) Marital Relationship
   A) Length of courtship (did they discuss role of parenting).
   B) Date and place of marriage, officiated by whom, type of marriage, e.g., court, church, mixed-marriage, etc.
   C) Number of marriages

Reason for dissolution of previous marriage; any allegations/proof of child abuse or neglect.

Name of previous wife or husband.

D) Marital stability - how problems are worked out in the home.

Verification of marriage.

7) Children: (Other children in home/out of home)

A) Names, dob, ages, if school age - discuss achievements. Discuss health and physical description.

B) If out of home, discuss why children are not living with parents.

C) Attitude and relationship of children towards child to be adopted.

8) Natural Parent:

A) Background history - e.g., age, education, employment, etc.

B) Reasons why child(ren) is being given up for adoption.

C) Describe relationship with child.

9) Motivation for Adoption:

A) Petitioner's reason for initiating adoption.

B) Plan for telling child about the adoption when the child is able to understand.

10) Housing:

A) Describe Characteristic of Petitioner(s) home
Temporary or Permanent Residence; own, rent or other
Suitability of home for children.
Indoor/outdoor space and condition.

11) Financial Statement:

Salary, savings, insurance, amount of debts
Name of company and bank institutions
Ability to support child

12) Medical Status:

Discuss results of physical exam, date it was performed, medical history of child and petitioners. (All family members must undergo a physical examination.)

13) Religion:

A) Type of religion or affiliation, if any.

B) Discuss role of religion in their lives and in child rearing.

C) Willingness to respect child's religion and/or natural

parent(s) preference, if any.

14) References (2):
A) Name of reference.
B) Describe length and nature of relationship.
C) Their impressions or attitudes toward petitioner in performing role as parents.

15) Evaluation or Impressions:
A) Discuss worker's overall assessment of petitioner(s) or applicant(s).
B) Recommendation of Adoption.

TERMINATION OF ADOPTION SERVICES:

Services to court-referred adoptions are terminated when the court takes action on the petition.

1. When the adoption is granted and Adoption decree is issued, the agency case record shall be closed effective date of receipt of decree.

2. When the adoption is denied and the child is referred to the Department for further planning and care, services shall be continued for the child.

3. The department will maintain a file on Adoption cases for further reference and will be available to the Adopted Child, upon his request, when he reaches majority age. However, if the natural mother wishes to remain anonymous, her name shall not be disclosed by the Agency without expressed written consent by the court.

ARTICLE 4

MATERNAL CHILD HEALTH PROGRAM ELIGIBILITY

STANDARDS FOR PRENATAL PATIENTS

§ 1401. Program Requirements.
§ 1402. Income Asset Limitations.
§ 1403. Application.
§ 1404. Eligibility Periods.
§ 1405. Issuance of MCH Program Authorization Card.

§ 1406. Selection of Physician.

NOTE: Rule-making authority originally cited for formulation of regulations for the Maternal Child Health Program Eligibility Standards for Prenatal Patients by the Department of Public Health and Social Services, §9701 Chapter 9, Article 7, 10 GCA. These Rules and Regulations were filed with the Legislative Secretary on May 6, 1988.

§ 1401. Program Requirements.

To be eligible for coverage for the Maternal Child Health Program maternity care services, the client must be a resident of Guam who applies for and qualifies for services as determined by the MCH Program eligibility standards according to the following criteria:

(a) Is not eligible for Medicaid (MAP) or Medically Indigent Program (MIP) coverage;

(b) Has neither medical insurance coverage nor the financial ability to pay for medical services as determined by the MCH Program;

(c) Has income resources which exceed MIP eligibility requirements, but within the MCH eligibility requirements;

§ 1402. Income Asset Limitations.

The following chart indicates the monthly income and resource limitations of all immediate family members (husband, wife and children). Liquid resources shall include: cash on hand, check or savings account amount, stocks or bonds, shares in credit union, lump sum payments, time certificates:

Family Size	MIP Monthly Income Limitations	MCH Allowable Gross Income Monthly	MCH Resource Limitations
1	$410	$760	1200
2	542	892	1500
3	648	998	1650
4	754	1,104	1800
5	845	1,195	1950
6	935	1,285	2100
7	1,027	1,377	2250

8	1,106	1,456	2500
9	1,184	1,534	2650
10	1,264	1,1614	2800
Additional Members	+60	+70	+150

Total value of additional property (other than the one being lived on) shall not exceed $30,000 based on the real estate tax assessment value. The property shall not be generating any income.

2018 NOTE: Subsection designations have been removed by the Compiler to adhere to the Compiler's general codification pursuant to authority granted by 1 GCA § 1606.

§ 1403. Application.

The client can apply anytime during her pregnancy. She is required to complete the information and data sheet as required by the MCH Program and consent for release of information on cases denied for MIP.

§ 1404. Eligibility Periods.

Eligibility period shall cover the present prenatal period (starts on the first prenatal visit) to postpartum (6 weeks after delivery).

§ 1405. Issuance of MCH Program Authorization Card.

An MCH Program Authorization Card will be issued to the prenatal patient. The authorization card will indicate the authorization period coverage and name of authorized physician.

§ 1406. Selection of Physician.

The MCH Office will designate the attending physician from a list of physicians contracted by the MCH Program. Selection of physician will be based on the next physician on the list.

DEPARTMENT OF PUBLIC HEATH
AND SOCIAL SERVICES
GOVERNMENT OF GUAM
MATERNAL CHILD HEALTH PROGRAM
CONSENT FOR RELEASE OF MAP/MIP RECORDS

DATE:_____

RE:_____

DOB:_____

ADDRESS:_____

SS#:_____

TO: Medicaid/Medically Indigent Program

I hereby authorize and request you to release to Maternal Child Health Program (MCH), Bureau of Community Health and Nursing Services copies of my application for medical assistance and any other information relating to my eligibility (as needed).

_____
Signature of Client or Guardian
Date:_____
WITNESS:_____
_____

WHAT IS MATERNAL CHILD HEALTH PROGRAM

The Maternal and Child Health (MCH) Program is a Public Health Program that provides a plan for the development, implementation and evaluation of services related to improving the health status of women and children on Guam. The primary responsibility of the MCH Program is to assure access to quality health care for all mothers and children of Guam. To accomplish this responsibility, the Program offers a continuum of care that includes maternal and child health, as well as family planning services. All these services are provided within austerity budgets necessitating careful planning to provide the most cost effective and efficient MCH service. The Program encourages health care

delivery methods which are comprehensive, interdisciplinary and stresses continuity of care. It also places a high value on services that are available, accessible and offers high quality health care to the mothers and children of Guam.

LEGAL BASIS

The Maternal Child Health Services is a federally mandated program contained in the Social Security Act of 1935, PL 74-271 (Title V).

GENERAL SCOPE OF SERVICES

The Maternal-Child Health Program provides quality prenatal, natal and postpartum care, as well as family planning services; and continuing health care maintenance and supervision of children from birth through infancy, childhood and adolescence. The target population are the low-income, high-risk, women and children.

MATERNITY CARE SERVICES

1. Prenatal interview including risk assessment to determine high-risk pregnancy.

2. Prenatal laboratory tests per MCH standing order, at PH Laboratory.

3. Diagnostic procedures, x-rays and other special laboratory tests ordered by attending physician and authorized by MCH based on availability of funds.

4. Vitamins and iron supply at a Public Health Pharmacy or Public Health Clinic, per MCH standing order.

5. Referral to Medical Social Worker for screening and assistance identifying financial options for prenatal care coverage/service.

6. Early Prenatal Counseling Classes and Prepared Childbirth Classes (Lamaze).

7. Physicians' fees for prenatal clinic visits, hospital delivery and postpartum visit, routine hospital newborn care and 6-weeks post-partum clinic visit will be authorized by the MCH Program based on availability of funds.

8. Community Health Nursing follow-up during the prenatal and postpartum period (nursing clinic and home visits).

EXCLUSIONS.

The following are services not covered by the MCH Program:

1. Cost of hospital rooms, laboratory, drugs and medical/surgical supplies.

2. Services not authorized by MCH, including emergency treatment.

3. Physician's fee for hospitalization and medical care other than the services authorized by the program.

4. Physician's fee of doctors not authorized by the program.

5. Cost of interrupted pregnancy and medical complications.

ARTICLE 5

INVESTIGATION AND RECOUPMENT OFFICE

§ 1501. Memorandum of Understanding.

For the purpose of legally entering a Memorandum of Understanding (MOU) authorizing the Department of Revenue and Taxation (DRT) to offset tax refund due the clients who owe the Department of Public Health and Social Services (DPH&SS) of over issued Program (Food Stamp and Public Assistance) benefits, the following procedures must be observed and followed:

(a) No over issued Program benefits shall be referred by the Investigation and Recoupment Office (IRO) to the DRT for tax refund offset unless determined by IRO to be a 'past due legally enforceable debt".

(b) A past due legally enforceable debt that may be referred by IRO for tax refund offset to DRT are as follows:

(1) Only debts (unpaid over issued Food Stamp and Public Assistance benefits) incurred after June 30,1986 shall be referred to DRT for tax refund offset.

(2) Which, in case of a judgment debt, only debts

that have been delinquent for at least six (6) months but have not been delinquent for more than ten (10) years at the time the offset is made.

NOTE: Debts are considered delinquent whenever three (3) demand letters are sent by IRO to the client but all were futile. (3) Debts cannot be collected through salary deduction (i.e. No agreement to this effect.) (4) Debts are ineligible for administrative offset. (5) Notify the client at least sixty (60) days to present evidence that all or part of the debt is not past due or legally enforceable, has considered evidence presented by the client and determined that an amount of the debt is past due and legally enforceable.(6) With respect to which that the agency has notified, or has made a reasonable attempt to notify the client that the debt is past due and unless repaid within 60 days thereafter will be referred to the DRT for offset against any tax refund due the client. (7) That the debt is at least $25.

NOTE: In order to make a reasonable attempt to notify the client, IRO must exert every effort or use such address information as may be obtainable from the DRT. Also, for this purpose the client's evidence that the debt is not past due or legally enforceable must be presented directly.

ARTICLE 6

CATASTROPHIC ILLNESS ASSISTANCE PROGRAM

§ 1601. Legal Authority
§ 1602. Purpose
§ 1603. Definitions
§ 1604. Types of Treatment
§ 1605. Eligibility
§ 1606. Income and Resource
§ 1607. Household Liability
§ 1608. Application and Coverage
§ 1609. Penalty for Fraudulent Actions
§ 1610. Effective Date
§ 1611. Severability

NOTE: Rule-making authority cited for the formulation of regulations for the Catastrophic Illness Assistance Program by the Department of Public Health. **Check with DPH&SS for the latest Rules for this program as there have been a number of legislative changes since these rules were adopted.**

§ 1501. Legal Authority.

Public Law 18-31, Section 4 authorizes the Department to adopt rules and regulations in accordance with the Administrative Adjudication Law to administer the catastrophic illness assistance program.

§ 1602. Purpose.

The Catastrophic Illness Assistance Program (CIAP) is designed and intended to assist families and individuals unable to afford the cost of medical treatment of a catastrophic illness.

The purpose of these rules and regulations is to ensure that the intent of the Legislature, established through Public Law 17-81, is carried out in the administration and use of the "Catastrophic Illness Program" funds.

§ 1603. Definitions.

(a) Applicant means the member of the household whose injury or illness has resulted in the expenditures for medical care for which assistance is sought.

(b) Department means the Department of Public Health and Social Services.

(c) Director means the Director of the Department of Public Health and Social Services.

(d) Catastrophic Illness means:

(1) An illness for which treatment costs Thirty Thousand Dollars ($30,000) or more over and above any medical insurance, Medicare, Medicaid, or Medically Indigent Program coverage.

(2) An illness of an individual who meets the eligibility requirements of the Medically Indigent Program with regards to residency, income and resources, but who needs services covered under this program but not covered by MIP.

(e) Household means an individual living alone or a group of related individuals living together under the same roof. Related individuals living together may be considered to be living separate and apart if they can demonstrate they are 18 years of age or older and are not claimed as dependent for tax purposes by other members

of the household. An eighteen year old who is still living at home or attending high school or college shall be considered a member of his parent‘s household. A child under 18 years of age must be included in the household of the person responsible for the child‘s welfare regardless of whether the child is claimed as a tax dependent except where the person responsible for that child‘s welfare is not liable for the costs of that child‘s medical care in the case of pregnancy, venereal disease, or substance abuse, pursuant to 19 GCA §1111. For purposes of this definition related includes common-law and legal guardianship except for foster care arrangements.

(f) Medically Related means any hospitalization or medical services necessary for treatment of medical conditions arising from or a direct complication of the disease or injury for which CIAP assistance is being sought, but excludes airfare, room and board, and other indirect costs.

(g) Person responsible for the child‘s welfare includes the child‘s parent, guardian, foster parent, an employee of a public or private residential home or institution or authorized agency responsible for the child‘s welfare.

(h) Approved Medical Facility means any medical facility recommended by the individual‘s physician and approved by the Director.

(i) Medically Necessary means any medical services or treatment that are part of the treatment plan of the catastrophic illness or injury.

(j) Date of Service means the date on which medically related expenses were incurred.

(k) Program means the Catastrophic Illness Assistance Program in the Bureau of Health Financing in the Department of Public Health and Social Services.

§ 1604. Types of Treatment.

(a) General. CIAP covers only medically necessary treatment of a catastrophic illness or injury, and only if that treatment is performed by licensed medical professionals in an approved medical facility.

(b) Scope of Medical Coverage. CIAP covers all services and treatment that are a part of the treatment plan of the catastrophic illness or injury, excluding the types of treatment not covered, prescribed in subsection (c).

(c) Types of Treatment not covered: The following types of treatment are not covered by CIAP:

(1) Experimental medical treatment. An experimental medical treatment is a form of treatment which has not been determined safe and found effective by the federal Medicare program.

(2) Empirical medical treatment. An empirical medical treatment is a form of treatment based on a practitioner‘s positive experience with a particular form of therapy but lacks medical rationale or widespread acceptance.

(3) Elective cosmetic surgery. An elective cosmetic surgery is a form of treatment primarily done to improve one’s physical appearance or for purely aesthetic purpose.

(4) Rehabilitative Services, including long term inpatient services intended to assist a physically handicapped individual to achieve his maximum physical potential.

(5) Intermediate level of care services.

(6) Air transportation.

(7) Treatment for patients who are terminally ill.

(8) Psychiatric services.

(9) Private duty nursing services.

(10) Off-island services

(11) Mortuary expenses.

(12) Special appliances and materials.

(13) Fertility procedures.

(14) Any services or items which are not medically required for the diagnosis or treatment of a disease, injury or condition.

(d) Limitations. One hundred thousand dollars ($100,000) is the maximum award that may be made for a twelve-month period (12 months). Payments may only be made for hospitalization and medical care if application is made to the program within 12 months of the date of service for which payment is sought. Clients are responsible to notify service providers to forward their claims for payment to the program for processing. Claims received over 12 months from the date of service will be denied.

§ 1605. Eligibility.

(a) An application is eligible for CIAP if he or she is a resident of Guam, and

(1) has incurred thirty thousand dollars ($30,000) or more in costs for hospitalization and medical care over and above any medical insurance, Medicare, or Medicaid coverage or

(2) an individual who meets the eligibility requirements of the Medically Indigent Program with regards to residency, income, or resources but who needs services covered under this program but not covered by MIP.

(A) If an applicant has insurance coverage, evidence must be submitted indicating that payment for the medical treatment is excluded from or is in excess of the insurance coverage.

(B) If an applicant does not have insurance coverage, evidence should be submitted indicating that the cost of medical related expenses in excess of $30,000.00 has been incurred.

(3) A household may include out-of-pocket medically related expenses in calculating the cost of medical treatments, except that deductible and co-payments paid in connection with obtaining private insurance benefits may be not be counted. The household must establish that the expenses claimed are medically related and have been incurred by the applicant.

(b) Residency. The applicant must be a resident of Guam and a U.S. citizens or an alien lawfully admitted for permanent residence

or otherwise permanently residing in the U.S. under color of law.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1606. Income and Resource.

The department shall determine the household's income and resources in the manner described in this chapter. Once income and resource amounts have been determined, the Department will use the highest of the two amounts to determine the household's liability rate based on the household's size.

(a) Computing Annual Income. The program shall determine the household's income by estimating its income prospectively for the year following the date of application. all income will be presumed available for a twelve-month period and will be annualized using the most reasonable and equitable method. Based on the household member's pay period frequency, the appropriate multiplication factor that matches that frequency is used.

Pay Period Frequency	Factor
Weekly	52
Biweekly	26
Twice Monthly	24
Monthly	12

(b) Other Income Frequencies. In estimating the annual income, the household's gross income shall be figured, applying the definitions of earned income and unearned income found in eh Medicaid State Plan.

(c) Resource. The following shall be considered as resources:

(1) Savings

(2) Checking Account Balances

(3) Cash Surrender Value of Life Insurance

(4) Time Certificate Deposits

(5) Stocks and Bonds

(6) Real Property, excluding exempt real property

(7) Personal Property, excluding exempt vehicles

(8) Cash on hand

(d) Exempt Property. The following shall not be considered as resources:

(1) The building in which household resides and land upon which the building sits.

(2) One vehicle per each person over 18 in the household.

(e) Debts Counted. In assessing the value of a resource, the amount of any debt for which the resource acts as security shall be considered, and an equity value assigned to the resource.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1607. Household Liability.

A household determined to be eligible for CIAP and having income or resources may be reasonable for paying a portion of the medically related expense, as follows:

If the household's income or resources (whichever is greater) is less than $150,000, the household is not required to pay any more than the $30,000 which established its eligibility until the $100,000 limit on the government's contribution is exceeded.

If the household's income or resources (whichever is greater) exceeds $150,000, the household must pay a percentage of the medical costs over $30,000. The percentage is figured by subtracting $30,000 from 20% of the greater of income or resources and dividing that amount by $30,000. The resulting percentage shall comprise the household's co-payment on all payment of costs over $30,000; the government shall pay the balance of costs incurred, except that the government has no responsibility for costs once the $100,000

maximum award per year has been reached.

Examples:

If a household's income or resources (whichever is greater) is $30,000, and the cost of treatment is $31,000, the recipient pays $30,000, and the programs pays $1,000. The household pays not co-payment because income or resources does not exceed $150,000.

If a household's income or resources (whichever is greater) is $130,000, and the cost of treatment is $31,000, the household pays $30,000, and the programs pays $1,000. The household pays no co-payment because income or resources does not exceed $150,000.

If a household's income or resources (whichever is greater) is $150,000, and the cost of treatment is $31,000, the household pays $30,000, and the program pays $1,000. The household pays no co-payment because income or resources (whichever is greater) is $160,000, and the cost of treatment is $31,000, the household pays $30,070, and the program pays $930. The household's liability os 7% above $30,000, figured as follows:

Step One: $160,000 x 20% = $32,000

Step Two: $\frac{\$32,000 - 30,000}{\$30,000}$ = 7% of $1,000 = $70.00

If a household's income or resources (whichever is greater) is $170,000, and the cost of treatment is $31,000, the household pays $30,130, and the program pays $870. The household's liability is 13% above $30,000, figured as follows:

Step One: $170,000 x 20% = $34,000

Step Two: $\frac{\$34,000 - 30,000}{\$30,000}$ = 13% of $1,000 = $130.00

If a household's income or resources (whichever is greater) is $180,000, and the cost of treatment is $31,000, the household pays $30,200, and the programs pays $800.

The household's liability rate is 20% above $30,000, figured as follows:

Step One: $180,00 x 20% = $34,000

Step Two: $\frac{\$36,000 - 30,000}{\$30,000}$ = 20% of $1,000 = $200.00

if a household's income or resources (whichever is greater) is $190,000, and the cost of treatment is 31,000, the household pays $30,270, and the programs pays $730. The household's liability rate is 27% above $30,000, figured as follows:

Step One: $190,00 x 20% = $38,000

Step Two: $\frac{\$38,000 - 30,000}{\$30,000}$ = 27% of $1,000 = $270.00

If a household's income or resources (whichever is greater) is $200,000, and the cost of treatment is $31,000, the household pays $30,380, and the program pays $670. The household's liability rate is 33% above $30,000.

Step One: $200,000 x 20% = $40,000

Step Two: $\frac{\$40,000 - 30,000}{\$30,000}$ = 33% of $1,000 = $380.00

(b) A household may include out-of-pocket medically related expenses in computing its share of the liability amount. The household must establish that the expenses being claimed are medically related and have been directly incurred. Insurance premiums expenses paid or covered by a medical insurance carrier or other third party sources are not to be taken into account.

(c) Households who meet the eligibility requirements of the Medically Indigent Program with regard to residency, income, and resources, but who needs services covered under this program but not covered by MIP are not responsible for payment a portion of the medically related expenses as prescribed by 7.1; rather, such households must pay any liability required by the MIP program.

§ 1608. Application and Coverage.

(a) Application. An application form for CIAP must be filed with the Department.

The applicant shall be responsible for the truth of all statements provided in the application.

The application may be filed by the head of household, spouse, or someone acting on behalf of the applicant.

(b) Supporting Documents. The applicant shall submit the following documents supporting its application:

Receipts, cancelled checks, or unpaid bills establishing that the applicant has incurred the hospitalization and medical costs required for eligibility and liability.

(c) Application List. An application for CIAP will be processing the order received, except that no application will be considered complete until all documents are received.

(d) Certification and Coverage. Once eligibility is established, the Department will issue the household a Certification of Eligibility for CIAP. The notice of certification will contain the following:

Illness and Treatment Covered

Amount Awarded

Household‘s Amount of Liability

Eligible Individual

Name of the Medical Facilities Authorized for Treatment

Limitation and Restrictions

Certification will be limited to the amount of the award.

(e) Coverage of Unpaid Bills.

(1) Unpaid bills may be covered by CIAP if application is made within one year of the date of services.

(2) Any medical payments made by the applicant shall not be reimbursed, but may be counted as payment of the $30,000 required to establish initial eligibility, and any required liability.

(f) Maximum Award. If the award indicated by the notice of certification is exceeded, additional assistance may be authorized however, no more than One Hundred Thousand Dollars ($100,000) per twelve-month period (12 months) shall be awarded to an individual applying for and receiving assistance under the Catastrophic Illness Assistance Program.

(g) Notice of Disposition. A Notice of Disposition will be provided for each application. The notice shall inform the CIAP applicant of the action taken by the Department. Each notice will inform the individual of the availability of a Fair Hearing in the event they are not satisfied with the Department's decision and wish to appeal.

Appeals may be taken in accordance with the uniform Fair Hearing procedures for Food Stamp, Financial Assistance, and Medical Assistance Program.

(h) Availability of Funds. The Director will suspend the issuance of CIAP funds have been exhausted as evidenced by the Report of Appropriation Allotment and Encumbrances. The Director will prepare and submit a request to the Governor for additional funds from the Legislature. The Department will continue to accept and process applications but no certificates of eligibility will be issued until funds are made available.

§ 1609. Penalty for Fraudulent Actions.

Any individual receiving assistance to which he is not entitled due to false declarations or misrepresentations shall be liable for repayment of paid medical claims incurred by any member of the household and may be prosecuted for misdemeanor or felony charges as provided by law.

§ 1610. Effective Date.

These regulations shall apply to any applicant seeking assistance for medically related expenses incurred exclusively after October 1, 1992.

§ 1611. Severability.

If any part or section of these regulations is declared to be invalid by a court of law or administrative tribunal for any reason

the rest of these rules and regulations shall not be affected thereby and shall remain valid and enforceable.

ARTICLE 7

GENERAL ASSISTANCE MANUAL

§ 1701. Authority
§ 1702. Application Process
§ 1703. Eligibility Criteria
§ 1704. Fair Hearing
§ 1705. Need Standard
§ 1706. Recoupment and Correction of Payments

§ 1701. General Assistance.

(a) Authority. The General Assistance Payment is administered island-wide by the Department of Public Health and Social Services, Division of Public Welfare, Bureau of Economic Security, Government of Guam. The same agency administers the federally funded public assistance programs in the Territory.

General Assistance Program is authorized under 10 GCA § 2601.

(b) Introduction. The purpose of this manual is to provide the Bureau of Economic Security (BES) staff with requirements and procedures for determining eligibility and authorizing assistance in the Administration of General Assistance Program.

(c) Background. On a national basis, General Assistance is a generic term used to describe programs of emergency (non-continuing) income assistance funded solely by the local agency. General Assistance program is an important component of the income assistance system in the Territory of Guam, serving as the ultimate safety net for low-income persons not eligible for federally funded programs such as Aid for Families with Dependent Children (AFDC) and the Adult Programs (OAA, AB, APTD). It provides for short term or emergency assistance pending determination of eligibility for other programs or the realization of self support. The program is based on financial need only. Benefit levels are provided based on the need standards for all PA programs.

(d) Organization of the Manual. This manual is organized so that whenever possible, sections are presented in the same order as the procedures in practice.

(e) Changes and Responsibilities for Updating Manual. The Program Management Section (PMS), Policy Development Unit (PDU) will be responsible for updating the manual and keeping it current. Information regarding changes will be sent to all BES staff and official holders of the manual via memorandum. Necessary controls will be established to assure that all manuals are current and up-to-date at all times.

(f) Program Coordination. The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau of Investigation and Benefit Recovery, Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department of Public Health & Social Services, and other agencies in order to assure proper program administration.

§ 1702. Application Process.

(a) Request for Application for Assistance.

(1) Right to Apply. Each individual shall have the opportunity to apply for assistance and receive an application form without delay. An applicant may be assisted by other individuals in the various aspects of the application process. These individuals may serve as the authorized representative on behalf of the applicant.

(2) Reapplication. Terminated or denied cases must file a new application to reapply for assistance.

(3) Reinstatements.

(A) Assistance shall be reinstated without a new application when eligibility can be re-established on the basis of information provided by the recipient before the effective date of termination. A new application is needed if the information is provided after the effective date of termination.

(B) In case of agency error or directed by a fair

hearing or court decision, aid shall be reinstated.

(4) Distinction Between Application and Inquiry**.** A request for General Assistance is considered an inquiry until a signed application with applicant's name and address is received by the Bureau of Economic Security.

(b) Steps in the Application Process.

(1) Initial Contact with the Agency. When an individual first contacts the agency for assistance, the Eligibility Specialist (ES) provides Part I application form for completion to pre-screen and determine the urgency of the applicant's situation.

(A) If the applicant is determined to be in urgent need of assistance, the applicant shall be interviewed immediately.

(B) If the applicant is determined not to be in urgent need of assistance, he/she will be scheduled for a mass screening orientation within two (2) weeks following the date of application. The applicant shall be provided with a list of required documents (document checklist) necessary for the interview.

Factors used in determining urgency of need are:

(1) No income/resource

(2) Renting and there is possibility of eviction because payment of rent is behind.

(3) Utilities to be discontinued because of outstanding bills.

(2) Persons Who may sign Applications.

(1) Initial contact with the agency. The adult applicant, the designated authorized representative, or other responsible relatives acting on behalf of an incapacitated adult may sign the application. In the case of couples who do not qualify for AFDC, both parties must sign the application.

When there is a change in grantee-relative and the

new grantee-relative is a person who has not signed the current application, a new application must be completed and signed by the new grantee-relative.

If the new grantee relative is the spouse of the former grantee-relative and signed the current application, no new application is needed.

(3) Applicant's Rights. Applicants for and recipients of General Assistance have certain rights which are protected by Federal and Local Policy.

Informing individuals of these rights, and interpreting them as necessary, is a basic part of the application process and each review of eligibility. These include:

(A) Right to apply

(B) Right to a fair hearing

(C) Right to confidentiality

(D) Civil rights

(4) Applicant's Responsibilities. The applicant or a protective payee is responsible to the extent permitted by his physical and mental condition for providing documentation to establish eligibility. Some applicant responsibilities include:

(1) Verification of applicant's identity and age.

(2) Verification of applicant's present address and living arrangement.

(3) Verification of the family composition and relationship of persons in the household.

(4) Verification of his financial need and eligibility for public assistance.

(5) Provision of Social Security Numbers for every member in the assistance unit.

When additional information is needed to establish eligibility, the applicant shall be given specific written instructions at the time of interview regarding any

information that the applicant is responsible for providing within 5 days from the date of the written request for additional information. (APS-7)

(5) Delay of Information. Any time beyond the five days written notice shall be considered a delay on the part of the application. The delay shall be the basis for denial of the application, when it appears the applicant is not cooperating in establishing eligibility. The specific reason for the denial shall be clearly stated in the case record and in the notice of denial sent to the applicant.

(6) Worker's Role. The Eligibility Specialist (ES) represents the agency in dealing with inquiries, applicants, and recipients. The APW must:

(A) Explain the choice of assistance programs available and recommend the programs most appropriate to meet the needs of applicant such as Aid to Families with Dependent Children (AFDC), Old Age Assistance (OAA), Aid to the Permanently and Totally Disabled (APTD), Aid to the Blind (AB), General Assistance (GA), Medicaid and Food Stamps.

(B) Assist the applicant to complete and file his/her application within agency policy.

(C) Inform the individual that the agency will reach a decision within thirty (30) days with respect to eligibility based on the information presented on application form and that the applicant/recipient is expected to furnish complete and accurate information in all areas covered by the form.

(D) Explain that some factors of eligibility must be verified and explain what the applicant/recipient is expected to provide in the way of verification.

(E) Explain that if assistance is granted, the client must assume the responsibility of notifying the agency of any change which would affect eligibility or the amount of payment within 10 days of the change.

(F) Explain that a number of persons receiving public assistance, as well as a number of rejected applications and terminated cases will be investigated by the Quality Control staff for an extensive review and verification of data provided in the case record. In signing the application or review the individual agrees to cooperate fully in such an investigation if the individual's name is selected; also, in signing the form, the individual assumes responsibility for accuracy of the information contained.

(G) Explain the necessity for contacting the absent parent to enlist aid in providing support for the children and that income from relatives on a regular basis, whether in the form of cash or income-in-kind, whenever available to a client shall be taken into consideration in determining the amount of assistance.

(H) Discuss certain factors involved in determining eligibility; such as treatment of income, registration with JOBS program, Social Security numbers, and assignment of Child Support. The ES will also discuss additional benefits that may be available to them, such as medical coverage (retroactive also), food stamps and social services.

(I) Furnish information pertaining to the client's right to receive a ten day advance notice on adverse actions and the right to appeal the decisions of the Department of Public Health and Social Services.

(7) Prudent Person Concept. The ES shall follow the prudent person concept in determining eligibility whenever consistent with the procedures set forth in the manual.

The prudent person concept refers to the capability of the ES for reviewing and analyzing information provided by an applicant/recipient and accurately deciding that such information is sufficient for making an eligibility determination or that further inquiry in the client's circumstances is indicated. Proper execution of this concept is of critical importance to the successful administration of all programs. By definition, the

prudent person must be vigilant, cautious, perceptive and governed by generally sound judgement.

(8) Duplicate Assistance. Applicants may apply for assistance from any of the public assistance low income programs, but may receive CASH ASSISTANCE from only one. Anyone receiving AFDC CASH ASSISTANCE from another state is ineligible for AFDC CASH ASSISTANCE from Guam, as long as assistance from another state continues.

(9) Right to Appeal. An explanation of the right to appeal any action or failure to act by the Division will be given to each applicant. (See Chapter IV, section 400, Fair Hearing)

(10) Cooperation with the Investigation and Recovery Office (IRO) of the Bureau of Management Support (BMS), Child Support Enforcement Unit (SEU). Applicants will be advised that the ES must refer the case to the Office of Child Support Enforcement upon approval, and that cooperation of the applicant with the Office of Child Support Enforcement is a requirement for continuing eligibility. Clients will not be required to cooperate when a determination of good cause for non-cooperation is pending or established. The client must submit a written request for a good cause determination to the ES and provide requested verification.

(11) Client‘s Responsibility. It is the applicant’s/client’s responsibility to report any of the following changes in household within 10 days after the change occurred:

(A) New address or change in mailing address.

(B) New rental amount and rental decreases/increases.

(C) The number of people in the household (if someone moves in or out of home).

(D) Changes in resources.

(E) Changes in household’s income if it increases, decreases or ceases.

(F) Changes in utilities or dependent care

(12) Non-Discrimination. No person will be subjected to discrimination (such as race, sex, color, national origin, handicap, age, etc.) for any reason under any program of the Guam Public Welfare Division according to Federal Rules and Regulations.

The Assistance Payment Worker (APW) must inform applicants and recipients for their right to file a complaint with the Division, the Federal Agency, or both, if they believe discrimination is being practiced.

(c) Securing Essential Information. Before approval and at each redetermination, all verifications necessary to determine eligibility must be completed.

Applicants and/or recipients are the primary source of information. If a client is unable to obtain information, the APW will assist.

If a third party refuses to supply information without an individual permission, and Authorization to Release of Information (APS Form) must be signed by the applicant/recipient. Lack of third party cooperation must be verified/documented.

(d) Time Limits on Processing. Applicants must be determined eligible or ineligible within 30 days (no later than 45 days) from the date of application. The applicant must be notified via mail, Notice of Approval or Denial, whichever is appropriate.

(e) Disposition of Application.

(1) Denial. Applications are denied when:

(A) Ineligibility is established by the department;

(B) Applicant fails to provide information essential to determine eligibility; and

(C) The agency loses contact with the applicant before eligibility is determined. Documentation in the case file is necessary.

(2) Withdrawal. Applications are withdrawn when the client initiates a voluntary request. The reason for withdrawal

must be documented in the casefile.

(3) Approval. When eligibility requirements are met, assistance is approved.

§ 1703. Eligibility Criteria.

An individual shall be considered for General Assistance after he/she has applied for the federally funded Public Assistance programs and has been determined to be ineligible.

(a) Citizenship Requirements. A recipient must be a U.S. citizen or an Alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. under color of law (PRUCOL).

The agency shall allow the applicant thirty (30) days to obtain proofs of citizenship. After the thirty (30) days and the applicant has not provided the agency with proofs of citizenship the agency shall take action to deny the applicant's Application for General Assistance.

Verification (any of the following is acceptable) Certified copy of birth Certificate (U.S. or its possession):

- Passport
- Certificate of citizenship with official seal
- Certificate of identity
- Voters' registration card
- Naturalization paper
- Permanent Resident or Resident Alien Card (Green Card)
- Vital statistics records from off-island

The agency shall assist the applicant by:

(1) Providing the applicant with the name and address of the appropriate vital statistics office.

(2) Informing the applicant of the fee(s) charged to obtain a copy of the birth record.

The name, address and fees for vital statistic offices may be obtained from the "WHERE TO WRITE FOR VITAL RECORDS" handout issued by the Department of Health and Human Services. A copy of this handout is on file with certification case managers and district supervisors.

The applicant shall be responsible for mailing the request and appropriate fee(s) to the Vital Statistics Office.

(b) Residency Requirements. To be eligible for assistance, applicants must be living in Guam with the intention of making Guam their home. Applicants must provide verification of residency. Any of the following is acceptable:

Verifications (any of the following is acceptable)

(1) Rent/Mortgage Receipt

(2) Landlord Statement

(3) Guam Driver's License

(4) Guam Vehicle Registration

(5) Voter Registration

(6) Utility Bills/Receipts

(7) Employer Statement

(8) Village Mayor's statement

(9) School verification

(c) Applicants must furnish the agency with their Social Security numbers. The EW shall assist an applicant without Social Security number to apply for one at the Social Security Administration.

(d) Age Requirement. Applicants must be 18 years of age or older, or an emancipated minor. Any one of the following is acceptable verification:

(1) A Birth Certificate from Vital Statistics, or from the hospital.

(2) A statement from school records showing the date of birth

(3) Naturalization Record. The worker should note the naturalization number(s) and the names and birth date(s) of the child(ren) and parents.

(4) Immigration Papers or Government Record of Immigration

(5) Passport. Record the date issued, full name, and age of the client

(6) Adoption Decree

(7) Newspaper Notices. A newspaper clipping is acceptable if it gives the name of the child and parents along with the date of birth.

(8) Marriage certificate.

(9) Court documents verifying emancipation rights

(e) Income Requirement. Income, generally, is any benefit in cash or in kind which is currently available to the individual or is received by him as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance agencies.

To qualify for the General Assistance Program, an applicant or recipient must have zero (0) income, and the following types of income shall be excluded in determination eligibility:

(1) Income of children below 18 years of age who are attending school full-time, including employment income during summer break;

(2) Disaster related assistance;

(3) Income from the Senior Community Employment Program (SCEP) (Title V of the Older American Act Program);

(4) Any allowances or stipends for meals, transportation and child care from any government agency or non-profit organization;

(5) GHURA utility subsidy.

(f) Resource Requirement. To qualify for the General Assistance Program, an applicant or recipient's liquid and non-liquid resources other than those specifically excluded in Section 300.80 of this manual shall not exceed $100.

(1) Resources, personal and real properties are counted toward the resource reserve limit, for all persons included in the assistance unit. Property of the natural, legally liable, or an adoptive parent, with whom the children are living, is also included in the assistance unit's property reserve. Properties are evaluated at market value less encumbrances. The following are considered real property: Land, houses, mobile homes, and immovable property attached to the land; personal property is all assets other than real property. When the reserve limits are exceeded, the assistance unit is ineligible.

(2) Client is representative payee or legal guardian for managing someone else's funds. These funds are not included in the client's personal property reserve when they are kept in an account separate and apart from the client's monies and can be identified as being received and designated for someone other than the client.

(g) Types of Personal Property

(1) Cash on hand

(2) Stocks, bonds, notes, mortgages and deed of trust. Evaluate at current retail market value less encumbrances.

Verifications

Stock report

Copy of bond or maturity schedule

Copies of receipt

Copy of the note, mortgage or deed

(3) Checking and/or Savings Accounts. Any amount

in the accounts is considered a resource.

Verifications

Copy of current bank statement

Copy of bank passbook/checkbook

(4) Life Insurance. If the client is the OWNER of a policy, the cash value is applied to the property reserve.

Verifications

Insurance policy

Written statement from insurance company

(5) Vehicles, Applicants are allowed one vehicle regardless of the value.

Verifications

Client's statement regarding the number of vehicles owned, ownership status and availability is acceptable.

Possible sources of verification are:

Kelly Blue Book

Copy of bill of sale

Copy of vehicle registration

Estimate from auto dealer

Cars not in the Kelly Blue Book, worker's assessments

(6) Farm Machinery/Equipment. The wholesale value of machinery and equipment is placed in the property reserve.

Verifications

Written dealer's estimate

Written estimate from agricultural agent

(7) Trust Funds. Trust funds are referred to the

Attorney General's Office for a decision on availability.

(8) Individual and Family Grant (IFG)

(9) Income Tax Refunds

(10) Other Real Property. Any property, other than that where the family resides will be considered a resource.

Verifications

Signed and dated statement from a licensed real estate broker

Tax lists

Copy of mortgage papers

Copy of deed

Certificate of Title

(11) Lump Sum Income (Earned and Unearned). Examples of nonrecurring lump sum income:

(A) Payment in the nature of a windfall, such as, but not limited to, lottery winnings, inheritances, poker winnings, etc.

(B) Personal injury awards, workman's compensation awards (to the extent it is not earmarked and used for the purpose for which it is paid, i.e. monies for back medical bills).

(C) Social Security retroactive payments, and other retroactive monthly benefits.

(h) Excluded Property.

(1) Clothing, personal items, furniture, household equipment, food for personal use.

(2) One vehicle is excluded as a resource. Any additional vehicle is counted as available resource.

(3) One burial plot and one funeral agreement per family member.

(4) Real Property is excluded when the property is a home, including any surrounding land in which a client lives and owns or is buying. Land is contiguous to the home when not separated by property owned by another person.

(i) Transfer of Resources. The applicant/recipient shall not have transferred property with intent to qualify for assistance.

(j) Job Search Requirement. Able bodied individuals between the ages of 18 and 54 shall be required to comply with the Job Search requirements.

(1) Initial Application. Upon initial application, applicant must show proof that he/she had satisfied the following requirements:

(A) Applicant shall be registered with the Department of Labor and,

(B) He/she has sought employment from a minimum of three prospective places of employment immediately prior to scheduled interview.

(2) On-Going. In order to satisfy the requirement of seeking work, an eligible individual in the GA program shall furnish to the Department, a minimum of one written statement per week from prospective employers substantiating his/her attempts to obtain employment. In addition, each eligible individual shall be required to visit the Department of Labor on a monthly basis to inquire into employment opportunities and to maintain active employment registration status.

Applicants/Recipients may be permitted to obtain verification of employment search through use of Department's form. However, other valid written statements from the prospective employer substantiating the recipient's effort to obtain employment may be acceptable in lieu of the Department's form.

A client shall be afforded a grace period up to

two (2) work days in the week following in which to submit job search verifications for any given week.

(3) Job Search Exemptions.

(A) 55 years and over and has need for assistance

(B) Mentally or physically impaired whether temporarily or permanently as medically verified.

(4) Non-Compliance with Job Search or Refusal to Accept Bona-fide Job Offer. A refusal or failure to accept and pursue a referral for employment by any member of the assistance unit, without good cause, shall disqualify the entire household from the program for a period of two (2) months. The household may not be reinstated into the program until the two (2) months disqualification period has been served.

(A) The effective date of the disqualification will begin on the first month following the Notice of Adverse Action.

(B) Voluntary Quit. If an individual voluntarily quits a job without good cause as defined in Section 301.50, such individual and all other members of the assistance unit shall be disqualified for a period of three (3) months, beginning from the date the individual quit.

(k) Definition of Good Cause for Refusing Job Offer or Leaving Employment/Work Training.

(1) It is the responsibility of the individual to provide the necessary verification to establish his good cause for refusing or leaving his employment/work training. The Department may contact the applicant/recipient's last employer or prospective employer to corroborate good cause.

(2) Good cause for refusing or leaving employment/work training, when substantiated with written verification or documentation exists when:

(A) The applicant has filed a charge of discrimination against the employer based upon age, race, sex, handicap, religious belief, national origin, or political affiliation, with the appropriate state or federal agencies administering equal employment opportunity practices.

(B) Conditions of employment or training violated health and safety laws or regulations. Such violation must cause actual detriment to the individual's health or safety.

(3) The wages offered were less than or reduced to below the prevailing minimum wage in Guam, or in occupations where set minimum wage has been established.

(4) he applicant has filed a charge with the Department of Labor stating that the conditions or demands of employment violate applicable laws, rules or regulations; and DPH&SS determines that such charge is valid.

(5) The individual left his job to accept a definite and firm offer of employment elsewhere, as evidenced by letter of confirmation, and such employment does not materialize because of circumstances beyond his control. The letter of confirmation must specify the following:

(A) Name of employer and or representative of employer who made the offer.

(B) Address and/or telephone number of employer.

(C) Statement of actual job offer.

(6) The resignation of the individual is recognized by the employer as retirement.

(7) The employment or training is beyond the individual's mental or physical capacity, as mutually determined by the employer and individual. If the individual was determined as physically capable of doing

the work by the employer, but the individual disagrees, he must provide documentation to verify his physical inability to do the job.

(8) There is severe illness in the individual's immediate family (spouse and children) which requires his presence at home and no other care arrangements were feasible. The existence of such illness is subject to the verification of a medical doctor or physician.

§ 1704. Fair Hearing.

(a) Availability of Hearings.

(1) An opportunity for a hearing shall be granted to any applicant who requests a hearing because his or her claim for financial assistance or medical assistance is denied or is not acted upon with reasonable promptness.

(2) A hearing shall be granted by any agency action resulting in suspension, reduction, discontinuance, or termination of assistance or determination that a protective, vendor or two-party payment should be made or continued.

(3) A hearing need not be granted when either the local or Federal law require automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation.

(b) Request for Hearing. A request for hearing is defined as a clear expression by the claimant (applicant or recipient) or his/her authorized representative acting for him/her to the effect that he/she wants the opportunity to present his/her case to higher authority. The claimant shall complete form APS-27D Request for Fair Hearing. The APW will request the claimant to clarify its grievance if the request is unclear. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

The claimant shall be provided reasonable time, not to exceed 90 days in which to appeal an agency decision.

(c) Agency may Deny or Dismiss a Request for Hearing. The agency may deny or dismiss a request for a hearing: a) where it has been withdrawn by the claimant in writing; b) where the sole issue

is one of local or Federal Law requiring automatic grant adjustments for classes of recipients; c) where a decision has been rendered after a WIN hearing before the Department of Labor that a participant has, without good cause, refused to accept employment or participate in WIN Program or has failed to request such a hearing after notice of intended action for such refusal or d) where it is abandoned. Abandonment may be deemed to have occurred if the claimant, without good cause therefore, fails to appear by himself or by authorized representative at the hearing scheduled for such claimant.

(d) Agency Actions Pending a Hearing Decision. If the recipient requests a hearing within the timely notice period:

(1) Assistance shall not be suspended, reduced, discontinued or terminated, (but is subject to recovery by the Agency if its action is sustained), nor may the manner or form of payment be changed to a protective, vendor or two-party payment until a decision is rendered after a hearing, unless:

(A) A determination is made at the hearing that the sole issue is one of local or Federal law or policy, or change in local and Federal law and not one of incorrect grant computation; or

(B) A change affecting the recipient's grant occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of change; or

(C) The recipient specifically requests that assistance not be continued pending the hearing decision.

(2) The agency shall promptly inform the claimant in writing the option for assistance to be continued or discontinued pending the hearing decision; and

(3) The agency may provide that:

(A) A hearing request made after the date of action (but during a period not in excess of 10 days following such date) shall result in reinstatement of assistance to be continued until the hearing decision, unless at the hearing it is determined that the sole issue is one of local or

federal law or policy.

(B) If the claimant requests a hearing within 10 days of the mailing of the notice, and the agency determines that the action resulted from other than the application of local and Federal law or policy or a change in local or Federal law, assistance shall be reinstated and continued unless the recipient specifically requests that continued assistance not be paid pending the hearing decision.

(e) Agency Conference. The agency shall offer an agency conference to claimant who wish to appeal an action. The agency shall advise applicants and recipients that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process. The agency conference shall be attended by the program supervisor and the applicant or recipient and/or the representative.

An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless claimant makes a written withdrawal of its request for a hearing. The withdrawal of Request for a Fair Hearing form APS-27B must be completed and submitted to the agency.

(f) Consolidated Hearings. The agency may respond to a series of individual request for hearing by conducting a single group hearing. The agency may consolidate only cases in which the sole issue involved is one of Local or Federal law. In all group hearings, the policies governing hearing must be followed. Each individual claimant shall be permitted to present his own case or be represented by his/her authorized representative.

(f) Notification of Right to Request Hearing. At the time of application, each claimant shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that his/her case may be presented by a representative, such as a legal counsel, a relative, a friend or other persons. In addition, at any time the claimant express to the APW that he/she disagrees with an action he/she shall be reminded of the right to request a fair hearing. The claimant shall also be informed of the availability of any free legal representation.

(g) Time Period for Requesting Hearing. A claimant shall be allowed to request a hearing on any action by the agency which occurred in the prior 90 days. In addition, at any time within a certification period a claimant may request a fair hearing to dispute its current level of benefits.

(h) Agency Responsibilities on Hearing Requests. Upon request, the agency shall make available without charge the specific materials necessary for a claimant or its representative to determine whether a hearing should be requested or to prepare for a hearing. If the individual making the request speaks a language other than English, the agency shall provide bilingual staff or interpreters who speak the appropriate language, and shall insure that the hearing procedures are verbally explained in that language. Upon request, the agency shall also help a claimant with its hearing request. If a claimant makes an oral request for a hearing, the APW shall complete the procedures necessary to start the hearing process. The claimant shall be advised of any legal services available that can provide representation at the hearing.

(i) Agency Responsibilities on Hearing Requests. The time, date and place of the hearing shall be arranged so that the hearing is accessible to the claimant. At least 10 days prior to the hearing, advance written notice shall be provided to all parties involved to permit adequate preparation of the case. However, the claimant may request less advance notice to expedite the scheduling of the hearing. The notice shall:

(1) Inform claimant of the time, date, and place of the hearing.

(2) Advise the claimant or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the claimant to attend the scheduled hearing.

(3) Specify that the agency will dismiss the hearing request if the claimant or its representative fails to appear for the hearing without good cause.

(4) Explain that the claimant or representative may examine the case file prior to the hearing.

(5) Advise the availability of any legal services.

(k) Hearing Official. Hearing shall be conducted by an impartial official(s) who: does not have any personal stake or involvement in the case; was not directly involved in the initial determination of the action which is being contested; and was not the immediate supervisor of the eligibility worker who took the action.

(l) Designation of Hearing Official. The hearing official shall be the designee of the Director of the Department of Public Health and Social Services. Power and duties. The hearing official shall:

(1) Administer required oaths or affirmations;

(2) Insure that all relevant issues are considered;

(3) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing; (5) Order, when the hearing involves medical issues, an independent medical assessment or professional evaluation from a source other than that of the person or persons involved in making the original decision. This evaluation or assessment shall be at agency's expense;

(6) Provide a hearing record and recommendation for final decision by the hearing authority;

(m) Hearing Authority.

(1) The hearing authority shall be the Director of the Department, or some other agency official designated by the Director to render the final administrative decision in a hearing. The same person may act as both the hearing official and the hearing authority.

(2) In respect to Title IV-C, when the appeal has been taken on the basis of a disputed WIN registration requirement, exemption determination or finding of failure to appear for an appraisal interview, a representative of the local WIN

Manpower agency shall, where appropriate, participate in the conduct of the hearing.

(n) Attendance at Hearing. The hearing shall be attended by a representative of the agency and by the claimant and/or its representative. The hearing may also be attended by friends or relatives of the claimant if the claimant so chooses. The hearing official shall be the authority to limit the number of persons in attendance at the hearing if space limitations exists.

(o) Claimant‘s Rights. The claimant may not be familiar with the rules or order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the claimant feel most at ease. The claimant or its representative must be given adequate opportunity to:

(1) Examine the contents of his/her casefile to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing.

(2) Present his/her case or with the aid of an authorized representative.

(3) Bring witnesses.

(4) Advance any arguments without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(p) Hearing Decisions.

(1) Decisions of the hearing authority shall comply with Federal law and regulations and shall be based on the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the hearing authority. This record shall also be available to the household or its representative at any

reasonable time for copying and inspection.

(2) A decision by the hearing authority shall be binding on the agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent Federal regulations. The decision shall become a part of the record.

(3) The claimant shall be notified in writing of the decision and the reasons for the decision; the available appeal rights; and that the claimant's benefits will be issued or terminated as decided by the hearing authority. The notice shall also state that an appeal may result in a reversal of the decision.

(4) After a hearing decision which upholds the agency action, the claimant shall be notified of the right to pursue judicial review of the decision.

(q) Implementation of Final Hearing Decisions.

(1) Prompt definition and final administrative action shall be taken within 90 days from the date of the request for a hearing.

(2) When the hearing authority upholds the agency's action, a claim against the claimant for any overpayments shall be prepared.

(3) When the hearing decision is favorable to the claimant or when the agency decides in favor of claimant prior to the hearing, the agency shall promptly make corrective payments retroactively to the date the incorrect action was taken.

(r) All agency hearing decisions shall be accessible to the public (subject to provisions of safeguarding public assistance information).

§ 1705. Need Standard.

(a) Overview. Public Law 20-76 "AN ACT TO REVISE THE STANDARDS OF ASSISTANCE" authorizes the Department of Public Health and Social Services to implement the revisions recommended in the Standards of Assistance Study issued by the Department in June, 1983.

The Department of Public Health and Social Services shall perform a Standard of Assistance Study every five (5) years and transmit the results to the Guam Legislature. The first study shall be completed on (1) year after the effective date of P.L. 20-76 (September 14, 1989);

By virtue of the foregoing, the attached rules and regulations entitled "Standards of Assistance" are hereby approved and promulgated and shall be in force and effect. All prior rules and regulations are superseded herein.

(b) Purpose. The purpose of these rules and regulations is to revise standards of assistance in connection with the administration of Social Services under 10 GCA Chapter 2.

(c) Definitions.

(1) Standards of Assistance: The Standards of Assistance consist of quality, quantity or cost of food, clothing, household supplies, personal needs and other needs established by the Department of Public Health and Social Services for payment to eligible recipients of the Public Assistance programs.

(2) Basic Requirements: The basic requirements consist of necessities, such as food, clothing, personal needs, household supplies (Comprise those items which are necessary for the day-to-day maintenance of a household such as soap, cleaning supplies, brooms, etc.) which are common to all individuals which must be included in the budget of all recipients.

(c) Standard Monthly Schedule for Basic Individual Requirements.

FAMILY MEMBERS IN ASSISTANCE UNIT	FOOD	CLOTHING	PERSONAL	HOUSEHOLD	TOTAL
1	94.00	33.00	7.00	17.00	151.00
2	187.00	41.00	9.00	21.00	258.00
3	246.00	49.00	10.00	25.00	330.00

4	312.00	61.00	13.00	31.00	417.00
5	371.00	73.00	16.00	37.00	497.00
6	445.00	85.00	19.00	43.00	592.00
7	492.00	96.00	21.00	49.00	658.00
8	562.00	107.00	23.00	54.00	746.00
9	633.00	117.00	25.00	59.00	834.00
10	703.00	126.00	27.00	64.00	920.00
11	773.00	136.00	29.00	70.00	1,008.00
12	843.00	146.00	31.00	76.00	1,096.00
13	913.00	156.00	33.00	82.00	1,184.00
14	983.00	166.00	35.00	88.00	1,272.00
15	1,053.00	176.00	37.00	94.00	1,360.00
	+70.00	+10.00	+ 2.00	+ 6.00	+ 88.00

For each additional member add...

NOTE: Recipients who are institutionalized will be provided $40.00 only for clothing and personal needs in lieu of the above standards.

(e) Other Needs.

(1) Shelter.

Number of Persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	$ 200.00
3 - 6	250.00
7 and over	325.00

Shelter payments may be authorized for rental/mortgage payments based on the actual cost up to the maximum allowance for each family size, when proper verification is provided. In no event shall payment exceed the maximum standard.

For shared households, the shelter and utility allowance shall be budgeted on the prorata share of the expenses for the

assistance unit up to the maximum standard. A shelter allowance shall be provided only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter allowance, even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not provided for, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

For GHURA rental contracts, the EW shall at the time of new application, recertification, or reapplication, use the contract to determine what rental amount the recipient is responsible for paying. If the recipient has not yet paid for rent, he shall be required to obtain from the landlord, a statement indicating the rental amount due from the recipient for the month.

(2) Utility Allowance: Utility allowance shall be provided in the budget for the actual costs incurred, up to the maximum amount authorized by the agency, for each family size. In no event shall payment exceed the maximum standard.

Utility allowance shall be given only in the month the utility is billed or otherwise becomes due, regardless of when the household intends to pay the bill. For example, a utility such as power which is due each month shall be included in the household's utility allowance even if the household has not yet paid the bill. Amounts carried forward from past billing periods are not provided for, even if included with the most recent billing and actually paid by the household. In any event, a particular utility bill may only be provided with the allowance once.

When any of the utility needs are subsidized by the Guam Housing and Urban Renewal Authority (GHURA), the EW shall include the subsidy amount as unearned income and give the allowances for utility needs when determining need and amount of the public assistance grant.

For Example:

Mr. Cruz, a recipient, has a power expense of $45.00, and water/sewer expense of $12.00 and $8.00 respectively. When computing Mr. Cruz's total needs, the EW shall provide:

BASIC NEEDS:	$151.00
POWER ALLOWANCE	35.00
WATER ALLOWANCE	8.00
SEWER ALLOWANCE	8.00
TOTAL NEEDS	$202.00

NOTE: Because actual power and water expenses are greater than the maximum standard for a household size of one (1), the maximum amount was provided to Mr. Cruz.

(1) POWER (Electricity):

Number of persons in Assistance Unit	Maximum Monthly Allowance
1	$ 35.00
2	43.00
3	51.00
4	64.00
5	77.00
6	89.00
7	101.00
8	112.00
9	122.00
10	132.00
11	142.00
12	152.00

* For each additional member (add) 10.00

(2) Water:

Number of persons	Maximum Monthly

in Assistance Unit	Allowance
1	$ 8.00
2	10.00
3	12.00
4	15.00
5	18.00
6	21.00
7	24.00
8	27.00
9	29.00
10	31.00
11	34.00
12	37.00
* For each additional member add $3.00	

(3) Gas:

Number of persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	$ 6.00
3 - 4	10.00
5	12.00
6 - 7	13.00
8 and over	21.00

Gas allowance shall only be provided to households which do not claim power costs. If gas is used, there is a savings in power costs, thus reducing the need for a power allowance. The client has the option to choose between the allowance for power or the allowance for gas, when both expenses are incurred.

(4) Telephone: The basic (flat) rate for a single-line telephone is $12.00. This shall be the allowance provided to all households which have this expense. Any additional expenses which exceed the basic rate for telephone is not provided.

(5) Sewer: The basic (flat) rate for this utility is

$8.00. This shall be provided only to households which claim and present verification for this expense. Any additional expenses which exceed the basic rate for sewer is not provided.

NOTE: When living arrangements are shared with non-assistance units, only the recipients's actual share of cost (up to the maximum allowance for each household size) will be provided.

(f) Other Needs Allowance Table.

Household Size	Power	Water (Elec.)	Sewer	Gas	Telephone	Shelter
01	35.00	8.00	8.00	6.00	12.00	200.00
02	43.00	10.00	8.00	6.00	12.00	200.00
03	51.00	12.00	8.00	10.00	12.00	250.00
04	64.00	15.00	8.00	10.00	12.00	250.00
05	77.00	18.00	8.00	12.00	12.00	250.00
06	89.00	21.00	8.00	13.00	12.00	250.00
07	101.00	24.00	8.00	13.00	12.00	325.00
08	112.00	27.00	8.00	21.00	12.00	325.00
09	122.00	29.00	8.00	21.00	12.00	325.00
10	132.00	31.00	8.00	21.00	12.00	325.00
11	142.00	34.00	8.00	21.00	12.00	325.00
12	152.00	37.00	8.00	21.00	12.00	325.00
For each additional member add:						
	+ 10.00	+ 3.00	+ 0.00	+ 0.00	+0.00	+ 0.00

NOTE: For shared households, the shelter and utility allowance shall be budgeted based on the prorata share of the expenses for the assistance unit up to the maximum standard.

§ 1706. Recoupment and Correction of Payments.

Recoupment of overpayment and correction of underpayments are applied uniformly throughout the Territory of Guam. The recovery of an overpayment can be waived when it can be reasonably assumed that the cost to collect will exceed the amount owed. Except in fraud cases, the amount of less than $35.00 will be waived from recoupment to former recipients. In fraud cases the

amount will be collected.

(a) Recoupment of Overpayments. Overpayment is the amount of difference between what the assistance unit received and what it should have received.

(1) All attempts must be made to recoup all overpayments regardless if the overpayment is a result of IPV or non-IPV.

(2) Recoupment will be made in such a way that available income, resources, and the assistance payment equal to 90 percent of the amount payable to an assistance unit of the same composition with no other income. If recoupment is made from current assistance payment only, 90% of the payment will be made available to client.

(3) Where a former recipient with an outstanding overpayment reapplies and is found to be eligible, the agency must recover the overpayment considering the current income, resources, and assistance payment of the recipient in determining the monthly recovery amount.

(4) All terminated cases with an overpayment must be referred to Investigation and Recovery Unit for collection. The EW shall determine the amount of overpayment and the period the overpayment existed.

(5) All other recoupment cases must be reported to Investigation and Recovery Office (IRO).

(6) For cases in which overpayments resulted due to Intentional Program Violation, refer to Chapter VII, Section 707.12 of this Manual.

(b) Corrected Payments of Underpayments.

(1) Payment of underpayments is not considered as income or resources in the month paid nor in the following months.

(2) All underpayments must be paid to current recipients.

(3) If an assistance unit has both an outstanding

overpayment and an underpayment, the agency may offset one against the other before adjusting the incorrect payment.

ARTICLE 8
ELIGIBILITY AND PAYMENT MANUAL

PART I
GENERAL PROVISIONS

§ 1801. Introduction
§ 1802. Discrimination Complaint and Resolution Procedures
§ 1803. Systematic Alien Verification for Entitlement (SAVE)
§ 1804. Fair Hearing
§ 1805. Standards of Assistance for the Public Welfare Programs
§ 1806. Income and Eligibility Verification System (IEVS)
§ 1807. Disqualification for Intentional Program Violation (IPV)

§ 1801. Introduction.

The purpose of this manual is to provide the Bureau of Economic Security (BES) staff with requirements and procedures for determining eligibility and authorizing assistance in the administration of Public Assistance Programs under Guam's Public Assistance State Plan. Programs covered in this manual are: Title I - Old Age Assistance, Title IV-A - Aid to Families with Dependent Children, Title X - Aid to the Blind, and Title XIV - Aid to the Permanently and Totally Disabled as described in the Social Security Act and Federal Regulations contained in the code of Federal Regulations (45 CFR). Additionally, procedures for administering the Guam General Assistance Program as authorized under 10 GCA §2601.

(a) Organization of the Manual. This manual is organized into four (4) parts. Part I contains general provisions and applies to all Guam Public Assistance Programs administered by the Bureau of Economic Security (BES). Part II outlines eligibility and administration of Aid to Families with

Dependent Children (AFDC). Part III outlines eligibility and administration of adult programs i.e., Old Age Assistance (OAA), Aid to the Blind (AB) and Aid to the Permanently and Totally Disabled (APTD). Part IV outlines eligibility and administration of the Guam General Assistance Program (GA).

(b) Responsibilities for Updating Manual. The Program Management Section (PMS), Policy Development Unit (PDU), will be responsible for updating and control of the manual and also keeping it current. Information regarding changes will be sent to all BES staff and official holders of the manual via memorandum.

(c) Federal Requirements. The Federal Requirements for Public Assistance Programs are contained in Public Welfare parts 200 to 499, 45 CFR.

(d) Program Coordinations. The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau of Management Support/Investigation and Recovery Office, Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department of other agencies in order to assure proper administration.

§ 1802. Discrimination Complaint and Resolution Procedures.

The Department of Public Health and Social Services (DPH&SS) as the administrative entity for the Social Services Programs including Food Stamp Program (FSP), Public Assistance (PA), Women, Infant and Children (WIC) Programs, hereby establishes the following Discriminating Complaint Resolution Procedures pursuant to the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Food Stamp Act of 1977, the Age Discrimination Act of 1975 (PL 94-135), the Rehabilitation Act of 1973 (PL 93-112 sec. 504), Title IX of the Education Amendments of 1972 and Departmental policy and regulations.

(a) General Policies. The Department is committed to assuring that program benefits are made available to all persons and provided to all eligible individuals and shall not discriminate against any applicant or participant in any aspect

of program administration, including, but not limited to, the certification of households, the issuance of benefits, the conduct of fair hearings, or the conduct of any other program services for reasons of age, race, color, sex, handicap, religion, creed, national origin, or political beliefs. Enforcement action may be brought under any applicable Federal laws.

(1) Civil Rights Coordinator. The Equal Employment Officer of the Department of Public Health and Social Services shall serve as the Civil Rights Coordinator for the Department.

(2) The duties and responsibilities of the Civil Rights Coordinator include but are not limited to the following:

(A) Receive and record complaints;

(B) Conduct investigation and determine validity of complaints;

(C) Compile data, maintain records, and submit reports of each complaint to the Region IX Office within 90 days of the date the complaint is filed;

(D) Monitor the implementation of procedures of this chapter to assure civil right compliance within the Department;

(5) Conduct training to Departmental staff on regulations and provisions governing "Civil Rights Procedures"; and

(6) Assist individuals in the complaint process and provide resolutions.

(b) Right to File a Complaint.

(1) Individuals who believe that they have been subjected to discrimination as specified in sections 200 and 201 of this chapter, may file a written complaint with the Civil Rights Coordinator of this Department.

(2) Only a complaint which alleges a violation of the Civil Rights provisions and regulations specified in Sections 200 and 201 of this chapter may be filed under

this procedure. Complaints of criminal and fraudulent acts shall be handled separately with the appropriate agencies.

(3) Complaints may be brought by any individual or organization, including but not limited to program participants or other interested party.

(4) With the exception of complaints alleging fraud or criminal activity, the filing of a complaint must be made no later than 180 days from the alleged discrimination.

(c) Filing of Complaint.

(1) A complaint may be filed by mail or in person with the Civil Rights Coordinator, Department of Public Health and Social Services, Government of Guam, Post Office Box 2816, Agana, Guam 96910. The compliant may also be filed with the Secretary of Agriculture or Administrator, and appropriate regional office.

(2) The Civil Rights Coordinator or his representative will be available to assist in the preparation and completion of any written complaint, and provide information regarding the procedures of filing of complaints with the Department or at the Secretary of Agriculture, or Administrator, and appropriate regional office.

(3) All complaints written or verbal shall be handled at the Departmental level first. Those not resolved at the Departmental level shall be accepted and forwarded by the Department to the Director, Civil Rights Division, through the appropriate regional office.

(4) Verbal Complaints. In the event a complainant makes an allegation in person or through a telephone conversation and refuses or is not inclined to put such allegation in writing, the person to whom the allegation is made must put the elements of the complaint in writing.

(5) Written Complaints. Efforts shall be made to have the complainant provide the following information:

(A) Full name, address, and telephone number or other means of contacting the complainant.

(B) The full name, address and telephone number of the respondent or person against whom the complaint is made.

(C) The specific location and name of the entity delivering the services or benefits.

(D) The nature of the incident or action that led the complainant to feel discrimination was a factor, and an example of the method of administration which is having a disparate effect on the public, applicant, or participants.

(E) The basis on which the complainant feels discrimination exists (race, color, national origin, age, sex, handicap, political beliefs, or religion).

(F) The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.

(d) Processing Complaints of Discrimination. (a) Informal Review. Upon the acceptance of the complaint, the Department's Civil Rights Coordinator or his/her designee shall be responsible to gather facts and shall attempt to resolve the issue(s) of dispute, within fifteen (15) calendar days of the acceptance of the complaint.

Should the resolution be reached during the informal review process, the Coordinator or his/her designee shall prepare a written report to the Director of the Department. A copy of the report shall be forwarded to the Director of the Civil Rights Division, Regional IX Office. The report shall contain basic information of the complaint, the action taken, recommendation and resolution results. A copy of such report must be kept on file. Copies shall also be provided to the parties involved.

If reaching a resolution is not possible during the informal review period (15 days) at the Departmental

level, the coordinator shall promptly forward the complaint to the Director, Civil Rights Division of the Regional IX Office for further action.

(e) Notification of Decision. Upon completion of the investigation on the complaint referrals, the Civil Rights Director, Regional IX Office shall provide a written notification of the decision or resolution to the Department within 90 days. The Department shall provide a copy of the decision to the parties involved.

(1) Closing Letter to Complainant The closing letter should contain the following:

(A) A brief description of the allegation(s).

(B) The scope of the inquiry or investigation conducted.

(C) Facts and information from the inquiry or investigation report refuting each allegation.

(D) Closing statement summarizing the basis on which the determination was made.

(f) Examples of Discrimination.

(1) Denial of an individual or household of any services or benefits provided under programs on the basis of race, color, national origin, age, sex, handicap, political beliefs, or religion.

(2) Distinction in the quality, quantity, or manner in which the benefits are provided on the basis of race, color, national origin, age, sex, handicap, political beliefs, or religion.

(3) Segregation or separate treatment of individuals in any manner related to the receipt of program benefits on the basis of race, color, national origin, age, sex, handicap, political beliefs, or religion.

(4) Use of criteria or methods of administration which have the effect of defeating or impairing the objectives of the Programs or Services according to race,

color, national origin, age, sex, handicap, political beliefs, or religion.

(5) Selection of the site for certification and issuance office that has the effect of excluding individuals based on race, color, national origin, age, sex, handicap, political beliefs, or religion.

(g) Civil Rights Compliance Review. The Department shall ensure an effective implementation of the Civil Rights Complaint Procedures. Bureau of Management Services, Division of Public Welfare shall conduct annual Management Evaluation Reviews (MER) to ensure the compliance of such procedures within the Division.

(1) The result of the annual reviews shall be written up as part of the ME Review process or as a separate report. Information regarding civil rights problems shall be documented on the ME Review Worksheet or in a separate report.

(2) The report shall indicate the following: the number of minority casefiles reviewed that were active, pending, denied, or terminated.

(3) The report shall also include an evaluation statement by the reviewer in reference to any unusual circumstances or patterns of disparate treatment.

(4) The report shall be submitted to the Chief Administrator with recommendations for corrective action plan within 60 days of the review. Such reports shall be maintained on file and are subject to review by the Regional IX Office.

(5) Region IX Office or representatives of the Office of Minority Affairs (OMA) may conduct compliance review on the Department's procedures.

(h) Corrective Action. All efforts shall be made to achieve compliance of the Civil Rights procedures. The Department shall develop corrective action plans when non-compliance or deficiencies are noted either through MER or Special

Compliance Review by the Regional IX Office. The corrective action plan should identify specific steps to be taken, and specific time frames within which compliance will be achieved.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1803. Systematic Alien Verification for Entitlement (SAVE).

(a) Background. On November 6, 1986, the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99-603 was signed into law. Section 121 of this legislation provides for verification of alien status through the Immigration and Naturalization Service (INS) designated SAVE system as a mandate beginning October 1, 1988 (unless a waiver is granted). For this purpose, the Guam State Plan and Eligibility and Payment Manual was revised to include the Systematic Alien Verification for Entitlement (SAVE).

(b) Purpose. The purpose of exchanging information through SAVE is to verify the immigration status of aliens applying for the Food Stamp, Public Assistance and Medicaid Programs.

(c) Access Method. The State agency (Bureau of Economic Security (BES), Department of Public Health and Social Services) accesses the Alien Status Verification Index (ASVI) through Secondary Verification. INS maintains the SAVE system and makes it available to BES.

(d) Types of Aliens to be Referred to INS:

(1) Applicants who are permanent resident aliens and whose entry date is less than THREE (3) YEARS from the date of application for aid. (In this case, the sponsor's Affidavit of Support and any data regarding the sponsor(s) and sponsor's spouse's income and resources are also needed).

(2) Applicants whose immigration status is questionable due to a lack of proper documents. When a non-INS document is accepted, a photo-copy of that document must be sent to INS for verification.

(3) Illegal aliens who are applying for program assistance.

(e) Applicant Household Responsibilities.

(1) Providing Verification**:** The applicant has the primary responsibility in providing documents to verify alien immigration status within the specified time period - TEN (10) CALENDAR DAYS from the date the document is requested.

(2) Declaration of US Citizenship or Lawful Alien Status: As a condition of eligibility, all adult household members applying for assistance must sign, under penalty of perjury, the declaration of U.S. Citizenship or lawful alien status in the certification office, witnessed by the BES Eligibility Specialist (ES), unit supervisor(s), or certification supervisor(s). Adult household members must sign for members less than 18 years of age.

Should any applicant experience difficulty in reporting to the certification office due to illness, disability or handicap, work hours, or other extreme circumstances, he/she is responsible for informing the ES or the certification office of his/her circumstances. In this case, an alternative method shall be used in obtaining the applicants' signature(s). (See section 300.8 of this manual).

(f) Bureau of Economic Security (BES) Responsibilities:

(g) Procedures in Obtaining Alien Verification from INS: The following guidelines shall be used to verify an alien applicant's immigration status with the Immigration and Naturalization Service (INS).

(1) The BES Eligibility Specialist (ES) shall complete the G-845 Form, Document Verification Request, numbers 1 through 8, which provides the Immigration and Naturalization Service (INS) with the following data:

(A) Alien Registration or I-94 Number;

(B) Applicant's full name;

(C) Nationality;

(D) Date of Birth;

(E) Social Security Number;

(F) Types of Benefits and case number(s);

(G) Copy of documents to be verified shall be attached to the G-845 when necessary (i.e. alien registration cards, alien sponsor's affidavit of support, passport, etc).

The G-845 form shall be used to verify alien status and/or to verify documents related to alien verification.

(2) The BES ES shall ensure that the Consent of Disclosure Form is signed by the applicant and is in the applicant's case record.

(3) The BES ES shall forward the G-845 Form with the accompanying documents attached to the Program Compliance and Coordination Unit (PCCU).

(4) PCCU shall forward the G-845 Form to INS every Tuesdays and Thursdays. In the event INS encounters a problem with the referral, INS shall notify PCCU immediately. The PCCU Program Coordinator shall inform the appropriate ES or unit supervisor of the problem and reason for the delay.

(5) Immediately upon receipt of the G-845 Form from INS, PCCU Program Coordinator shall return the G-845 Form to the appropriate EW or unit supervisor(s).

(6) Upon receipt of the completed G-845 Form, the ES shall take case action and file it in the appropriate case record.

(7) ESs may contact PCCU to follow-up on the status of their referrals if PCCU does not give them any feedback within 11-12 work days from the date of referral to PCCU. (Refer to "INS Processing Time frames" on section 300.11 of this manual).

(h) Guidelines in Obtaining the Signature of Adult Members: All adult applicants in the household must sign the declaration of U.S. Citizenship or lawful alien status, which is incorporated in the application form, in the certification office witnessed by the BES ES or unit supervisor. The ES must verify the identity of the person

signing the program application form by checking his or her identification card (such as Driver's License, Guam ID, Alien Registration Card, Passport, etc.).

In cases where all members in household are elderly and/or disabled or handicapped, and experience difficulty in reporting to the certification office, the ES shall conduct a HOME VISIT in order to obtain the applicants' signatures.

In cases where some household members experience difficulty in coming to the certification office to sign the declaration due to illness, disability or handicap, work hours, or other extreme circumstances, the ES shall permit the household to take the application form home for that member's signature. However, such application shall be notarized. The ES should always keep a copy of the application form in file prior to giving the application form back to the household.

(i) Verification Time Frames: The ES must give the household TEN (10) CALENDAR DAYS, from the date the document is requested, to provide acceptable verification of alien status prior to taking any action to deny, delay, reduce, or terminate program benefits.

On the day verifications are being requested (interview day), the ES shall issue the "Pending Document" form to the applicant when more documents are needed. This "Pending Document" form also serves as an advance notice of adverse action. The ES shall inform the client that failure to submit the requested document(s) within the date specified on the Pending form will result in delay or reduction of program benefits, or denial of their application for aid.

(j) Immigration and Naturalization Service (INS) Responsibilities:

(1) INS shall provide BES the following information upon each alien inquiry as available:

(A) Current immigration status;

(B) INS's position on active/inactive deportation

proceedings against certain classes/categories of aliens;

(C) Amnesty applicant's status;

(D) Alien sponsor(s) name and copy of sponsor's Affidavit of Support.

(2) INS shall provide secondary verification units who are responsible for processing referred INS G-845 forms and to process such forms within the specified time period (see subsection k).

(3) INS shall provide staff assistance to BES on any of the following concerns and problems:

(A) INS policy;

(B) Safeguards/disclosure policy;

(C) System (secondary/primary);

(D) Administrative problems encountered through performing immigration status verification.

(4) INS shall safeguard all information concerning Food Stamp, Public Assistance, and Medicaid applicants/recipients provided by BES in accordance with the Privacy Act restrictions, 5 U.S.C. 552a, and in accordance with the safeguards limiting release or re-disclosure as required by local law and Federal law or regulations and as may be required by other guidelines published by the U.S. Department of Agriculture.

(k) INS PROCESSING TIME FRAMES: INS shall process the G-845 referrals within TEN (10) WORK DAYS from the date of receipt.

Emergency cases shall be expedited, meaning the referral shall be processed in ONE (1) DAY. The reason for the emergency should be indicated.

Should INS need to request for off-island records, the referral may take THREE (3) WEEKS TO PROCESS.

(l) Fair Hearing. On a pre-arranged and pre-approved basis, INS shall provide the appropriate immigration technical

consultation and witness support necessary to BES. This assistance is needed to provided individuals denied program benefits with a fair hearing or with judicial review of agency action. These requests shall be based on information received from INS on the immigration status of an individual denied program benefits.

(Refer to Section 400 of this manual for more Fair Hearing regulations).

(m) Treatment of a Household Member who fails or refuses to sign the Declaration and/or fails to provide acceptable Alien Verification.

(1) Public Assistance. When a household member, who is required to be included in the filing unit, fails or refuses to sign the declaration, or fails to provide acceptable verification of alien immigration status within the required time period (10 calendar days from date of request), he/she shall be treated as an ineligible alien. HIS/HER NEEDS ARE EXCLUDED. However, the ENTIRE INCOME AND RESOURCES of the member is counted as income and resources of the filing unit.

(2) In an Unemployed Parent (04) case, if the head of household/Principal Wage Earner fails to comply, he/she is treated as an ineligible alien. Therefore, the ENTIRE HOUSEHOLD is INELIGIBLE for Public Assistance.

(3) Food Stamps: When a member fails or refuses to sign the declaration in the Food Stamp Application Form, and/or fails to provide acceptable verification of alien status, he/she is treated as a non-household member. That member is EXCLUDED from the Food Stamp household. However, the ENTIRE RESOURCES of that member is counted as resources of the household. The INCOME of that member is PRO-RATED and his share of his income excluded but the remaining amount is counted as the household's income.

EXAMPLE: Household size 5. Non-compliant member has income of $500.00. 500 divided by 5 = 100. 500 - 100 = 400. The $400.00 pro-rated share shall be considered as income to the household.

(n) Treatment of an Adult Member Who Cannot Sign the

Declaration or the Application. A witness signature is necessary when the applicant attests to his/her citizenship or alien status with an "X". The witness may be another adult household member.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1804. Fair Hearing.

(a) Notification of Right to Request for a Hearing. The household shall be informed in writing of its right to a hearing during program orientation, interviews, and when its eligibility/benefit is denied, reduced or terminated, or during a denial or delay of a replacement issuance. The household shall be informed of the method by which a hearing may be requested, and that its case may be presented by legal counsel, a relative, friend or other persons. Whenever the household expresses to the eligibility specialist (ES) that it disagrees with an action the ES shall remind the household of its right to request a fair hearing. The household shall be informed of the availability of free legal representation.

(b) Time Period for Requesting a Fair Hearing. The Agency shall provide a notice of adverse action to the household at least 10 days prior to effective date of agency's action to terminate or reduce its benefits. For collection of overpayment purposes, a demand letter must be provided to the household at least 30 days prior to the collection action. A household shall be allowed to request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, any time within a certification period, a household may request a fair hearing to dispute its current level of benefits.

(c) Request for a Fair Hearing. A request for a hearing is a clear expression, oral or written, by the household or its authorized representative that the household wants the opportunity to present its case to a higher authority. The household shall complete the appropriate "Request for a Fair Hearing" form (DPW89-2).

If it is unclear from the household's request what action the household wishes to appeal, the eligibility specialist will request the household to clarify its grievance. The right to make a request for a hearing shall not be limited or interfered with in any way.

(d) Availability of Fair Hearings.

(1) Food Stamps. A household may request a Fair Hearing when it is aggrieved by any action of the ES which affects the participation of the household or the collection of the overpayment in the Program.

(2) Financial Assistance and Medical Assistance. When any applicant's claim for financial assistance or medical assistance is denied or is not acted upon within the required time frame of the respective programs (please refer to appropriate manual), or

(3) When an agency action results in suspension, reduction, discontinuance, or termination of assistance or determination that a protective, vendor or two-party payment should be made or continued; or

When the reason for an individual appeal is an incorrect grant computation.

When any agency action results in suspension, reduction, discontinuance, or termination of assistance or determination that a protective, vendor or two-party payment should be made or continued; or

When the reason for an individual appeal is an incorrect grant computation.

(e) Timely Action on Hearings. The agency must take final administrative action whereby a fair hearing is conducted, a decision is reached, and the household is notified of the decision in writing within:

(1) Ninety (90) days from the date of the hearing request for Financial Assistance, Medicaid, Free Care, Catastrophic Illness Assistance or the Medically Indigent Programs; and,

(2) Sixty (60) days from the date of the request for a fair hearing for the Food Stamp Program.

(f) Request for Postponement of Hearing. The household may request a postponement of a hearing in writing not to exceed thirty (30) days and the time limit for action on the decision may be

extended for good cause as many days as the hearing is postponed.

(g) Agency Conference. The agency shall:

(1) Offer agency conferences ten (10) days prior to the Fair Hearing scheduled date, to any household who wishes to appeal an action or contest a denial of expedited service and to any household adversely affected by an agency action.

(2) Advise all households that use of an agency conference is optional, and that it will in no way delay or replace the fair hearing process.

The agency conference shall be attended by the program representative(s), the household and/or its representative and may be attended by any other persons with relevant responsibilities.

An agency conference may lead to an if normal resolution of the dispute. However, a fair hearing must still be held unless the household completes and submits to the agency a "Withdrawal of Request for a Fair Hearing" form (DPW89-03).

An agency conference for any household contesting a denial of expedited services for Food Stamps shall be scheduled within two (2) working days from the complaint, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

(h) Consolidated Hearings. The agency may respond to a series of individual requests for hearing by conducting single group hearings. The agency may consolidate only cases in which the sole issue involved is one of local and/or federal law, regulation or policy. In all group hearings, the policies/regulations governing individual hearings must be followed. Each household shall be permitted to present its own case or be represented by an authorized representative.

(i) Agency's Responsibilities on Hearing Requests. Upon request, the agency shall make available without charge to the household or its representative, the specific materials necessary to determine whether a hearing should be requested or to prepare for a

fair hearing.

If the individual making the request speaks a language other than English, the agency shall provide bilingual staff or an interpreter who speaks the appropriate language and ensure that the hearing procedures are verbally explained in that language. The household shall be advised of legal services available that can provide representation at the hearing.

A medical assessment must be obtained at the agency's expense and made part of the record if the hearing involves medical issues such as those concerning a diagnosis, an examining physician's report, or a medical review team's decision; and, if the hearing officer considers it necessary to have a medical assessment other than that of the individual involved in making the original decision.

The agency shall expedite hearing requests from households that plan to move due to an emergency or special circumstances from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be processed faster than others if necessary to enable the household to receive a decision and restorations of benefits before leaving the area, if the decision indicates.

(j) Denial or dismissal of Request for Hearing. The agency may deny or dismiss a request for a hearing if:

(1) The request is withdrawn in writing by the household; or

(2) The request is not received within the time period specified in Section II of this procedure outline; or

(3) The household fails without good cause to appear at the schedule hearing; or

(4) Under the AFDC program, the sole issue is one of local or federal law requiring automatic grant adjustments for classes of recipients; or the decision has been rendered after JOBS hearing and the participant has, without good cause, refused to accept employment, participate in the JOBS

program or has failed to request such a hearing after notice of intended action for such refusal.

(k) Continuation of Benefits and/or Services. If a household requests a hearing within ten (10) days following the date of action or ten (10) days of the mailing notice, the agency shall not terminate, reduce, or suspend the authorized benefits/services unless:

(1) It is determined at the hearing that the sole issue or change is a local or federal law or policy, and that the household claim that the State Agency improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid;

(2) The certification period expires;

(3) A change affecting the household's eligibility or basis of benefits/services occurs while the hearing decision is pending and the household failed to request a hearing after the subsequent notice;

(4) The household specifically request that assistance be discontinued pending the hearing decision; or

(5) A mass change affecting the household's eligibility occurs while the hearing decision is pending.

The agency shall promptly inform the household in writing if benefits/services are to be terminated or reduced pending the hearing decision.

If the FH request is based on the disagreement of a claim amount, Claims collection activity shall be suspended until a Fair Hearing Decision is reached.

(l) Notification of Time and Place of Hearing. The time, date and place of the hearing shall be arranged so that the hearing is accessible to the household. Advance written notice of at least ten (10) calendar days shall be provided to all parties involved to permit adequate preparation of the case. However, the household may request less advance notice to expedite the scheduling of the hearing. The notice shall:

(1) Inform the household of the time, date and place of the hearing;

(2) Advise the household or its representative of the name, address and phone number of the person to notify if the household or its representative can not attend the scheduled hearing;

(3) Specify that the agency will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause;

(4) Include the agency's hearing procedures and other information that would provide the household with an understanding of the proceedings and contribute to the effective presentation of the household's case;

(5) Explain to the household or its representative that the case file may be examined prior to the hearing;

(6) Advise the household of th e availability of legal services.

(m) Hearing Official. Hearings shall be conducted by the Department of Law or its designee.

(n) Powers and Duties of the Hearing Official. The hearing official shall:

(1) Administer required oaths or affirmations;

(2) Insure that all relevant issues are considered;

(3) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

(5) Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the agency; and

(6) Provide a hearing record and recommendation for final decision by the hearing authority.

(o) Hearing Authority. The hearing authority shall be the Director of the Department of Public Health and Social Services or some other agency official designated by the Director to render the final administrative decision in a hearing.

The hearing authority shall consult the program affected by the fair hearing prior to rendering the final decision.

(p) Attendance at Hearing. The hearing shall be attended by the program representative(s) and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The hearing official shall have the authority to limit the number of persons in attendance at the hearing if space limitations exists.

If the Fair Hearing request is based on action taken on JOBS registration or ETP related requirements, a representative from JOBS or ETP service agency shall participate in the hearing.

(q) Rights of the Household. The household or their representative, must be given an opportunity to:

(1) Examine all documents and records (case file included) to be used before and at the hearing. Confidential information such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions must be protected from release;

(2) Present their case or have it presented by legal counsel or other person;

(3) Bring witnesses; and

(4) Present arguments without undue interference; and

(5) Question or refuse any testimony or evidence, including an opportunity to confront and cross-examine witnesses; and

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(r) Hearing Decisions. The decision of the hearing authority shall comply with local and federal law and regulations and shall be

based exclusively on evidence introduced at the hearing. The record must be maintained for a period of one (1) year after the right to appeal has elapsed and must consist of:

(1) The recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing;

(2) All documents filed in the proceeding; and

(3) The recommendation or decision of the hearing officer.

This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

(4) A decision by the hearing authority shall be binding on the agency and shall:

(A) Summarize the facts of the case;

(B) Specify the reasons for the decisions; and

(C) The recommendation or decision of the hearing officer.

(5) The household shall be notified in writing of:

(A) The decision;

(B) The reasons for the decision;

(C) The available appeal rights;

(D) Whether the household's benefits will be issued or terminated as decided by the hearing authority;

(E) That an appeal may result in a reversal of an unfavorable decision; and

(F) The right to pursue judicial review of an unfavorable decision and that a reversal of the decision may result in the restoration of lost benefits to the household.

(6) Implementation of Hearing Decision. The agency must take final administrative action within ninety (90) days for

Financial Assistance, Medicaid, and MIP programs and sixty (60) days for the Food Stamp program, from the date of the request for a hearing, unless an extension was granted.

All agency hearing decisions or statistical information derived from such decisions may be accessible to the public (subject to provisions of safeguarding Food Stamp, Financial Assistance, and all Medical Assistance program information), however, the identification of names and addresses of household members and other members of the public and other confidential information shall be kept confidential.

(7) Information can be disclosed concerning households for purposes directly connected with the administration of all Medical Assistance programs. Such purposes include:

(A) Establishing eligibility;

(B) Determining the amount of medical assistance;

(C) Providing services for recipients; and

(D) Conducting or assisting an investigation, prosecution, civil or criminal proceeding related to the administration of the plan.

When the hearing authority upholds the agency's action, a claim against the household shall be established within 30 days.

When the hearing authority determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, the household shall be restored the lost benefits by the next issuance month.

(8) Timeframe for Implementation of Hearing Decision. Decisions which result in an increase in household benefits shall be reflected in the coupon allotment within 10 days of receipts of the hearing decision. However, the Department may take longer than if it elects to make the decision effective in the household's normal issuance cycle, provided the issuance will occur within 60 days from the household's request for the hearing.

Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

A copy of the FH Decision Action Report shall be prepared by each appropriate bureau.

(s) Central Registry.

Purpose: To receive, coordinate and maintain all documents and information on all Fair Hearing requests pertaining to Food Stamps, Public Assistance, Medicaid, Free Care, Catastrophic Illness Assistance and the Medically Indigent Program.

The Division of Public Welfare, Chief Administrator's Office, is responsible for coordinating referrals, activities and scheduling of all Fair Hearing requests. Each Bureau shall ensure that is has adequate supply for the Fair Hearing forms to meet the needs for its clientele. the procedural operation shall include but is not limited to the following steps:

Bureau Responsibilities:

(1) All written and oral requests for fair hearing shall be forwarded to Central Registry within two days from the date the fair hearing request was received. Each responsible bureau shall prepare a summary report of the basis of the fair hearing request. The documents must include:

(A) Fair Hearing Request Form (DPW89-02)

(B) Copy of Notice of Adverse Action sent to the household.

(C) Copy of the Fair Hearing Request Case Summary Form (DPW 89-01).

(2) The Fair Hearing Coordinator, designee of the Chief Administrator, shall be responsible for:

(A) Maintaining control of Fair Hearing Log (use of computer and Form No. DPW 89-02 data)

(B) Monitoring hearing decision time frame

requirements and scheduling fair hearing date and Agency Conference (at least 10 working days prior to the hearing) - Form No. DPW 89-04; ensuring that all requirements are complete (tape recorder, documents etc.).

(C) Arranging administrative support for recording and participation at he hearing; informing the Department of Law and respective program representatives.

(D) Preparing monthly activity (statistical) reports regarding the number of Fair Hearing requests which will be the basis for the preparation of the annual report (FNS-366, Part B, Section D for FS Program; and, FSA 4100 for PA Programs). The FNS 366-B is due November 15th of each month to the Regional Office.

(E) Handling of fair hearing decisions from the Department of Law:

(1) All fair hearing decisions must be approved and signed by the Director of PH&SS or the Director's designee.

(2) The decision must be stamped with the date received and initialed.

(3) The Fair Hearing Coordinator shall prepare the notice of Fair Hearing Decision (form DPW 89-05).

(4) The Notice of the Fair Hearing Decision shall be signed and dated by the Fair Hearing Coordinator.

(5) Copies of the decision will be provided to:

(a) Client - original (Notice of Fair Hearing Decision Form)

(b) Fair Hearing Administrative File

(c) Program Representative

(d) Program Case file

(F) Ensuring that fair hearing decisions/reports are

received. Coordinator may assign respective Bureau to pick-up decisions/reports from the Department of Law.

(G) air Hearing Coordinator shall ensure that each bureau have a designated staff to prepare an implementation report which shall include the action taken on the Fair Hearing Decision (Form DPW 89-06). A copy of the report shall be provided to the Fair Hearing Coordinator and another to the Fair Hearing Officer no later than ten (10) days after the Fair Hearing Decision is received.

(H) The Fair Hearing Coordinator shall prepare a Fair Hearing analysis on an annual basis which shall include the identification of the problem area(s) that may need improvement in terms of policy and procedure applications. The report shall also include recommendations for corrective action in addressing the problem areas. This report shall be prepared no later than 30 days after the closing of the fiscal year.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1805. Needs Standards.

(a) Overview.

Whereas, Public Law 20-76, "AN ACT TO REVISE THE STANDARDS OF ASSISTANCE" authorizes the Department of Public Health and Social Services to implement the revisions recommended in the Standards of Assistance Study issued by the Department in June 1983.

Whereas, the Department of Public Health and Social Services shall perform a Standard of Assistance Study every five (5) years and transmit the results to the Guam Legislature. The first study shall be completed one (1) year after the effective date of Public Law 20- 76 (September 14, 1989);

NOW, THEREFORE, by virtue of the foregoing, the attached rules and regulations entitled "Standards of Assistance" are hereby approved and promulgated by

Executive Order, and shall be in force and effect. All prior rules and regulations are superseded by this order.

(b) Purpose. The purpose of these rules and regulations is to set up standards of assistance in connection with the administration of Social Services under 10 GCA Chapter 2.

(c) Definitions.

(1) STANDARDS OF ASSISTANCE: means the quality, quantity or cost of food, clothing, household supplies, personal needs and other needs established by the Department of Public Health and Social Services for payment to eligible recipients of the Public Assistance programs.

(2) BASIC REQUIREMENTS: These consist of necessities common to all individuals which must be included in the budget of all recipients. These include food, clothing, personal needs and household supplies. If such items are provided through other sources, the amount designated is considered as income, except the amount of food stamp coupons received under the program.

(A) Food;

(B) Clothing;

(C) Personal Needs;

(D) Household Supplies (Comprise those items which are necessary for the day-to-day maintenance of a household such as soap, cleaning supplies, brooms, etc.).

(d) Standard Monthly Schedule for Basic Individual Requirements.

FAMILY MEMBERS IN ASSISTANCE UNIT IN FOOD	CLOTHING	PERSONAL	HOUSEHOLD		TOTAL
1	94.00	33.00	7.00	17.00	151.00
2	187.00	41.00	9.00	21.00	258.00
3	246.00	49.00	10.00	25.00	330.00

4	312.00	61.00	13.00	31.00	417.00
5	371.00	73.00	16.00	37.00	497.00
6	445.00	85.00	19.00	43.00	592.00
7	492.00	96.00	21.00	49.00	658.00
8	562.00	107.00	23.00	54.00	746.00
9	633.00	117.00	25.00	59.00	834.00
10	703.00	126.00	27.00	64.00	920.00
11	773.00	136.00	29.00	70.00	1,008.00
12	843.00	146.00	31.00	76.00	1,096.00
13	913.00	156.00	33.00	82.00	1,184.00
14	983.00	166.00	35.00	88.00	1,272.00
15	1,053.00	176.00	37.00	94.00	1,360.00
For each additional member add	+70.00	+10.00	+ 2.00	+ 6.00	+ 88.00

NOTE: Recipients who are institutionalized will be provided $40.00 only for clothing and personal needs in lieu of the above standards.

(e) Special Needs.

(1) Shelter

Number of Persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	$ 200
3 - 6	$ 250
7 and over	$ 325

Shelter payments shall be authorized for rental/mortgage payments based on the actual cost up to the maximum allowance for each family size, when proper verification is provided. In no event shall payment exceed the maximum standard.

A shelter allowance shall be provided only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter allowance even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not provided for, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

For Non-Reporting households, the shelter and utility allowance shall be based on the documents or verification provided in the case record as of last recertification. ESs are not required to contact the household to determine the amounts to be budgeted until next recertification.

For GHURA rental contracts, the ES shall at the time of new application, recertification or reapplication, use the contract to determine what rental amount the recipient is responsible for paying. If the recipient has not yet paid for rent, he shall be required to obtain from the landlord, a statement indicating the rental amount due from the recipient for which month.

One time expense such as Land Lease or Real Property Tax payments which is charged on annual basis, shall be budgeted as shelter allowance in the month the expense incurred or otherwise becomes due. ES shall no longer prorate such shelter allowance within the 12 or 6 months period. Tickler code "G" shall be used to flag the on-line system to ensure that such actual shelter allowance shall be provided only in the month the expense incurred or becomes due. In order for such expense to be allowed, the ES shall require applicant or recipient to submit payment receipts or a copy of Land Use Permit Agreement, signed by the Department of Land Management.

(2) Utility Allowance. Allowable utility expenses include power, water, gas, telephone, sewer and kerosene. Such utility allowance shall be provided in the budget for actual cost incurred up to the maximum amount authorized by the Agency, for each family size.

Utility allowance shall be given only in the month the utility is billed or otherwise becomes due, regardless of when the household intends to pay the bill. For example, a utility such as power which is due each month shall be included in the household's utility allowance even if the household has not yet paid the bill. Amounts

carried forward from past billing periods are not provided for, even if included with the recent billing and actually paid by the household. In any event, a particular bill may only be deducted once.

When any of the utility needs are subsidized by the Guam Housing and Urban Renewal Authority (GHURA), the ES shall include the subsidy amount as unearned income and give the allowances for utility needs when determining need and amount of the public assistance grant.

For example: Mr. Cruz, a recipient of OAA, has a power expense of $45.00, and water/sewer expense of $12.00 and $8.00 respectively.

When computing Mr. Cruz's total needs, the ES shall provided:

BASIC NEEDS:	$151.00
POWER ALLOWANCE	$ 35.00
WATER ALLOWANCE	$ 8.00
TOTAL NEEDS	$202.00

NOTE: Because actual power and water expenses are greater than the maximum standard for a household size of one (1), the maximum amount was provided to Mr. Cruz.

(A) POWER (Electricity):

Number of persons in Assistance Unit	Maximum Monthly Allowance
1	$ 35.00
2	$ 43.00
3	$ 51.00
4	$ 64.00
5	$ 77.00
6	$ 89.00
7	$ 101.00
8	$ 112.00
9	$ 122.00
10 and over plus $10.00	$ 132.00

for each additional member.

(B) WATER:

Number of persons in Assistance Unit	Maximum Monthly Allowance
1	$ 8.00
2	$ 10.00
3	$ 12.00
4	$ 15.00
5	$ 18.00
6	$ 21.00
7	$ 24.00
8	$ 27.00
9	$ 29.00
10 and over plus $3.00 for each additional member.	$ 31.00

(C) GAS:

Number of Persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	$ 6.00
3 - 4	$10.00
5	$12.00
6 - 7	$13.00
8 and over	$21.00

Gas allowance shall only be provided to the assistance unit if such expense is incurred. In no event such allowance exceeds the maximum standard for each family size.

(D) TELEPHONE: The basic (flat) rate for a single-line telephone is $12.00. This shall be the allowance provided to all households which have this expense. Any additional expenses which exceed the basic rate for telephone is not entitled to such allowance.

(E) SEWER: The basic (flat) rate for this utility is $8.00. This shall be provided only to households which claim and present verification for this

expense. Any additional expenses which exceed the basic rate for sewer is not entitled to such allowance.

(F) KEROSENE: There is no standard established for "kerosene" . However, if a household incurred such expense, the allowance for kerosene will be provided up to the actual amount incurred.

(f) Standard Utility Allowance Table.

Household Size	Power (Elec.)	Water	Sewer	Gas	Telephone	Shelter
01	35.00	8.00	8.00	6.00	12.00	200.00
02	43.00	10.00	8.00	6.00	12.00	200.00
03	51.00	12.00	8.00	10.00	12.00	250.00
04	64.00	15.00	8.00	10.00	12.00	250.00
05	77.00	18.00	8.00	12.00	12.00	250.00
06	89.00	21.00	8.00	13.00	12.00	250.00
07	101.00	24.00	8.00	13.00	12.00	325.00
08	112.00	27.00	8.00	21.00	12.00	325.00
09	122.00	29.00	8.00	21.00	12.00	325.00
10	132.00	31.00	8.00	1.00	12.00	325.00
11	142.00	34.00	8.00	21.00	12.00	325.00
12	152.00	37.00	8.00	1.00	12.00	325.00
For each additional member add	+10.00	+3.00	+0.00	+0.00	+0.00	+0.00

NOTE: When living arrangements are shared with non-eligible persons, only the recipient's actual share of cost (up to the maximum allowance) will be computed.

(g) Eligibility and Benefit Level.

(h) DEFINITIONS. The following definitions apply to this chapter:

(1) Prospective budgeting means determination of eligibility and benefit levels based on the best estimate of income and circumstances which will exist for the first two months of eligibility. This estimate shall be based on the ES's reasonable expectation and knowledge of current, past and future circumstances.

(2) Retrospective budgeting means computation of the amount of assistance for a payment month based on actual

income or circumstances which existed in a previous month, the budget month.

(3) Budget month means the calendar month from which the ES shall use income or circumstances of the family to compute the amount of assistance.

(4) Payment month means the calendar month for which the agency shall pay assistance. Payment is based upon income or circumstances in the budget month and the payment are the same. In retrospective budgeting, the payment month follows the budget month.

(i) Determination of Eligibility and Benefit Levels. All factors of eligibility shall be determined prospectively and the amount of the assistance payment shall be computed prospectively.

(1) The ES shall provide PA benefits to the households from the date of application provided that the household was to determine eligible. This means that the ES shall provide and pro-rate the PA benefits form the date of applications.

(2) The ES shall round down both the standard of need and the payment amount, when not a whole dollar amount to the next lower whole dollar amount. For the need standard, rounding is required after completing all steps necessary to determine the applicable standard of need (including special needs).

(3) Application for Renewals. SAR Eligibility and the level of benefits for renewals shall be determined based on circumstances anticipated for the eligibility period of six (6) months starting the month following the expiration of the current eligibility period. If an application for renewal is submitted after the assistance unit's eligibility period has expired, then that application shall be considered an initial shall be considered an initial application and payment for that month is pro-rated using the standard 30-day pro-ration table.

(4) Anticipated Changes. Because of anticipated changes, an assistance unit may be eligible for the month of application, but ineligible in the subsequent month. The assistance unit shall be entitled to benefits for the month of application even if

the processing of its application results in the payment being issued in the subsequent month. Similarly, an assistance unit may be ineligible for the month of application but eligible in the subsequent month due to anticipated changes in circumstances. The application will not be needed, and payment will not be made during the month of ineligibility. However, the determination of eligibility for subsequent months shall be made from the application filed.

(5) Treatment of Reapplication Inactive Less than Thirty (30) Days. If the AFDC assistance is terminated due to failure to submit a monthly report form, the recipient may reapply the following month and receive benefits, if eligible. When the system-terminated reapplying applicant has been inactive less than 30 days, the following procedures should be carried out:

(A) The ES obtains a new application form, MRF, and required documents.

(B) Prospective Budgeting is applied. This means that the computation of grant amount is based on the budget month's income and circumstances.

(C) The ES shall compute applicants' payments without benefit of the following income disregards unless there is a good cause for filing late:

(i) First $90.00 (standard deduction);

(ii) $175.00 (maximum) per dependent (dependent care deduction);

(iii) $30.00 plus one-third (1/3) of remainder;

(iv) Earned income disregards of AFDC child who is a full- time student or part-time student and not a full-time employee.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 1806. Income and Eligibility Verification System (IEVS).

(a) Introduction. The Deferred Reduction Act of 1984 (P.L. 98-369) requires establishments of an Income and Eligibility Verification System (IEVS) for agencies that administer Public Assistance, Medicaid, and Food Stamp (FSP) Programs. This requirement provides that agencies exchange IEVS information for purposes of conducting computer matches or other types of automated analysis to determine eligibility and benefit payments to applicants/recipients of the programs.

(b) Purpose of IEVS. Agencies shall safeguard and maintain the confidentiality of all information received under the agreement. Such information shall be used for the following purposes:

(1) To verify a household's eligibility;

(2) To verify the proper amount of benefits;

(3) To investigate (in determining) whether participating households received benefits to which they were not entitled.

(c) Data Exchange/Request Agreement. The Department of Public Health and Social Services (PH&SS) has agreement with the following agencies in order to ensure IEVS requirements are met.

(1) Internal Revenue Services (IRS)

(A) Earned income information

(B) Unearned income information

(2) Department of Revenue and Taxation (DRT)

(A) Earned income information

(B) Unearned income information

(3) Social Security Administration (SSA)

(A) Federal retirement information

(B) Survivors benefits

(C) Disability benefits

(D) Other related information

The agreement establishes mutual interest in improving

the efficiency and effectiveness of computer matching efforts to identify ineligible recipient.

(d) How to Use IEVS Information: IEVS obtained information is used to determine the eligibility and benefit level of applicant/recipients of participating household. When the IEVS - obtained information is questionable the information shall be considered unverified; the agency (PCCU) shall independently verify the information before taking adverse action against the household. The verification is conducted in the following manner:

(1) Contact the household to request verification of the amount of asset or income involved.

(2) Verify whether the household actually had/has access to such asset or income.

(3) Verify the period access to asset or income occurred.

(4) Contact appropriate source by obtaining a written consent from household for release of information for purpose of resolving discrepancies.

(e) Agency Responsibilities (PCCU). Upon receipt of information from the system (PCCU) shall take the following actions:

(1) analyze income/benefit with program information in the case records to determine errors/non-errors.

(2) If no error is found - document findings in the case record. If there is a discrepancy between the computer match information and the case information, PCCU shall send notice to household requesting household to contact PCCU within ten (10) days to resolve the discrepancy.

(3) PCCU shall send notice of adverse action to terminate benefits effective the following issuance month if a household does not respond and resolve the discrepancy.

(4) The agency shall properly notify the household of the action it intends to take and provide the household with an opportunity to request a fair hearing prior to such adverse action.

(f) Household Responsibilities:

(1) If the household responds within ten (10) days household will be given five (5) days after responding to resolve the discrepancy. A pending notice will be given to the household for documentation unless only a verbal response was made.

(2) If the household does not resolve the discrepancy within five (5) days and the household and has no good cause for not resolving discrepancy, PCCU will then terminate or deny benefits.

(3) The household may request a fair hearing during ten (10) days prior to the adverse action with or without continued benefits.

(g) Agency's Responsibilities (Certification).

(1) Review case referred from PCCU to determine the amount of benefits over-issued.

(2) Establish a claim determination (CD) on cases where appropriate.

(3) Transmit CD report to IRS via PCCU within 30 days from the date referred.

(h) Monitoring and Evaluation (PCCU).

(1) Review 10% of the matched cases to ensure IEVS requirements are complied with monthly.

(2) Identify activities not complied in the process.

(3) Analyzed data for evaluations.

(4) Prepare corrective actions for activities not complied.

(5) Prepare activity report based on the results of the 10% review which includes:

(A) Number of errors identified

(B) Type of corrective action

(C) Status of corrective action

(D) Recommendations

(i) Report.

(1) IEVS activity report to FNS - 20th day of the month

(2) IEVS activity report to PDU - 5th day of the month

(3) IEVS monitoring and evaluation activity progress report to administration. - Quarterly (written)

(j) Computer Matching.

(1) Activity Time Frames. Computer tape for each issuance month shall be transmitted to the Social Security Administration (SSA) and Internal Revenue Services (IRS) on or before the 10th of each month.

Diskettes from Commonwealth of Northern Mariana Islands Nutrition Assistance Program are received the first week of each month and process matched with current food stamp files.

Department of Administration prepares print out of all possible dual participants in the food stamp program at the first week of each month.

DAY 1 TO DAY 2

(A) The Program Compliance and Coordination Unit (PCCU) shall:

(i) Transmit upon receipt the Wage Matching/BEER or BENDEX computer tape to the Department of Administration (DOA).

(ii) Request a printout for reference and a printout of cases resulting from the match between the computer tape and the Food Stamp (FS) files, Public Assistance and Medicaid fi les.

DAY 3 TO DAY 6

(B) Department of Administration (DOA) shall:

(i) Print out data on the computer tapes received from the Social Security Administration for

reference.

(ii) Run the computer tape against current FS files for matches.

(iii) Print out the cases that are possible valid "hits" (matched by Social Security Number and name) within five (5) days of the request.

DAY 6 TO DAY 15

(C) PCCU shall:

(i) Pick-up the printout from DOA.

(ii) Prepare for initial screening:

(a) Identify cases with income/benefits.

(b) Analyze cases that are possible valid hits (on the CRT) to verify Social Security Numbers.

(c) Categorize the cases listed as possible valid hits according to priority (high, medium, or low), if necessary.

(iii) Analyze the matched cases and complete the worksheet to identify those with discrepancies of $5.00 or more per month.

(iv) Prepare and send letters to the households (cases) with such discrepancies requesting income verification for the previous 12 to 24 months. Give the household 10 days to respond and 5 days to resolve after reporting the discrepancy.

(v) Keep copies of such letters and transmit copies to Certification for filing in the case folder.

DAY 16 TO DAY 30

(D) Household shall:

(i) Respond to PCCU's request to resolve the income/benefit discrepancy within ten (10) days.

(ii) Obtain verification of all income/benefits

received and submit it to PCCU within fifteen (15) days to resolve income/benefits discrepancies.

(iii) Terminate households that do not respond to the IEVS Compliance Letter within ten (10) days to resolve the discrepancy after notice of adverse action was issued.

(iv) Terminate households that do not resolve such discrepancy within five (5) days after responding to PCCU's request.

DAY 31 TO DAY 40

(E) Conduct a secondary screening on households that do comply:

(i) Analyze the income verifications received with the case folder information to more positively determine discrepancies exist.

(ii) Transmit cases with possible claims discrepancies to Certification for claims action.

DAY 41 TO DAY 70

(F) Certification shall:

(i) Review information received to verify discrepancy months.

(ii) Establish claims on cases which resulted in over- issuances.

(iii) Complete all claims actions within 30 days after receipt.

(iv) Transmit all claims established to PCCU.

DAY 55 TO DAY 80

(G) PCCU shall:

(i) Remind certification of the cases that are due for claims actions.

(ii) Review claims for accuracy and completeness,

(iii) Refer all claims established for collection to BIBR.

(iv) Maintain copies of all claims referred to BIBR.

(v) Compile the information received on the cases referred.

(vi) Follow-up on cases still pending as of day 71.

(vii) Compile the data for reporting to FNS within 10 days after the wage matching activity month.

(k) SWICA

(1) Specific Match Procedures.

(A) Responsibilities:

(i) Coordinate preparation (by ADP) and transmit the computer tapes for each issuance month to the Department of Revenue and Taxation (DRT) on or before the 10th of each month. A hard copy (printout) of the data from the computer tape must be reviewed to help ensure proper preparation of the tapes. Such review will determine that the correct data are entered in the proper format. This will enable DRT to match the data transmitted by Guam with the existing DRT wage and benefits information. The resultant matches are then transmitted to Guam.

(ii) Review tapes from DRT as they are received. Review of tapes is to determine whether safeguards have been maintained in receipt and handling.

(iii) Log all tapes received for Tracking System and transmit to the Department of Administration's Automated Data Processing (ADP) for "dumping" and "process matching". Review the process

matching to ensure that ADP properly matches the DRT data with the current issuance month. (i.e. any tape received will be matched in the month it's received unless it is to near the end of the month. Since ATP printings are done near the end of the month, it may delay the process match at times.

(iv) Monitor the process matching to ensure completion by the targeted due date. Also, notify the PCCU Supervisor when a processing delay is experienced.

(v) Review the "dump" and "process match" received from ADP to determine accuracy and completion in the processing of the DRT data.

(vi) Analyze the resultant matches to determine whether the match is a valid or an invalid "hit". Such matches shall be validated in the following manner:

(a) Identify the cases with income.

(b) Identify high risk cases to prioritize for review.

This criteria shall be used:

(1) Social Security Number and name of a current recipient match with the IRS data received.

(2) Earnings from employers that are on-island.

(3) Other hits.

(c) Verify the SSN using case record information on the CRT except when written case file data is necessary.

(vii) Use the IEVS review worksheet in the following manner:

(a) Identify those hits (cases) that are "non-error". Those determined as having incorrect SSNs and were verified as such through client documentation and case

information are considered non-error cases, thus invalid hits.

(b) Case identified as error cases shall be prepared for analysis. Individual files shall be maintained for such possible error cases.

(viii) Prepare and transmit certified letters (IEVS Discrepancy Letter) to households with an income benefit discrepancy. The letter shall request the household to respond within 10 days or be terminated. As the household responds, they shall be given five (5) days to resolve the discrepancy or also be terminated for non-compliance.

(ix) As households respond, they are notified as to how the discrepancies shall be resolved and the consequences for not complying. A CSR will then be transmitted to Certification for documentation and filing of the non-compliance.

(x) When a household resolves the discrepancy through appropriate document verification, etc., the IRS Coordinator shall analyze the documentation and determine whether there is a possible claim by doing the following:

(a) Compare the income/benefits verifications received with the case file information to identify the actual discrepancies of unreported income/benefits.

(xi) Refer the possible claim to Certification with all pertinent documents for an appropriate claim determination. Then coordinate and monitor the possible claims until referral has been made to the Investigations and Recovery Office (IRO).

(xii) The SWICA Coordinator shall also follow-up to ensure collective procedures are ongoing. Such collections or other corrective action should be documented in the case file.

(l) Wage Matching (B.E.E.R./BENDEX)

(1) Specific Match Procedures.

(A) Responsibilities: The W.M. Coordinator, PCCU shall:

(i) Coordinate the preparation of computer tapes by the Department of Administration's Automated Data Processing (ADP) and transmit the computer tapes for each issuance month to the Social Security Administration (SSA) on or before the 10th of each month. A hard copy (printout) of data from the computer tapes must be reviewed to help ensure the proper preparation of the tapes. Such review will determine that the correct data is entered in the proper format. This will enable (SSA) to match the data transmitted by Guam with their existing SSA wage (B.E.E.R.) and benefits (BENDEX) information. The resultant matches are then transmitted to Guam.

(ii) Review tapes to determine whether safeguards have been maintained in receipt and handling.

(iii) Log all tapes (one for B.E.E.R.; one for BENDEX) received for Tracking System and transmit to the Department of Administration's Automated Data Processing (ADP) for "dumping" and "process matching". Review the process matching to ensure that ADP properly matches the SSA data with the current issuance month. (i.e., any tape received will be matched in the month it's received unless it is near the end of the month. Since ATP printings are done near the end of the month, it may delay the process match at times.

(iv) Monitor the process matching to ensure completion by the targeted due date. Also notify the PCCU Supervisor when a processing delay is experienced.

(v) Review the "dump" and "process match" received from ADP to determine accuracy and completion in the processing of the SSA data.

(vi) Analyze the resultant matches to determine whether the match is a valid or an invalid "hit". Such matches shall be validated in the following manner:

(a) Identify the cases with income.

(b) Identify high risk cases to prioritize for review.

This criteria shall be used:

(1) Social Security Number and name of a current recipient match with the IRS data received.

(2) Earnings from employers that are on-island.

(3) Other hits.

(c) Verify the SSN using case record information on the CRT except when written case file data is necessary.

(vii) Use the (IEVS) Review Worksheet in the following manner:

(a) Identify those hits (cases) that are "non-error". Those determined as having incorrect SSNs and were verified as such through client documentation and case information are considered non-error cases, thus invalid hits.

(b) Case identified as error cases shall be prepared for analysis. Individual files shall be maintained for such possible error cases.

(viii) Prepare and transmit certified letters (IEVS Discrepancy Letter) to households with an income benefit discrepancy. The letter shall request

the household to respond within 10 days or be terminated. As the household responds, they shall be given 5 days to resolve the discrepancy or be terminated for non-compliance.

(ix) As a household responds it is advised that the discrepancy should be resolved in the following manner by the coordinator:

When the household responds, the coordinator shall request the household to explain the reason for the discrepancy between the BEER and the case information. The coordinator shall obtain from the household the appropriate documents needed to resolve the discrepancy. If the household is unable to comply, the coordinator shall average the discrepancy amount over the reported BEER period (12 months) and refer the case to certification for claims review.

(x) When a household resolves the discrepancy through appropriate document verification, etc., the W.M. Coordinator shall analyze the documentation and determine whether there is a possible claim by doing the following:

(a) Compare the income/benefits verifications received with the case file information to identify the actual discrepancies of unreported income/benefits.

(xi) Refer the possible claim to Certification that are identified as having unreported income in a month with all pertinent documents for appropriate claim determination. Then coordinate and monitor the possible claims until referral has been made to the Investigations and Benefits Recovery Office (IRO).

(xii) The W.M. Coordinator shall also follow-up to ensure collective procedures are on-going. Such collections or other corrective action should be

documented in the case file.

(m) Safeguarding of Information. The State provides safeguards which restrict the use or disclosure of information concerning applicants or recipients of services to public officials who requires information in connection with:

(1) Administration of the Plan such as establishing eligibility.

(2) Any investigation and prosecution in connecting with the administrations of the Plans or programs.

(3) The Administration of any other programs that provide federal assistance in cash, or in-kind, in services directly to the individual's needs.

(4) The certification of receipt of AFDC for the purpose of claiming Tax Credit under Public Law 94-12, the Tax Reduction Act of 1975.

(5) Any audit or similar activity in connection with the administration of the State Plan.

(6) The verification to the Employment Security Agency that an individual has been an AFDC recipient for at least 90 days or is a JOBS Demonstration Participant pursuant to P.L. 9734, the Economic Recovery Tax Act of 1981.

Only the names and address of applicants and recipients and amounts of assistance provided unless exempted under paragraph (a) (1) (iv) of CFR 205.50 (10-85 edition). An exception to this rule is an enforcement of local legislation prescribing any conditions under which public access maybe granted to records of the disbursement of funds.

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.**§ 1807. Disqualification for Intentional Program Violation (IPV).**

Definition of Intentional Program Violation. As defined under Title X, Chapter X, Chapter II, Section 2107 of the Government of Guam Code specified under 45 CFR Section 235.112-113.

For purposes of determining through administrative disqualification hearing whether or not a person has committed an Intentional Program Violation, Intentional Program Violations shall consist of having intentionally:

(1) Made a false or misleading statement, or misrepresented, concealed or withheld facts, or;

(2) Committed any act that constitutes a violation of Public Assistance Act, the Public Assistance Program Regulations, or any territorial statute relating to the use, presentation, transfer, acquisition, receipt, or of a Public Assistance grant.

(a) Administrative Responsibility. The Agency shall be responsible for investigating any case of alleged Intentional Program Violation, and ensuring that appropriate cases are referred through administrative disqualification hearing or referral to a court of appropriate jurisdiction.

Administrative disqualification procedures or referral for prosecution action should be initiated by the Agency in cases which the Agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of Intentional Program Violation.

If the Agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overpayment caused by a suspected act of Intentional Program Violation, the Agency shall take action to recoup the overpayment against the household in accordance with the procedures in Chapter III of this Manual.

The Agency shall conduct administrative disqualification hearings in cases which the Agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the Agency.

The Agency shall not initiate an administrative disqualification

hearing against an accused individual whose case is currently being referred for prosecution or to a court of appropriate jurisdiction, if the factual issues of the case arise out of the same circumstances.

The Agency shall initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

The disqualification period for nonparticipant at the time of the administrative disqualification or court decision shall be deferred until the individual applies for and is determined eligible for Program benefits.

The Agency shall base administrative disqualifications for Intentional Program Violations on the determinations of hearing authorities arrived through administrative disqualification hearings or reached by court of appropriate jurisdiction. However, the Agency has the option of allowing accused individuals either to waive their rights to administrative disqualifications hearings or to sign disqualification consent agreements for cases of deferred adjudication.

The Agency may base administrative disqualifications for Intentional Program Violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

(b) Disqualification Penalties. Individuals found guilty of Intentional Program Violation through administrative disqualification hearing or by a court of appropriate jurisdiction, shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation.

However, one or more Intentional Program Violation disqualifications which occurred prior to the implementation of these penalties shall not be considered when determining the appropriate penalty to impose in a case under consideration.

If a court fails to impose a disqualification period for the Intentional Program Violation, the Agency shall impose the disqualification penalties specified in this section unless it is contrary to the court order.

The Agency shall disqualify only the individual found to have committed Intentional Program violation, or who signed the waiver of right to an administrative disqualification hearing or disqualification consent agreement in cases referred for prosecution.

When the head of the household or principal wage earner (PWE) is disqualified from the program due to any of the following reasons, the entire unit may be ineligible to receive benefits if IPV:

(1) was due to absent parent(s) was in the home and deprivation no longer exists;

(2) was due to fraudulent documents were provided attesting to his/her incapacity;

(3) was due to failure to report employment in excess of 100 hours a month for AFDC UP cases;

(4) was due to failure to report his/her employment income and resources which exceeded the income and resources limitation.

(c) Notification to Applicant Households. The Agency shall inform the household in writing of the disqualification penalties for Intentional Program Violation each time it applies for Program benefits.

(d) Disqualification Hearings. The Agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation in accordance with the requirements outlined in this section.

(1) Consolidating of administrative disqualification hearing with fair hearing. The Agency shall combine a fair hearing and an administrative disqualification hearing into a single hearing if there are issues arising out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. The Department shall follow the time frames for conducting disqualification hearings. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not Intentional Program Violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount

of the claim. However, the Agency shall, upon household request, allow the household to waive the 10-day advance notice period when the disqualification hearing and fair hearing are combined.

(2) Disqualification Hearing Procedures.

(3) The Director of Public Health and Social Services shall designate hearing officials to conduct disqualification hearings. (4) At the disqualifications hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(5) Within 90 days of the date the household member is notified in writing that a hearing initiated by the Agency has been scheduled, the Agency shall conduct the hearing, and notify the household member of the decision. The household member or representative is entitled to a postponement of the scheduled hearing, provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. However, the hearing shall not be postponed for more than a total of 30 days and the Agency may limit the number of postponements to one.

(6) The Agency shall publish written rules of procedure for disqualification hearings, and shall make these procedures available to any interested party.

(e) Advance Notice of Hearing. The Agency shall provide written notice to the household member at least 30 days in advance of the date a disqualification hearing initiated by the Agency has been scheduled. The notice shall be mailed certified mail-return receipt requested or provided to the accused household by any other method as long as proof of receipt is obtained, and shall at a minimum, include:

(1) The date, time, and place of the hearing;

(2) The charge(s) against the household member;

(3) A summary of the evidence, and how and where the evidence can be examined;

(4) A warning that the decision will be based solely on

information provided by the Public Assistance office if the household member fails to appear at the hearing;

(5) A statement that the household member or representative will have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

(6) A warning that a determination of Intentional Program Violation will result in a six-month disqualification for the first violation, 12 month disqualification for the second violation, and permanent disqualification for the third violations;

(7) A listing of the household member's rights as contained in Section 704.50;

(8) A statement that the hearing does not preclude the Local or Federal Government from prosecuting the household member for Intentional Program Violation in a Civil or Criminal court action, or from collecting the overpayments and

(9) If there is an individual or organization available that provides free legal representation, the notice shall advise the household member of the availability of the service.

A copy of the Agency's published hearing procedures shall be attached to the 30-day advance notice or the advance notice and shall inform the household of its right to obtain a copy of the Agency's published hearing procedures upon request.

The Agency shall develop an advance notice form which contains the information required by this section.

(f) Scheduling of Hearings. The time and place of the hearing shall be accessible to the household member suspected of Intentional Program Violation. If the household member or its representative fails to appear at a hearing initiated by the Agency without good cause, the hearing shall be conducted without the household member being represented. The hearing official is required to carefully consider the evidence and determine if Intentional Program Violation was committed based on clear and convincing evidence. If the household member is found to have

committed an Intentional Program Violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the Agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear.

(g) Participation While Awaiting a Hearing. A pending disqualification hearing shall not affect the individual's or the household's right to participate in the Program. Since the Agency cannot disqualify a household member for Intentional Program Violation until the hearing official finds that the individual has committed Intentional Program Violation, the agency shall determine the eligibility and benefit level of the household. For example, if the misstatement or action for which the household member is suspected of Intentional Program Violation does not affect the household's current circumstances, the household would continue to receive its grant based on the latest certification action or on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and, after receiving its notice of expiration fails to reapply. The Agency shall also reduce or terminate the household's benefits if the Agency has documentation which substantiates that the household is ineligible or eligible for benefits (even if these facts led to the suspicion of Intentional Program Violation and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the agency may have facts which substantiate that a household failed to report a change in its circumstances even though the Agency has not yet demonstrated that the failure to report involved an intentional act of Program violation.

(h) Criteria for determining Intentional Program Violation. The hearing official shall base the determination of Intentional Program Violation that the household member(s) committed, and found guilty of Intentional Program Violation as defined in Section 700.

(i) Decision Format. The hearing official's decision shall specify the reasons for the decision, identify the supporting

evidence, identify the pertinent OFA regulation, and respond to reasoned arguments made by the household member or representative.

(j) Imposition of Disqualification Penalties

(1) If the hearing official rules that the household member has committed Intentional Program Violation, the household member shall be disqualified in accordance with the disqualification periods beginning with the first month which follows the date the household member receives written notification of the hearing decision. However, if the act of Intentional Program Violation occurred prior to notification of the disqualification periods, the household member shall be disqualified at the time of the offense. The same act of Intentional Program Violation repeated over a period of time shall not be separated so that separate penalties can be imposed.

(2) No further administrative appeal procedure exists after an adverse hearing. The determination of Intentional Program Violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(3) If the individual is not eligible for the Program at the time disqualification period begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) Once the disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted until the eligibility of the disqualified member's household. However, the disqualified member shall continue to be responsible for repayment of the overpayment which resulted from Intentional Program Violation.

(k) Notification of Hearing Decision

(1) If the hearing official finds that the household member did not commit Intentional Program Violation, the Agency shall provide a written notice which informs the household member of the decision.

(2) If the hearing official finds that the household member committed Intentional Program Violation, the Agency shall provide written notice to the household member prior to disqualification. The notice shall inform the household member of the decision, the reason and the effective date of disqualification. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies and determined eligible for Program benefits. The Agency shall also provide a written notice of the benefit level they will receive during the period of disqualification or that the household must reapply because the certification period has expired.

(3) The Agency shall develop a form for notifying individuals that they have been found by an administrative disqualification hearing to have committed Intentional Program Violation. The form shall contain the information required by this section.

(l) Waived Hearings. The Agency shall establish procedures to allow accused individuals to waive their rights to an administrative disqualification hearing. The procedures shall conform to the requirements outlined in this section.

(1) Advance Notification. The Agency shall provide written notification to the household member suspected of Intentional Program Violation (IPV) that he/she can waive his/her right to an administrative disqualification hearing. Prior to providing this written notification to the household member, the Agency shall ensure that the evidence against the household member is reviewed by someone other than the Eligibility Specialist assigned.

The written notification provided to the household member which informs him/her of the possibility of waiving the administrative disqualification hearing shall include, at a

minimum:

(A) The date that the signed waiver must be received by the Agency to avoid the holding of a hearing and a signature block fore the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of the household.

(B) A statement of the accused individual's right to remain silent concerning the charges(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law;

(C) The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits even if the accused individual does not admit to the facts as presented by the Agency;

(D) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by Agency. This opportunity shall consist of the following statement, developed by the Agency which have the same effect, and a method for the individual to designate his/her choice:

(i) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and

(ii) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result;

(E) The telephone number and, if possible, the name of the person to contact for additional information; and

(F) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

The Agency shall develop a waiver of right to an administrative disqualification hearing forms, the

information required in Section 905.11 for advance notice of a hearing. However, if the household member is notified of the possibility of waiving his/her right to an administrative disqualification hearing before the Agency has scheduled a hearing, the Agency is not required to notify the household member of the date, time and place of the hearing.

(2) Imposition of Disqualification Penalties. If the household member suspected of Intentional Program Violation signs the waiver of right to an administrative within the time frame specified by the Agency, the household member shall be disqualified based on the disqualification periods.

The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. However, if the act of Intentional Program Violation which led to the disqualification occurred prior to the written notification of the disqualification periods, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense.

No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by subsequent fair hearing decision. The household member, is entitled to seek relief in a court of appropriate jurisdiction.

If the individual is not eligible for the Program at the time the disqualification begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

Once a disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted until the disqualification period is completed.

(2) Notification of Disqualification. The Agency shall provide written notice to the household member prior to disqualification and provide written notice to any remaining household members of the allotment they will receive or that they must reapply because the certification period has expired. The notice(s) of a hearing decision shall conform to the requirements for notification and a written demand letter for restitution shall also be provided.

(m) Court Referrals. The Agency is exempted from the requirement to establish an administrative disqualification system and may refer appropriate cases for prosecution by the Prosecution Division of the Attorney General Office in a court of the appropriate jurisdiction.

(1) Appropriate Cases. The Agency shall refer cases of alleged Intentional Program Violation for prosecution under Territorial law. The prosecution of Intentional Program Violation cases will be pursued according to an agreement with the Prosecutors in cases where appropriate. This agreement shall also include information on how, and under what circumstance cases will be accepted for possible prosecution and any other criteria for accepting cases for prosecution, such as a minimum amount of overpayment which resulted from Intentional Program Violation.

(2) The Statutes of Limitation on Felony Cases. A felony must be charged by the Prosecutor within three (3) years of when the crime was committed and a misdemeanor must be charged within one (1) year of when the crime was committed.

The agency is encouraged to refer for prosecution those individuals suspected of committing Intentional Program Violation, or individuals suspected for committing more than one act of Intentional Program Violation. The agency shall determine the types of cases which will be referred for possible prosecution. The agency shall also encourage local prosecutors to recommend a disqualification penalty for such violations.

(3) Imposition of Disqualification Penalties. The Agency shall disqualify an individual found guilty of Intentional

Program Violation by the court. If the court fails to impose, the Agency shall impose a disqualification period, unless contrary to the court order. If the disqualification is ordered but a date for initiating the disqualification period is not specified, the agency shall initiate the disqualification period for currently eligible individuals within 45 days of the date the disqualification was ordered.

If the individual is not eligible at the time the disqualification period begins, the period shall be postponed until the individual applies for and is determined eligible for benefits.

Once a disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overpayment which resulted from the disqualified member's Intentional Program Violation regardless of its eligibility for Program benefits.

(4) Notification of disqualification. If the court finds that the household member committed Intentional Program Violation, the Agency shall provide written notice to the household member. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date disqualification will take effect. The Agency shall provide written notice to the remaining household members, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member and written demand letter shall be provided.

(n) Deferred Adjudication. The Agency shall establish procedures to allow individuals to sign disqualification consent agreement for cases of deferred adjudication. The Agency is encouraged to use this option when a determination of guilt is not

obtained from a court order or when the individuals having met the terms of an agreement with the prosecutor.

(1) Advance Notification. The Agency shall make and agreement with the Attorney General's Office for advance written notification to the household member of the consequences of disqualification in cases of deferred adjudication.

(2) The written notification provided to the household member which informs him/her of the consequences of consenting to disqualification as a part of deferred adjudication shall include, at a minimum:

(A) A statement for the accused individual to sign that the accused individual understands the consequences of consenting to disqualification along with a statement that the head of household must also sign the consent agreement if the accused individual is not the head of household, and appropriately designated signature block.

(B) A statement that disqualification and a reduction in benefits for the period of disqualification, shall not, even though the accused individual was not found guilty of Intentional Program Violation.

(C) A warning that the disqualification penalties for Intentional Program Violation under the Public Assistance Program are a six-month disqualification for the first violation, 12 month disqualification for the second violation, and permanent disqualification for the third violation.

(D) A statement of the fact that the remaining household members, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

The Agency shall develop a disqualification consent agreement, reached between the prosecutors and accused individuals which contains the information notifying a

household member suspected of Intentional Program Violation.

(3) If the household member suspected of Intentional Program Violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification with the disqualification periods specified in Section 902.10. The period of disqualification shall begin within 45 days of the date the household member signed the disqualification consent agreement. However, the Agency shall disqualify the household member in accordance with the court order.

If the individual is not eligible for the Program at the time the disqualification period begins, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) Notification of Disqualification. If the household member suspected of Intentional Program Violation signs the disqualification consent agreement, the Agency shall provide written notice to the household member prior to disqualification. The notice shall inform the household member of the date the disqualification will take effect. The Agency shall also provide written notice to household of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member and the demand letter for restitution shall be provided.

(o) Reporting Requirements. The Agency shall report to OFA those individuals disqualified for Intentional Program Violation, based on the determination of an administrative disqualification hearing. This information shall be submitted to ACF no later than 30 days after the date the disqualification took effect.

The Agency shall report information for each individual disqualified for Intentional Program Violation in a format designed by ACF. This format shall include:

(1) Full Name

(2) Social Security Number

(3) Date of Birth

(4) Number of Disqualification (1st, 2nd, and 3rd)

(5) Certification Office which the disqualification took place

(6) Length of disqualification period imposed.

The Agency shall submit the required information on each individual disqualified for Intentional Program Violation through a procedures specified by ACF.

All data submitted by the Agency will be available for use by any State Welfare Agency.

The Agency shall use the data for the following:

(1) To determine the eligibility of applicants prior to certification in cases where the Agency has reason to believe a household member is subject to disqualification in another political jurisdiction, and

(2) To ascertain the appropriate penalty to impose, based on past disqualifications, in a case under consideration.

The Agency may also use the data in other ways, such as the following:

(1) To screen all program applicants prior to certification, and

(2) To periodically match the entire list of disqualified individuals against their current case loads.

The disqualification of an individual for Intentional Program Violation in one political jurisdiction may be considered in determining disqualification in another. However, one or more disqualifications for fraud which occurred prior to the implementation of the penalties shall be considered as only one previous disqualification when determining the appropriate penalty regardless of where the disqualification(s) took place. The

Agency is required to identify any individuals disqualified for fraud prior to implementation of this rule and to submit the information required by this section.

In cases where the imposition of a disqualification penalty is being held pending the eligibility of a household member found to have committed Intentional Program Violation, the Agency shall submit a report revising the original disqualification report once the individual begins the period of disqualification in accordance with instructions provided by ACF.

In cases where the disqualification for Intentional Program Violation is reversed by a court of appropriate jurisdiction, the Agency shall submit a report to purge the file of the information relating to the disqualification which was reversed in accordance with instructions provided by ACF.

(p) Reversed Disqualifications. In cases where the determination of Intentional Program Violation is reversed by a court of appropriate jurisdiction, the Agency shall reinstate the individual in the program if the household is eligible. The Agency shall restore benefits that were lost as a result of the disqualification procedures.

(r) Treatment of Income and Resources of a Disqualified Member for Intentional Program Violation (IPV). Any member of an assistance unit who is found guilty of Intentional Program Violation as a result of Administrative Disqualification Hearing, shall be disqualified from participating in any of the Public Assistance Programs.

The available income and resources of the IPV member shall be counted entirely towards the remaining eligible members. However, the needs of the IPV member shall be excluded when determining the benefit amount.

EXAMPLE:

Household size of five (5) including the IPV member, the basic

needs for such household should be using the standard for four (4) to exclude the IPV member's needs. For shelter and utility allowance, ES shall use standard for household of 5, prorate to five (5) members and multiplied by four (4) for the remaining members.

NOTE: Further, the disqualified member is not entitled for Medicaid benefits. He/she shall be referred to MIP program

2018 NOTE: Subsection designations have been altered to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

ARTICLE 8
ELIGIBILITY AND PAYMENT MANUAL

PART II
AFDC
(AID TO FAMILIES WITH DEPENDENT CHILDREN)

§ 1821. Introduction.
§ 1822. The Application Process.
§ 1823. Recoupment and Correction of Payments.
§ 1824. Transitional Child Care Services.

§ 1821. Introduction.

The purpose of this manual is to provide instruction on actions to be taken by Bureau of Economic Security (BES) staff in the Administration of Public Assistance Programs under Guam's Public Assistance State Plan. This manual is intended to provide directions for determining eligibility and furnishing assistance in compliance with the requirements of Title IV-A of the Social Security Act, Federal Regulation contained in the Code of Federal Regulations 45 CFR and the Guam State Plan.

(a) Federal Requirements. The federal requirements for Public Assistance Programs are contained in Public Welfare parts 200 to 499, 45 CFR.

(b) Guam Laws**.** Chapter 3 of Title 10, Guam Code Annotated contain laws relative to the administration of welfare.

(c) Program Coordinations. The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau Management Support/Investigation and Recovery Office, Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department of other agencies in order to assure proper program administration.

§ 1822. The Application Process.

(a) Requests for Application for Assistance.

(1) Right to Apply. Each individual shall have the opportunity to apply for assistance and receive an application form without delay. Any applicant may be assisted by other individuals in the various aspects of the application process. The individuals may serve as the authorized representative on behalf of the applicant.

(2) Reapplication. Terminated or denied cases must file a new application to reapply for assistance.

(3) Reinstatements.

(A) Assistance shall be reinstated without a new application when eligibility can be re-established on the basis of information provided by the recipient before the effective date of termination. A new application is needed if the information is provided after the effective date of termination.

(B) In case of agency error or directed by a fair hearing or court decision, aid shall be reinstated.

(4) Distinction Between Application and Inquiry**.** A request for General Assistance is considered an inquiry until a signed application with applicant's name and address is received by the Bureau of Economic Security.

(b) Steps in the Application Process.

(1) Initial Contact with the Agency. When an individual first contacts the agency for assistance, the Eligibility Specialist (ES) provides Part I application form for completion to pre-

screen and determine the urgency of the applicant's situation.

(A) If the applicant is determined to be in urgent need of assistance, the applicant shall be interviewed immediately.

(B) If the applicant is determined not to be in urgent need of assistance, he/she will be scheduled for a mass screening orientation within two (2) weeks following the date of application. The applicant shall be provided with a list of required documents (document checklist) necessary for the interview.

Factors used in determining urgency of need are:

(i) No income/resource

(ii) Renting and there is possibility of eviction because payment of rent is behind.

(iii) Utilities to be discontinued because of outstanding bills.

(2) Persons Who May Sign Applications. The adult applicant, the designated authorized representative, or other responsible relatives acting on behalf of an incapacitated adult may sign the application. In the case of couples who do not qualify for AFDC, both parties must sign the application.

When there is a change in grantee-relative and the new grantee-relative is a person who has not signed the current application, a new application must be completed and signed by the new grantee-relative.

If the new grantee relative is the spouse of the former grantee-relative and signed the current application, no new application is needed.

(3) Applicant's Rights. Applicants for and recipients of General Assistance have certain rights which are protected by Federal and Local Policy. Informing individuals of these rights, and interpreting them as necessary, is a basic part of the application process and each review of eligibility. These

include:

(i) Right to apply

(ii) Right to a fair hearing

(iii) Right to confidentiality

(iv) Civil rights

(4) Applicant's Responsibilities. The applicant or a protective payee is responsible to the extent permitted by his physical and mental condition for providing documentation to establish eligibility. Some applicant responsibilities include:

(A) Verification of applicant's identity and age.

(B) Verification of applicant's present address and living arrangement.

(C) Verification of the family composition and relationship of persons in the household.

(D) Verification of his financial need and eligibility for public assistance.

(E) Provision of Social Security Numbers for every member in the assistance unit.

When additional information is needed to establish eligibility, the applicant shall be given specific written instructions at the time of interview regarding any information that the applicant is responsible for providing within 5 days from the date of the written request for additional information. (APS-7)

(5) Delay of Information. Any time beyond the five days written notice shall be considered a delay on the part of the application. The delay shall be the basis for denial of the application, when it appears the applicant is not cooperating in establishing eligibility. The specific reason for the denial shall be clearly stated in the case record and in the notice of denial sent to the applicant.

(6) Worker's Role. The Eligibility Specialist (ES) represents the agency in dealing with inquiries, applicants, and

recipients. The APW must:

(A) Explain the choice of assistance programs available and recommend the programs most appropriate to meet the needs of applicant such as Aid to Families with Dependent Children (AFDC), Old Age Assistance (OAA), Aid to the Permanently and Totally Disabled (APTD), Aid to the Blind (AB), General Assistance (GA), Medicaid and Food Stamps.

(B) Assist the applicant to complete and file his/her application within agency policy.

(C) Inform the individual that the agency will reach a decision within thirty (30) days with respect to eligibility based on the information presented on application form and that the applicant/recipient is expected to furnish complete and accurate information in all areas covered by the form.

(D) Explain that some factors of eligibility must be verified and explain what the applicant/recipient is expected to provide in the way of verification.

(E) Explain that if assistance is granted, the client must assume the responsibility of notifying the agency of any change which would affect eligibility or the amount of payment within 10 days of the change.

(F) Explain that a number of persons receiving public assistance, as well as a number of rejected applications and terminated cases will be investigated by the Quality Control staff for an extensive review and verification of data provided in the case record. In signing the application or review the individual agrees to cooperate fully in such an investigation if the individual's name is selected; also, in signing the form, the individual assumes responsibility for accuracy of the information contained.

(G) Explain the necessity for contacting the absent parent to enlist aid in providing support for the children and that income from relatives on a regular basis, whether

in the form of cash or income-in-kind, whenever available to a client shall be taken into consideration in determining the amount of assistance.

(H) Discuss certain factors involved in determining eligibility; such as treatment of income, registration with JOBS program, Social Security numbers, and assignment of Child Support. The ES will also discuss additional benefits that may be available to them, such as medical coverage (retroactive also), food stamps and social services.

(I) Furnish information pertaining to the client's right to receive a ten day advance notice on adverse actions and the right to appeal the decisions of the Department of Public Health and Social Services.

(7) Prudent Person Concept. The ES shall follow the prudent person concept in determining eligibility whenever consistent with the procedures set forth in the manual.

The prudent person concept refers to the capability of the ES for reviewing and analyzing information provided by an applicant/recipient and accurately deciding that such information is sufficient for making an eligibility determination or that further inquiry in the client's circumstances is indicated. Proper execution of this concept is of critical importance to the successful administration of all programs. By definition, the prudent person must be vigilant, cautious, perceptive and governed by generally sound judgment.

(8) Duplicate Assistance. Applicants may apply for assistance from any of the public assistance low income programs, but may receive CASH ASSISTANCE from only one. Anyone receiving AFDC CASH ASSISTANCE from another state is ineligible for AFDC CASH ASSISTANCE from Guam, as long as assistance from another state continues.

(9) Right to Appeal. An explanation of the right to appeal any action or failure to act by the Division will be given to each applicant. (See Chapter IV, section 400, Fair Hearing)

(10) Cooperation with the Investigation and Recovery

Office (IRO) of the Bureau of Management Support (BMS), Child Support Enforcement Unit (SEU). Applicants will be advised that the ES must refer the case to the Office of Child Support Enforcement upon approval, and that cooperation of the applicant with the Office of Child Support Enforcement is a requirement for continuing eligibility. Clients will not be required to cooperate when a determination of good cause for non-cooperation is pending or established. The client must submit a written request for a good cause determination to the ES and provide requested verification.

(11) Client's Responsibility. It is the applicant's/client's responsibility to report any of the following changes in household within 10 days after the change occurred:

(A) New address or change in mailing address.

(B) New rental amount and rental decreases/increases.

(C) The number of people in the household (if someone moves in or out of home).

(D) Changes in resources.

(E) Changes in household's income if it increases, decreases or ceases.

(F) Changes in utilities or dependent care

(12) Non-Discrimination. No person will be subjected to discrimination (such as race, sex, color, national origin, handicap, age, etc.) for any reason under any program of the Guam Public Welfare Division according to Federal Rules and Regulations.

The Assistance Payment Worker (APW) must inform applicants and recipients for their right to file a complaint with the Division, the Federal Agency, or both, if they believe discrimination is being practiced.

(c) Securing Essential Information. Before approval and at each redetermination, all verifications necessary to determine eligibility must be completed.

Applicants and/or recipients are the primary source of information. If a client is unable to obtain information, the APW will assist.

If a third party refuses to supply information without an individual permission, and Authorization to Release of Information (APS Form) must be signed by the applicant/recipient. Lack of third party cooperation must be verified/documented.

(d) Time Limits on Processing. Applicants must be determined eligible or ineligible within 30 days (no later than 45 days) from the date of application. The applicant must be notified via mail, Notice of Approval or Denial, whichever is appropriate.

(e) Disposition of Application.

(1) Denial. Applications are denied when:

(A) Ineligibility is established by the department;

(B) Applicant fails to provide information essential to determine eligibility; and

(C) The agency loses contact with the applicant before eligibility is determined. Documentation in the case file is necessary.

(2) Withdrawal. Applications are withdrawn when the client initiates a voluntary request. The reason for withdrawal must be documented in the case file.

(3) Approval. When eligibility requirements are met, assistance is approved.

Send an approval notice (BES-90-100) to the applicant. A referral (one per case) is sent to the Office of Child Support Enforcement within two days of approval for assistance.

(f) Medicaid Eligibility Prior to Application. When assistance is approved, authorized Medicaid on a month by month basis for up to 3 months prior to the month of application if:

(1) Proof that medical care or services were provided in the month(s) Medicaid coverage is requested; and

(2) The client met eligibility requirements for each of the

prior months in which medical care and services were received.

(g) Eligibility Requirements - AFDC.

(1) Cooperation. Clients are required to cooperate with the Division of Public Welfare, Bureau of Economic Security in securing all information needed to determine initial or continuing eligibility. Failure or refusal to do so will result in denial or termination of the grant.

When assistance is pending termination due to non-cooperation and the client cooperates within the 10 day notice period and all eligibility factors are met, assistance will be continued. Clients must inform the Division of Public Welfare, Bureau of Economic Security of the following within 10 days from the date change occurs.

(A) Change of name

(B) Change of address

(C) Change in shelter costs

(D) Change in marital status, or reconciliation with the absent parent

(E) Change of household composition - number of people in the home

(F) Resources

(G) Special needs

(H) Any other change in circumstances

(2) Filing Unit Provision (Deficit Reduction Act of 1984, ss2640).

(A) Individuals who must be included and excluded in the Assistance Unit:

The following individuals living in the same household as the dependent child must be included:

(1) Any parent, natural or adoptive, who is living in the same household as the dependent child must be included in the unit.

(2) Blood related or adoptive brothers and sisters who are living in the same household as the dependent child and who meet the age and deprivation requirement.

Certain parents, siblings, and individuals must be excluded from the assistance unit because they are not eligible for assistance under other provisions. For example:

(1) Parents, siblings and individuals who receive SSI benefits. His/her income or resources cannot be considered for purposes of determining need or payment.

(2) Parents, siblings and other individuals who do not meet the citizenship and alienage requirement;

(3) Parents, siblings, and individuals who are aliens and are ineligible for AFDC because they have been sponsored by an agency or organization or because of the application of sponsor-to-alien deeming provisions in accordance with section 202.27(B).

The income and resources deemed to a sponsored alien are not considered in determining the need of other unsponsored members of the alien's family.

(4) Sanctioned individuals; and

(5) Individuals ineligible due to receipt of lump sum income.

(6) Child(ren) or siblings who fail to meet the age and deprivation requirements.

(B) Income and Resources. All of the income and resources of the individuals required to be included in the assistance unit must be considered in determining eligibility and payment for the assistance unit.

(C) When Should Eligible Parents and Siblings be Included in the Filing Unit. Eligible parents and siblings (natural or adoptive) are required to be included in the filing unit as of the date of birth, adoption, or as of the date he/she joins the assistance unit.

When an AFDC recipient reports the birth of his/her

child timely, and complies with all eligibility and verification requirements (such as Assignment of Support, enumeration, birth certificate, etc.), the ES shall include the newborn's needs from the date all eligibility requirements are met.

When an AFDC recipient timely reports that a person who is required to be included, moves in or joins the unit, and complies with all eligibility and verification requirements, the ES shall include that person's needs and provide benefits retroactive to the date he/she moved in or joined the unit.

(D) Persons who fail to cooperate - when should they be included in the Filing Unit. Under some circumstances an ES may not be aware of the inclusion of parent(s) or siblings until sometime after the date they would be required to be included. The following procedures should be followed when adding such individuals to an assistance unit. The ES must:

(1) inform the family of the requirements of the assistance unit provision;

(2) re-determine eligibility for the assistance unit, including the income and resources of the additional individual, retroactive to the date that the individual was required to be included in the unit;

(3) in re-determining eligibility and amount of payment, the ES must include the needs of the additional individual:

(a) if the calculation results in an overpayment, the ES must prepare the recoupment report and file the overpayment as usual;

(b) if the calculation results in an underpayment, payment is made only for months in which all eligibility requirements were met, such as JOBS registration, enumeration, and child support assignment;

(4) after the family is notified of the requirements of the assistance unit provision, the individual's income and

resources will be considered (as with all members of the assistance unit), but his needs will be included only from the time all conditions of eligibility are met.

CASE EXAMPLE 1:

A 17 year old sibling, who is required to be included in the assistance unit returns home. Although the mother timely notifies the ES of his return, and he is not a full-time student refuses to be registered for JOBS, or to apply for a Social Security Number. This sibling's income and resources are counted from the date he joins the unit, but his needs are excluded, and he is not paid any benefits. His needs shall be included as of the date he complies with all eligibility requirements.

This approach is taken only if the ES can adequately determine the income and resources of the family. If that 17 year old is employed and refuses to submit his income verifications, and the ES is not able to accurately verify the income of all family members, the ES must deny benefits for the entire family.

(E) Eligible individuals who are not required to be included - when should they be included in the unit: When a new, eligible member who is not required to be included in the assistance unit, such as cousins, nephews, nieces, grandchild, etc. (refer to section 202.9 of the Guam Eligibility and Payment Manual) joins an existing AFDC assistance unit, his/her needs shall be included from the DATE OF APPLICATION. A new application is required to be completed to include such individual(s). However, the certification period for the case remains the SAME. All necessary documents, such as verifications of identity, citizenship, age, social security number, income, etc., shall be requested as usual.

(F) Treatment of sanctioned persons who are required to be included in the Assistance Unit: Individuals who are subject to sanction are those who are eligible but fail to cooperate in fulfilling an eligibility requirement, such as participation in the JOBS program,

assignment of child support, or enumeration.

Sanctioned individuals who are otherwise required to be included in the assistance unit are treated as follows:

(1) income and resources of these individuals are included in determining eligibility and payment amount of the assistance unit.

(2) in determining need and the amount of assistance, the needs of such individuals are excluded.

(3) the earned income of these individuals will be counted and the income disregards shall be applied in Section 208.4 and the remaining amount will be considered available to the assistance unit.

However, a family which is eligible for the $50.00 child support disregard will be unaffected by the sanction policy (except where the principal earner is sanctioned).

(G) Consolidating Multiple Assistance Unit Households: When an individual is required to be in two or more assistance units living in the same household, these units must be consolidated. Two examples follow:

Case Example #1: A household consists of a mother and her three children. All are receiving AFDC. One of these children then has a baby. The assistance unit provision requires that the minor mother be in the unit with her child and in the unit of her siblings. Thus, they must all form one unit.

Case Example #2: A mother and her child live with her second husband, who is disabled, and his child. Both parents receive AFDC, but as separate units. Then, they have a child. Since the child is required to be included in the assistance units of both parents and half-siblings. As a consequence, all five members must be consolidated in a single assistance unit.

(H) Minor Parent‘s Parent: A mother, her minor child, and the minor’s child live together. If the grandmother or minor applies for AFDC, who must be

included in the unit?

If the ES determines that the minor mother is the caretaker, then the grandmother may not be included in the assistance unit. If the grandmother is not included, her income would be counted in accordance with section 206.3 of the Guam Eligibility and Payment Manual, "Stepparent Income/Minor Parent's Parents Income.

If the ES determines that the grandmother is the caretaker, the minor mother would still be required to be included in the unit as the parent. The ES cannot automatically require that such a minor mother be treated as an AFDC child even in cases where the minor mother meets all AFDC eligibility factors as a dependent child. If the grandmother is included in the assistance unit, her income would be counted in accordance with section 208.4 of the Guam Eligibility and Payment Manual.

If the minor mother has siblings living in the household who receive AFDC as dependent children, she and her child shall be drawn into the unit with her siblings.

(I) Non-Needy Sibling: Should a "non-needy" sibling who is supported by his absent parent be included in the assistance unit? If this child receives child support which exceeds his increment of the need standard, must this child be included?

YES. All siblings who meet the AFDC factors of eligibility living in the household of an eligible child must be included in the unit. All income and resources of individuals required to be in the assistance unit shall be considered in determining eligibility and amount of payment for the entire assistance unit. Therefore, this child's income shall be considered as income for the entire unit.

(J) When is a new application form required? Individuals required to be included who join an existing assistance unit are included in the application already on

file as of the date they join the assistance unit, whether by birth, adoption, or by beginning to live with the existing assistance unit. All necessary documents, such as verifications of identity, citizenship, age, income, Social Security Number, etc., is requested as usual.

A new application is required to include an additional member who is not required to be included in the assistance unit. However, the certification period remains the SAME. This application shall be used to re-determine eligibility and to ensure that the household signs the new application under the penalty of perjury. This eligible member's needs shall be included from the date of application.

(3) 185% Percent Income Limit for Eligibility.

(A) Applicants. An applicant is not a participant of any of the public assistance programs, but files a completed application for aid. The first step in determining initial eligibility for AFDC will be to apply the assistance unit's total income against the standard equal to 185 percent of the need standard for a family of the same size. If the unit has gross income in excess of the 185 percent limit, then the assistance unit is not eligible.

(B) Recipients. A recipient is one who is an active participant of any of the public assistance programs.

If the agency determines that the assistance unit's income will exceed the 185 percent limit for one month, the agency will suspend payment in the corresponding payment month. If the income is expected to exceed the 185% limit longer than one month, the case shall be terminated.

(C) Gross Income. An assistance unit's gross income includes the income of those individuals who apply for or receive AFDC, the income of the natural, adoptive or stepparents (less applicable disregards) and any other persons whose income is taken into account in determining the AFDC grant prior to the taking of payroll

and other deductions.

(4) Age Requirements. Children under the age of 18 are eligible for cash assistance and Medicaid if all other eligibility requirements are met. Children who are 18 but not year 19, will be eligible if they are attending a secondary school on a regular basis or are in the equivalent level of Vocational or Technical training and are expected to complete the program before reaching their 19th birthday.

Verification (Any one of the following is acceptable)

(A) Birth Certificate. A birth certificate from Vital Statistics, or birth certificate from the hospital.

(B) Baptismal Certificate or Church Record of Baptism

(C) Confirmation papers or Church Record of Confirmation

(D) School. A statement from school records

(E) Naturalization Record. The worker should note the naturalization number(s) and the names and birthdate of the child(ren) and parents.

(F) Immigration Papers or Government Record of Immigration

(G) Passport. Record the date issued, full name, and age of the client.

(H) Adoption Decree

(I) Newspaper Notices. A newspaper clipping is acceptable if it gives the name of the child and parents along with the date of birth.

(5) Residence Requirements. To be eligible for assistance, applicants must be living in Guam with the intention of making Guam their home permanently or for an indefinite period or entering Guam with a job commitment or seeking employment.

Clients/Representatives must provide verification of their Guam residency.

Verification (any of the following is acceptable)

Proof of alien status can be obtained from the Immigration and Naturalization service by completing form G-845.

(A) Rent/Mortgage Receipt

(B) Landlord Statement

(C) Guam's Driver's License

(D) Guam Vehicle Registration

(E) Proof of Voter Registration in Guam

(F) Utility Bills/Receipts

(G) Employer Statement

(6) Citizenship Requirements. An applicant or recipient must be a U.S. Citizen or an Alien legally admitted for permanent residence to the U.S. to be eligible.

Verification (any of the following is acceptable)

(A) Birth Certificate (U.S. or its possession)

Vital records that are off-island

The agency shall assist the applicant by:

(1) Providing the applicant with the name and address of the appropriate vital statistics office.

(2) Informing the applicant of the fee(s) charged to obtain a copy of the birth record.

The name, address and fees for vital statistic offices may be obtained from the "WHERE FOR VITAL RECORDS" handout issued by the Department of Health and Human Services. A copy of this handout is on file with certification case managers and district supervisors.

The agency shall allow the applicant thirty (30) days to obtain a copy of the birth record, the agency shall take action to deny the applicant's Application for Financial/Medical Assistance.

The applicant shall be responsible for mailing the request

and appropriate fee(s) to the vital statistics office.

(1) For CNMI citizens - any one of the following documents is acceptable verification:

(a) Certificate of Citizenship (from court with official seal stamped on it)

(b) Certified copy of Birth Certificate (from CNMI government for individuals born after 1950)

(c) Certificate of Identity (blue card)

(d) Voting Registration Card (from CNMI)

(e) U.S. Passport

(f) Naturalization Papers

(g) Permanent Resident on Resident Alien Card (green card)

(7) Deprived of Parental Care and Support. One or both parents must be deceased, absent, incapacitated or unemployed.

(A) Deprived of Support and Care by Death of a Parent. If either parent is deceased, deprivation of parental support or care exists. Verification of death will be obtained through a death certificate or obituary notice.

(B) Deprived of Support and Care Due to Parental Absence. Deprivation exists when either parent has been absent from the home or out of the home and the nature of the absence interrupts or terminates the parent's functioning as a provider of maintenance, or provide physical care and guidance for the child; and the unknown or indefinite duration of the absence prevents the parent function in planning for the present support or care of the child.

(8) Definition of "Continued Absence".

(a) "Continued absence" exists when the natural or adoptive parent is physically absent from the home and the nature of the absence constitutes disassociation; that

is, a substantial severance of one of its natural parents.

A substantial severance of marital and family ties means that the absence is accompanied by a definite interruption of or marked reduction in marital and family responsibilities compared to previously existing conditions.

(b) "Continued absence" does not exist when one parent is physically absent from the home on a temporary basis less than 30 days. Examples are visits, trips or temporary assignments undertaken in connection with current or prospective employment.

(c) Circumstances That Meet the Definition of "Continued Absence". The physical absence of a parent from the home in conjunction with any one of the following circumstances shall be considered to meet the definition of "continued absence".

(1) The parents are not married to each other and have not maintained a home together.

(2) The parent:

(i) Who is a convicted offender but is permitted to live at home while serving a court- imposed sentence by performing unpaid public work or unpaid community service during the work day or

(ii) Has been deported, or has voluntarily left the island because of the threat of, or the knowledge that he or she is subject to deportation.

(3) A parent has filed, or retained legal counsel for the purpose of filing an action for dissolution of marriage, for a judgment of nullity, or for legal separation.

(4) The court has issued an injunction forbidding the parent to visit the child.

(5) The remaining parent has presented a signed, written statement that the other parent has left the family and that disassociation within the definition of "continued absence" exists.

(d) Parent on Active Duty in Uniformed Services. The absence of a parent on active duty in the uniformed services may or may not qualify as "continued absence", depending on whether or not the facts in the individual case indicate a substantial severance of marital and family ties. Some military absences may indeed be temporary; each case must be considered in light of all relevant factors.

Verification (any of the following is acceptable)

Divorce Decree - Legal Separation

Written statement from landlord, relative or friend with knowledge of the circumstances

Written statement from institution to verify confinement

(9) Deprivation Due to Incapacity. Deprivation due to physical or mental incapacity of a parent shall be deemed to exist when the parent of an otherwise eligible child has a physical or mental illness, defect, or impairment that reduces substantially, or eliminates the parent's ability to support or care for the child for a period which is expected to last at least 30 days and which is supported by acceptable evidence as specified in 2 below. Where the incapacity is initially expected to last less than 30 days but in fact lasts longer, payment shall be granted retroactively effective the correct beginning date of aid.

(A) Deprivation exists if the incapacity:

(1) Prevents the parent from working full time at a job in which he or she is equipped by education, training or experience, or which can be learned by on-the-job training; or

(2) Is the reason employers refuse to employ him or her for work the parent is qualified to do. This includes behavioral disorders which interfere with the securing and maintaining of employment; or

(3) Prevents him or her from accomplishing as much on a job as a regular employee and is the reason the parent is paid

on reduced basis even through working full time; or

(4) Qualifies the parent and he or she is employed in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be a full-time job; or

(5) Reduces substantially or eliminates the parent's ability to care for the child.

(B) Determination of Incapacity. The determination that incapacity exists shall take into consideration the limited employment opportunities of handicapped individuals and be based upon the following acceptable evidence.

(1) A finding of eligibility for Social Security disability, disability retirement or other benefits based upon parent's disability or blindness is conclusive proof of incapacity for AFDC purposes when verified by the authorizing agency and the verification is adequately documented in the case record.

(2) Medical Report or other written statement from a licensed physician or certified psychologist, or by an authorized member of his or her staff with access to the patient's medical records that provides information sufficient to substantiate the determination of incapacity and includes the following:

(i) A diagnosis of the parent's condition and explanation of the extent to which it prevents him or her from engaging in employment or why it reduces substantially, or eliminates the parent's ability to support or care for the child.

(ii) The expected duration of the condition, and date of the next scheduled examination or appointment.

(C) Review. If the individual's condition is expected to last more than six months, it is to be reviewed at time of re- investigation, which is every six months, from date of approval. If the condition is not expected to last more than six months, review is to be completed at the time the condition is expected to end or earlier if there is reason to

believe there has been a change in the condition.

(10) Deprivation Due to Unemployment.

(A) Definition: In a needy family where both parents live with the child, an AFDC unemployed parent is the natural or adoptive parent who is the principal wage earner and who:

(1) Is not working; or

(2) Is employed less than 100 hours per month; or

(3) Is employed 100 hours or more in a particular month but the work is intermittent and the excess over the 100 hours is temporary in nature as evidenced by:

(i) his/her hour of employment were less than the 100 hours standard in the two prior months; and

(ii) his/her hours of employment are expected to be less than the 100 hours standard in the succeeding month.

(B) Requirements to be met in order to establish deprivation due to unemployment.

(1) The AFDC unemployed parent (principal wage earner) has been unemployed for at least 30 days prior to the beginning date of aid.

(2) The AFDC unemployed parent (PWE) applicant shall not have refused, without good cause, a bona fide offer of employment or employment related training within the 30 days immediately prior to the beginning date of aid.

(3) The nonexempt AFDC unemployed parent (principal wage earner) shall be registered with the JOBS Program, Department of Labor.

The requirement is met by such parent's cooperation with and fulfilling the requirements of the JOBS Program.

(4) The ES must determine and verify that the AFDC unemployed parent/principal wage earner (UP/PWE) has met the AFDC work quarters requirement.

(C) AFDC Work Quarters Requirement. To be eligible for aid, the unemployed parent/principal wage earner must meet the AFDC work quarters requirement described below:

(i) An AFDC "Work Quarter" is a period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31, in which he/she received earned income of $50.00 or more.

Example: Jan-Feb-Mar	Qtr. No. 1
Apr-May-Jun	Qtr. No. 2
Jul-Aug-Sep	Qtr. No. 3
Oct-Nov-Dec	Qtr. No. 4

(ii) To be eligible for aid based on unemployment, the Unemployed Parent/principal wage earner must have at least SIX (6) work quarters or more within a 13 calendar quarter period (3 years and 3 months) immediately preceding the date of application for aid based on unemployment. The UP/PWE must have earned a gross income of at least $50.00 during a calendar quarter for that calendar quarter to be counted as a work quarter.

(iii) The counting of calendar quarters begins on the month of application and counted back thirteen (13) calendar quarters. However, the six (6) work quarters must end within one year from the date of application. Therefore, the unemployed parent/PWE who has been unemployed for one (1) year or more prior to date of application shall be ineligible for aid.

(D) Definition of Principal Wage Earner (PWE)

(i) Deprivation shall be due to the unemployment of the child's natural or adoptive parent who is the principal earner as defined below.

Principal Wage Earner means:

(i) In the case of any child, whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month of application, regardless of when their relationship began.

(ii) If both parents earned an identical amount of income, or none, in such 24-month period, the agency shall designate which parent shall be the principal wage earner.

(E) Acceptable Evidence for Documenting the Unemployment of the Principal Wage Earner. The following are the types of evidence which may be used to support a determination of the unemployment of a parent:

(a) For Private or government employers, a statement indicating:

(i) The number of hours worked per month or per week;

(ii) If the applicant is no longer employed, the date and reason for leaving his employment; and

(iii) Whether additional hours of work were or were not offered or available.

(b) For self-employment: Obtain:

(i) Copies of the monthly Gross Receipts Tax (GRT) filed with the Department of Revenue and Taxation (or for off-island employment, a statement from the appropriate revenue reporting agency);

(ii) Dates and Identifying Number of business licenses obtained in the last three years prior to application for aid;

(iii) A statement from the client regarding

the number of hours worked or the number of hours the business is open.

(iv) Statement from an individual who purchased his products or used his services.

(c) Good Cause Exists when:

(i) The offer of employment was from an employer who did not:

(a) Possess an appropriate license to engage in his business; or

(b) Without or hold in trust the employee's wages.

(ii) The employment or training violated applicable health and safety laws and regulations.

(iii) The wage offered for the employment or training was less than the applicable minimum wage.

(iv) The training or job was not available due directly to a bona fide strike or lockout.

(v) The individual was ill or required to care for an ill member of the immediate family and no other care arrangements were feasible.

(vi) Child care arrangements could not be made.

(vii) The individual was without a means of getting to or from the place of employment or training.

(viii) The individual's salary for employment or training was either (a) delayed (salary was not received on the day salary payment was scheduled to be received); or (b) never received.

The individual must file a complaint with

the Department of Labor (DOL) indicating the delay or non-receipt of salary. An official copy of the complaint must be provided to the ES for verification.

(F) Discontinue of Aid Due to Employment. Aid shall be discontinued/terminated, effective at the end of the month in which the unemployed parent/PWE accepts an offer of employment that is expected to provide him/her with more hours of work than specified in Section 202.7 (D) during the following month.

The notification of discontinuance/termination shall clearly indicate:

(1) That the action is based on an expectation the unemployed parent will work more than such number of hours (100-hours) in the next month; and

(2) That the discontinuance will be withdrawn if such parent submits verification substantiating that less than such number of hours were actually worked, that no offer of employment was refused without good cause, and that other conditions of eligibility for AFDC are met.

(G) Cause Determinations

(1) When there is an offer of employment, the ES makes a cause determination to determine if the AFDC unemployed parent (PWE) is:

(i) An applicant who refuses a bona fide offer of employment or employment related training within the 30 days prior to the beginning date of aid.

(ii) An applicant who quits a job or employment related training within 30 days prior to the beginning date of aid.

(2) The ES must include the following determinations in considering whether good cause exists:

(i) There must be a determination that an offer of employment or training was made to the individual.

(ii) There must be a determination that the individual refused to accept the bona fide offer of employment or training or failed to begin the employment or training as planned, or that the individual quit employment or training.

(iii) The individual must be given an opportunity to explain why the offer was not accepted or the employment or training discontinued.

(H) Penalties. If an AFDC unemployed parent applicant refuses to register for JOBS, the family shall be ineligible for AFDC benefits.

(11) Essential Person: Essential person is an individual in the home of the assistance unit who contributes to the well being of the AFDC and ADULT recipient.

In order to be eligible as an essential person, such individual must be:

(A) living in the home with an AFDC or ADULT recipient;

(B) ineligible in the person's own right for AFDC or ADULT assistance;

(C) designated by the AFDC or ADULT recipient as essential to the individual's well-being; and

(D) performing a service that would not otherwise be performed or that would have to be purchased if the individual was being alone.

(12) Responsible Relatives. Any parent or caretaker applying for or receiving AFDC is ineligible for assistance if he/she refuses to assist the office of Child Support Enforcement in establishing paternity or in seeking support. Only the needs of the dependent children will be considered in computing the grant, and vendor payments can be made to protective payee until the agency receives full cooperation from the caretaker/parent.

Cooperation and non-cooperation will be determined by the

Office of Child Support Enforcement except when the client indicates non- cooperation on the AFDC application or redetermination form and the ES is determining or has determined good causes exists (as specified in Section 202.17) for not cooperating. Clients will not be required to cooperate when good cause determination is pending or established.

(13) Child Living in the Home of a Relative of a Specified Degree. To meet the eligibility requirement of living with a relative of a specified degree, a child must be living with an individual who is applying for assistance on the child's behalf, provides care, supervision, and is the child's:

(A) Father, mother, sister, brother, grandfather, grandmother, great grandfather, great grandmother, great great grandfather, great great grandmother.

(B) Uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, grand nephew, grand niece.

(C) Stepfather, stepmother, stepbrother, stepsister.

(D) Relatives of half-blood siblings, adoptive parents, their spouses even when marriage is terminated by death or divorce.

(E) Assistance may be paid to a temporary payee (only the children's needs are considered) when the caretaker, through whom the children were receiving aid, will be absent for an extended period of six (6) months time.

If caretaker is in need of assistance and meets all requirements for AFDC, the needs of the caretaker can be included in the assistance unit benefits.

There can be only one needy caretaker for each family unit in the same household. When the natural parent resides with their children, that parent must be the needy or non-needy caretaker.

Verification (any of the following is acceptable)

(1) Relative of a specified degree:

Birth Certificate

(2) Child Living in the home:

Landlord statement

(School Attendance Record) listing the address of the child(ren).

(3) Power of Attorney, Legal Guardianship or any legal document.

The temporary payee may be any adult who has care or custody of the child(ren). If the regular payee has not reassumed responsibility for the child(ren) within THREE months, a permanent payee must be established by the agency or the case closed.

The agency may allow a person of no blood relation to be protective payee to minor child(ren) for a period of thirty (30) days pending determination of a specified relative by Bureau of Social Services Administration (BOSSA). After thirty (30) days and no specified relative is available, case will be terminated and referred to Child Welfare Services for foster care.

(14) Effect of Court Order Transferring Legal Custody of Child.

(A) Court Order removing child from home. When a court order provides removal of a child from the physical custody of a caretaker, eligibility for the child continues only if:

The child is placed with a relative of specified degree and eligibility factors are met.

(B) Court order removing legal custody from parent or relative, but child remains in home. When a child's custody or supervision is changed without removing them from their home, eligibility continues.

Court order that states if a child should not be returned to the home if there is an adoption decree.

(15) Registration for Jobs Opportunity and Basic Skills (JOBS). Determination of jobs status is part of the eligibility process at application and redetermination. Mandatory AFDC recipients, and volunteers, shall be referred to the Work Program Section (WPS), BES. Information regarding the JOBS Program shall be disseminated during the mass screening orientation. All clients who are not exempted must be referred to the Department of Labor for registration, Form APS-13 and the referral is noted in the case file. If an applicant, other than the unemployed parent in an AFDC- UP case, is not exempted from JOBS registration and fails to register, he or she is ineligible. When a non-exempt unemployed parent in an AFDC-UP case is not registered for JOBS, the entire family not eligible for assistance. When a recipient's status changes from exempt to non-exempt to non-exempt, he or she must register for JOBS immediately in order to remain eligible.

(A) Determination of Exemptions. The following persons are exempt from registration, but may register voluntarily. Exempt status must be documented in the case record and reviewed at each redetermination. Exempt persons must be informed in writing of their obligation to report any changes in their exempt status.

(1) Children

(a) Children under age 16.

(b) Children age 16 through 18 who are enrolled as full-time students. Summer vacations are considered as part of the school year.

(c) If age 18 and reasonably expected to complete the program before reaching age 19.

Verifications

Primary Evidence - School records or written statements from school authorities.

Secondary Evidence

(a) Current report cards.

(b) Correspondence to the BES from the school stating student status.

(c) Correspondence from scholarship boards or other similar sources.

PLEASE NOTE:

To be acceptable, the primary and secondary evidence must contain the names of both the child and the caretaker relative and the residence address.

(2) Ill and/or Disabled

(a) A person with an illness or injury, preventing his employment or training, determined on the basis of medical evidence by the Eligibility Specialist and entered in the narrative.

(b) A person whose incapacity, determined by a physician, certified psychologist, Department of Vocational Rehabilitation counselor prevents training or employment under JOBS. The ES must refer these persons to the Department of Vocational Rehabilitation.

(3) A person 60 years of age or older.

(4) Living in remote areas. Clients are exempt if they live more than two hours, commute time from a JOBS Project area by reasonably available public or private transportation. However, the principle wage earner (PWE) must be registered with the Guam Employment Service, Department of Labor.

(5) Care of an invalid. A person is exempt if an eligibility worker verifies that a medical or mental condition of another household member requires the client in the home. Exempt persons must register at redetermination if their presence is no longer needed in the home.

(6) Caring for minor children. parent or other caretaker relative of a child under age 3 who personally provides full-time care of the child with only brief and infrequent absences. Absences for shopping, recreation or medical necessities or because the child is attending preschool or kindergarten is allowable. Clients working less than 30 hours per week or who

are attending school "full-time" as defined by the school are considered absent for more than brief and infrequent periods and will be required to register for JOBS.

(7) Employed Persons. A person employed 30 or more hours per week, with wages equal to the Federal/local minimum wage, whichever is higher, times 30 hours.

(8) Continued incapacity. A parent or other caretaker of a child who is deprived of parental support or care by reason of physical or mental incapacity of a parent, when verified by the ES that a physical or mental impairment, determined by a physician or licensed or certified psychologist, prevents the individual from engaging in employment or training under JOBS.

(9) Unemployed Parent. The parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent who is the principal earner is not exempt under one of the other proceeding clauses of this section.

(10) When the absent parent returns to the household, and the deprivation factor changes from continued absence to Unemployed Parent, the assistance unit is ineligible if, as of the review date, the principal wage earner has not registered for JOBS.

(B) Action for Failure to Cooperate.

(1) Failure to Cooperate. Any JOBS recipient, except a volunteer who is determined to have failed or refused without good cause to appear for appraisal at JOBS office, Department of Labor or CWEP Office or any certified JOBS recipient, except a volunteer who has failed or refused to participate in the JOBS program without good cause shall be deregistered from JOBS/CWEP and removed from the AFDC for failure to participate. Any mandatory individual who without good cause terminates or refuses to accept employment or reduces earnings shall be deregistered and removed from the AFDC grant. Any assistance unit with an unemployed parent who without good cause terminates or refuses to accept employment or reduces earnings shall be terminated from the welfare roll.

(2) Sanctions

(a) When an AFDC recipient who is a mandatory registrant in the JOBS program has been found to have failed or refused without good cause to participate in the program or has terminated employment, or has refused to accept employment or has reduced earnings without good cause the following sanctions shall apply:

(1) For the first occurrence, the individual shall be deregistered for three payment months.

(2) For the second and subsequent occurrences, the individual shall be deregistered for six payment months.

(b) During the sanction period if the deregistered recipient is:

(1) A needy caretaker relative. The needy caretaker's needs will be excluded from the grant for the length of the sanction period determined by JOBS office, Department of Labor. Protective or vendor payments will be provided for the caretaker's eligible dependents; or if all responsible efforts were made and the Agency is unable to locate an appropriate protective payee, payments can be allowed to the sanctioned caretaker for the remaining members of the assistance unit.

(2) An only dependent child. Assistance to the family will be denied/terminated for the length of the sanction period determined by JOBS office, Department of Labor.

(3) One of several dependent children. Assistance for such child will be denied/terminated for the length of the sanction period determined by JOBS office, Department of Labor.

(c) When an AFDC recipient who is a voluntary registrant has failed or refused to participate in the JOBS program without good cause, the individual will be deregistered for three to six payment months depending on whether this was the first or a subsequent deregistration for failure or refuse to participate. However, the individual's AFDC grant shall not be affected.

(3) Refusal

(a) An overt (express) refusal is a written or oral statement by an individual that he or she will not participate in the JOBS program.

(b) A de facto refusal is a current act or pattern of behavior consisting of a series of current events from which failure or refusal to participate or termination of employment, or refusal to accept employment, or reduction in earnings is implied, the JOBS sponsor shall send a notice setting and appointment for the individual to come to the JOBS office and discuss the act or pattern of behavior in question. The notice shall explain the reasons for the appointment and the consequences of failure to keep the appointment.

(4) JOBS Program Referral Procedures.

(a) At time of interview, the ES shall determine if the recipient is required to participate in the JOBS Program. If required, or volunteers to participate in JOBS, the ES shall provide the recipient with Form GES-511, "Work Application," to complete. The ES shall review the form for completeness, and indicate requested information such as case number, village code, certification period, etc. on the back side of the form.

(b) The ES shall complete Form BES-91-05, "Referral for JOBS Participation," attach Form GES-511, and forward to WPS no later than three (3) working days following date of certification. The ES shall document date of registration, registrant's name, social security number and ES action on the contact sheet. A copy of the referral shall be filed in the AFDC case folder as reference.

(c) WPS shall prepare and mail out Form BES-91-01, "Notice of Opportunity to Participate in JOBS." A copy of the notice shall be filed in the JOBS case folder.

(d) For ongoing cases, the ES shall determine mandatory or voluntary status at each redetermination, or as changes occur, and follow the procedures outlined above.

(e) The ES shall continue to use the IM-6 and IM-9 forms to inform WPS of any changes in the participant's case status, or as feedback on action taken per WPS referral.

(5) Referral from JOBS. In the event a registrant is referred back to ES from JOBS, Department of Labor as having good cause for not continuing in a training plan or a job, the ES shall promptly restore the assistance payment to the individual or make other necessary payment adjustments.

NOTE: Form APS-13, "Referral for JOBS registration," has been revised and issued a new number, Form BES-91-05.

(C) Time of Registration

(1) JOBS Registration for all AFDC applicants and recipients (except those exempted under Section 202.11(a) above), shall take place immediately upon ES's determination that the individual(s) is eligible to receive benefits.

(2) When an individual is no longer exempted by the provisions in Section 202.11(A), the ES shall register the individual for JOBS in the month the exemption expired.

EXAMPLE: An AFDC mother is exempted from JOBS registration because her youngest child is under six years of age. However, the child will turn six on June 13, 1985. The ES must use the tickler system to "flag" the impending change in July, so our records will show the mother to be compliance with JOBS registration requirements in the month of July.

(16) Furnishing Social Security Numbers (Enumeration). Each applicant/recipient must provide proof of a social security number or apply for a social security number to be eligible for assistance.

Clients who cannot produce a social security card must obtain a receipt of an application for social security number before they be included in the assistance unit. Clients are required to report social security number as soon as it is received. The ES will provide clients with Form BES-8 to be submitted to Social Security Office.

(17) Child Support.

(18) Assignment of Child Support. As a condition of eligibility for assistance, each applicant for or recipient of AFDC shall assign to the Department any rights to support from any other person. If the relative with whom a child is living fails to comply with the above requirement, the relative shall be denied assistance and payment will be provided for the otherwise eligible child in the form of payments through a protective payee.

(19) Referrals to the Child Support Enforcement Office (CSEO). The Agency shall, upon client`s initial application, redetermination, or reapplication, refer to CSEO the following forms:

(A) Referral-Assistance Payment Unit to Child Support Enforcement Office.

(B) Assignment of Support.

(C) Location Information on Absent Parents and Basic Information on Intact Families

When there is a change in the recipient's circumstances, i.e., additional household member, etc., (other than changes resulting from shelter or utility allowances) the Agency shall complete and route a REFERRAL-ASSISTANCE PAYMENT UNIT TO CHILD SUPPORT ENFORCEMENT OFFICE form.

(20) Cooperation in Establishing Paternity and Security**.** The applicant or recipient shall be required to cooperate with the Public Assistance Program and Child Support Enforcement Office in establishing paternity and securing child support for any child applying for or receiving AFDC.

Should the applicant or recipient provide incorrect or false information regarding absent parent, the entire unit is ineligible for AFDC benefits. This means that recipient or applicant did not comply with the requirements to identify the correct absent parent of a child for whom an assistance is claimed.

Should the caretaker relative fail to cooperate with the Public Assistance Program and the Child Support Enforcement Office, the caretaker relative will be ineligible to receive AFDC benefits;

however, the child(ren) will continue to receive AFDC benefits through a "Protective Payee".

Cooperation consists of:

(A) Providing all possible information and assistance to help identify and locate the putative or legal parent.

(B) Assisting the office of Child Support Enforcement in establishing paternity and in filing a non-support action.

(C) Appearing at the office of Child Support Enforcement as requested to present verbal, written or documentary evidence necessary to determine paternity or obtain child support.

(D) Providing information or attesting to lack of information, under penalty of perjury.

(E) Surrendering any support payments to the Office of Child Support Enforcement.

(21) Determination of Good Cause. Good cause exists when cooperation is against the best interest of the child, as specified in the good cause circumstances described. The following regulations establish the procedures for determining whether good cause exists and the procedures to be followed when the good cause determination is completed.

(22) Good Cause Circumstances.

(A) The applicant's or recipient's cooperation in establishing paternity or securing support is reasonable anticipated to result in:

(1) Serious physical harm to the child for whom support is to be sought; or

(2) Serious emotional harm to the child for whom support is to be sought; or

(3) Serious physical harm to the parent or caretaker relative with whom the child is living which reduces the capacity of the parent or caretaker relative to care for the child

adequately; or

(4) Serious emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces the capacity of the parent or caretaker relative to care for the child adequately.

(B) The Agency believes that proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought because at least one of the following circumstances exists:

(1) The child for whom support is sought was conceived as a result of incest or forcible rape;

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.

(C) The good cause circumstances of physical or emotional harm shall be genuine and of a serious nature. The mere belief of the applicant or recipient that cooperation would result in harm shall not be sufficient basis for finding good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

(D) For every good cause determination which is based in whole or part upon the anticipation of emotional harm to the child, the parent or the caretaker relative, the agency shall consider the following:

(1) The present emotional state of the individual subject to emotional harm;

(2) The emotional health history of the individual subject to emotional harm;

(3) The intensity and probable duration of the emotional impairment;

(4) The degree of cooperation to be required; and

(5) The extent of the involvement of the child in the paternity establishment or support enforcement activity to be

undertaken.

(E) Applicant or Recipient Responsibility in Establishing Good Cause. The applicant or recipient who claims to have good cause for refusing to cooperate shall have the burden to establish the existence of a good cause circumstance. The applicant or recipient shall be required to:

(1) Specify the circumstances that provide sufficient good cause for not cooperating, i.e., the good cause claim.

(2) Corroborate the good cause circumstances in accordance with 6 below, and,

(3) Provide corroborative evidence within 20 days from the day the good cause claim is made except in exceptional cases. Exceptional cases are defined as those in which it is difficult to obtain corroborative evidence. In such cases, the agency shall allow, upon approval by supervisory personnel, an additional period of time which the agency believes is reasonable.

(4) If requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation.

(F) Types of Corroborative Evidence. A good cause claim may be corroborated with the following types of evidence.

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape;

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative.

(4) Medical records which indicate emotional health history and the present emotional health status of the caretaker relative or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought;

(5) A written statement from a social service agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption;

(6) Statements under penalty of perjury from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

(G) Proof of Good Cause Claim.

(1) The agency shall examine the corroborative evidence supplied by the applicant or recipient to ensure that it actually verifies the good cause claim.

(2) If after examining the corroborative evidence submitted by the applicant or recipient the agency wishes to request additional corroborative evidence which is needed to permit a good cause determination, the agency shall:

(i) Promptly inform the applicant or recipient that additional corroborative evidence is needed; and

(ii) Specify the type of document which is needed.

(3) Upon request, the agency shall:

(i) Advise the applicant or recipient how to obtain the necessary documents; and

(ii) Make an effort to obtain specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

(4) Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified and

defined in Section B.1 above and corroborative evidence is not submitted in support of the claim:

(i) The agency shall investigate the good cause claim where it believes that:

(A) The claim is credible without corroborative evidence, and

(B) Corroborative evidence is not applicable.

(ii) Good cause shall be found if the claimant's statement and the investigation which is conducted satisfy the agency that the applicant or recipient has good cause for refusing to cooperate.

(iii) A determination that good cause exists shall be reviewed and approved or disapproved by the supervisory personnel and the agency's. Findings shall be recorded in the case record.

(5) In the course of determining whether good cause exists, the agency shall not contact the absent parent or putative father from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim.

(i) Prior to making contact with the absent parent or putative father, the agency will inform the applicant or recipient that the absent parent or putative father may be contacted unless the applicant or recipient:

(A) Presents additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;

(B) Withdraws the application for assistance or requests discontinuance.

(H) Finding that Good Cause Does or Does Not Exist.

(1) The agency shall determine whether good cause does or does not exist based on the claimant's statement together with the corroborative evidence if the statement and evidence provide a sufficient basis for making a

determination. The agency may further verify the good cause claim through an investigation if necessary.

(2) The applicant or recipient shall be notified on the appropriate "Notice of Action" of the final determination that good cause does or does not exist. If good cause does not exist, the notice shall also specify that:

(i) The applicant or recipient will be afforded an opportunity to cooperate, or to either withdraw the application for assistance or to have the case closed; and

(ii) Continued refusal to cooperate will result in imposition of the sanction which is to provide aid in the form of protective payment and applicant or recipient is ineligible.

(3) If good cause exists, the agency shall determine whether the office of child support enforcement may proceed without risk of harm to the child or caretaker relative if the caretaker relative does not participate in these child support activities.

This determination shall be in writing, contain the agency's findings and basis for the determination, and be entered into the case record.

(4) Good cause may be denied if the applicant or recipient fails to meet his or her responsibilities as specified in Section B(5) above.

The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. This time standard may be exceeded only where the case record documents that the agency needs additional time because:

(i) the information required to verify the claim cannot be obtained within the time standard; or

(ii) the claimant did not provide corroborative evidence within the period required by Section B.5.

(23) Evaluation. When "good cause" has been

established, re-evaluate the decision at every re-determination. The client is required to cooperate if "good cause" no longer exists.

(24) Information Sent to the Office of Child Support Enforcement (CSEO). Upon AFDC approval send Form APS-15A, Referral - Assistance Payment Unit to the Office of Child Support Enforcement.

Inform Office of Child Support Enforcement of:

(A) Case closure

(B) Reinstatement of money grant

(C) Change in program - opening code or categorical

(D) Name change for caretaker, child, or absent parent

(E) Change in case name

(F) Addition or deletion of caretaker, or children to the grant

(G) Change of client address

(H) Deprivation change from incapacity to continued absence

(I) Any new information obtained on an absent parent

(25) Child Support Enforcement Office's (CSEO) Responsibility. The Child Support Enforcement Office (CSEO) informs the Bureau of Economic Security information affecting AFDC eligibility, such as the amount of support collection.

(26) Bureau of Economic Security's Responsibilities. Upon notification from the office of Support Enforcement (SEU) of the amount of child support collected, the State agency (BES) shall re-determine the family's eligibility for assistance. The use of these amounts so collected shall not be later than the second month after the month in which the agency received a report of the monthly collection from the

Office of Support Enforcement.

(27) Application of the $50 Disregard. A monthly disregard of $50.00 child support is applied at eligibility determination. Retroactive support payments shall not be considered in re-determining eligibility. When the monthly AFDC grant is greater than the monthly child support collection, the family continues its eligibility for assistance payment, and the AFDC grant will be calculated without regard to such collection.

If, after the $50.00 disregard, the child support collected is greater than the AFDC grant, the family/case is ineligible for assistance. The Bureau of Economic Security shall notify the Office of Support Enforcement of the effective date of ineligibility or termination.

EXAMPLE:

APS received a referral from SEU indicating a collection of $300.00 monthly support for Mrs. Cruz, an AFDC recipient. To determine if the case is still eligible for assistance, apply the following:

Child Support $300.00

Disregard - 50.00

$250.00 $270.00 = AFDC grant

In the example above, the family continues eligibility for assistance because the AFDC grant of $270.00 is greater than the child support of $250.00 (minus disregard).

(28) Limitation of AFDC to Pregnant Women.

(A) Money Payment. Pregnant women under this provision will not get money payment until the sixth month of a medically verified pregnancy. (For example, for the pregnant woman with no other children if it has been medically determined that she is expected to deliver her baby in March, the agency may make AFDC payment for family of 1 to that woman as early as December). Monthly assistance paid to an AFDC mother can be

increase only when the child is born and all necessary documents are provided.

(B) Changes in Circumstances. A premature or late birth will not create an underpayment or overpayment, provided eligibility conditions were met. Once the child is born, payment for a child is included upon verification of birth and application of Social Security Number. Terminated pregnancy must be reported within 10 days of such termination. A terminated pregnancy may create an overpayment or an ineligible case.

(C) Medical Coverage. In order to provide pregnant women with access to prenatal care during the entire period of pregnancy, Medicaid coverage is provided to pregnant women (prior to the 6th month of pregnancy and eligibility for a cash benefit), who would qualify for AFDC if the child were born and living with her. This coverage may be provided at any time after the pregnancy has been medically verified.

(D) Work and Training Requirement. Pregnant women in their last trimester (6-9 months) are exempted from the JOBS registration requirement.

(29) Strikers. AFDC benefits are denied to persons participating in a strike. AFDC benefits are denied to any family for any month in which any caretaker relative with whom the child is living is, on the last day of such month participates in a strike. Caretaker relative means any natural or adoptive parent.

(30) Aliens.

(A) Aliens applying for assistance

(1) An alien who applies for assistance for the first time after September 30, 1981 and for a period of three years following entry into the United States, as a condition of eligibility shall:

(i) Provide information and documentation concerning the income and resources of the

sponsor, who can either be an individual, public or private agency or organization.

(ii) Obtain the cooperation of the sponsor(s) for purpose of determining the income and resources that can be deemed available.

(2) The income and resources of a sponsor(s) and the sponsor's spouse if living together are deemed as unearned income and resources to an alien for three years following entry into the United States.

(3) When an individual sponsors his spouse or child, deeming is not required.

(4) Provide information necessary for the agency to determine that the sponsoring public or private agency or organization is either no longer in existence or has become unable to meet the alien's need.

(5) Aliens who are exempted by this provision are:

(i) Paroled into U.S. as refugees

(ii) Granted political asylum by the Attorney General

(iii) Admitted as Cubans or Haitians entrants

(iv) Admitted to the United States as a conditional entrant refugee as a result of the application prior to April 1, 1980 under Section 203 (a) (7) of the Immigration and Nationality Act.

(v) Admitted to the United States as a refugee as a result of the application after March 31, 1980 under Section (c) of the Act.

(6) Eligible Aliens Who Are Permanently

Residing in the U.S. Under Color of Law (PRUCOL)

The following is a list of eligible aliens for your reference:

(i) Refugees admitted under Section 207(c) of the Immigration and Nationality Act (INA) after March 31, 1980 and conditional entrant refugees admitted pursuant to Section 203 (a)(7) of INA prior to April 1, 1980. (I-94)

(ii) Political asylees who were granted political asylum by the Attorney General pursuant to Section 208 of the INA. (I-94)

(iii) Alien granted temporary parole status pursuant to Section 212(d) (5) of the INA. (I-94)

(iv) Cuban/Haitian entrants with a notation "Status Pending Reviewable January 15, 1981" pursuant to Section 212(d) (5) of the INA. (I-94)

(v) Aliens under an INA Order of Supervision pursuant to Section 242(d) of the INA. These aliens have been found deportable, INS will not enforce deportation because of certain factors such as humanitarians concerns and lack of accepting countries. INS conducts periodic reviews to determine factor impending deportation continue exist. (I-220 B)

(vi) Aliens granted indefinite stay of deportation. INS defers deportation indefinitely due to humanitarians reasons. (I-94 or a letter from INS)

(vii) Aliens granted an indefinite voluntary departure status under Section 244 of the INA. This is a status whereby the alien informs INS that he/she is able to leave the country on

his/her own resources and INS does not issue a deportation order. No specific time frames are stipulated for the departure and INS allows these aliens to remain in the US for an indefinite period. (I-94 or letter from INS)

(viii) Aliens granted a voluntary departure status under Section 242(b) of INA with a deportation date of not less than one year. This status must be subject to renewal. (I-94 or I-210)

(ix) Aliens granted deferred action status which defers departure. (I-210 or a letter from INS

(x) Aliens granted suspension of deportation pursuant to Section 244 of the INA. (I-94, court order or a letter from INA)

(xi) Aliens who can produce evidence of entry into the U.S. prior to January 1, 1972 and continuous residence since then pursuant to Section 249 of the INA.

(xii) Aliens granted lawful temporary resident status pursuant to Section 201 or 302 or the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99-603 who are:

(a) Cuban and Haitians entrant pursuant to Section 501(e) of Public Law 96-422, as in effect on April 1, 1983;

(b) An adult applicant for OAA, AB and APTD;

(c) An applicant for AFDC who is not a Cuban or Haitian entrant applicant pursuant to Section 201 or 302 of INA who was adjusted to lawful temporary resident status more than five (5) years prior to application.

NOTE: These aliens who were granted lawful temporary or permanent

resident status pursuant to Section 201 or 302 are eligible for program benefits except for AFDC applicant in item C, which must meet the first five (5) years from the date lawful temporary resident status is granted.

(xiii) Citizens of Compact of Free Association, Federated States of Micronesia (FSM) who possess INS Card I-94, noted "CFA/FSM" and were granted under PRUCOL.

The following are alien categories which do not meet the alien eligibility factor under PRUCOL of INA:

(1) Aliens granted a voluntary departure status for whom INS provides a specific departure date allowing the alien time for obtaining a visa. INS advises that this is a deportable status and is subject to enforcement of deportation proceedings.

(2) Aliens without a current alien status who are initially applying for a status, or aliens applying for an adjustment of status and currently in possession of a non-PRUCOL status.

(B) Treatment of Unemployed Alien Parent, Principal Wage Earner. An assistance unit which meets all the eligibility requirements for unemployed parent category, except for the alienage status of one of the parent, such assistance unit is considered eligible for AFDC benefits. However, the needs of such alien individual shall be excluded in the determination of AFDC benefits.

(C) Computation of Income Deemed Available to the Alien.

(1) The total monthly unearned income added to the total monthly gross earned income reduced by 20 percent (not to exceed $175) of the total of any amounts received by the sponsor or the sponsor's spouse in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred in producing self-employment income in the month.

(2) The amount described in (1) above is reduced:

(i) The case needs standard for a family of the same size and composition as the sponsor and those other

people living in the same household as the sponsor who are claimed by the sponsor as dependents to determine his/her Federal personal income tax liability but whose needs are not taken into account in making a determination of need and amount of assistance.

(ii) Any amounts actually paid by the sponsor or the sponsor's spouse to people not living in the household who are claimed by the sponsor or the sponsor's spouse as dependents to determine his/her federal personal income tax liability; and

(iii) Actual payments of alimony or child support, with respect to individuals not living in the household.

(D) Computation of Resources Deemed Available to the Alien.

(1) The total amount of resources of a sponsor(s) (and the sponsor's spouse, if living together) is considered as if the sponsor is applying for AFDC).

(2) The amount (computed in A above) is reduced by $1500 to determine the amount to be deemed to Alien.

(E) Proration of Income and Resources of Aliens

(1) In any case where a person is the sponsor of two or more aliens who are living in the same home, the income and resources of the sponsor (and the sponsor's spouse if living with the sponsor) to the extent they would be deemed, the income and resources shall be divided equally among the alien's family.

(F) Overpayments to Alien.

(1) Any sponsor of an alien and the alien shall be jointly and severely liable for any overpayment of aid made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information without good cause.

(2) When a sponsor is found to have good cause or without fault for not providing information to the agency, the sponsor will not be held liable for the overpayment and

recovery will not be made from the sponsor.

(h) Ongoing Eligibility AFDC.

(1) Redetermination. Redetermination of eligibility is required no longer than six months from the calendar month of initial approval and every six months thereafter. Resources and eligibility factors which have changed must be re-evaluated and necessary action taken. Information received between redetermination which may affect eligibility or the grant amount must be evaluated. Redetermination must be completed within 30 days.

Clients are the primary source of information regarding their eligibility. If a client is unable to obtain information, the ES will assist. Home visits are optional and can be done at the discretion of the Unit Supervisor.

(2) Inter-Office Transfer. When a recipient moves to another village, only those eligibility factors which have changed must be re-evaluated. Assistance will not be withheld pending this evaluation. The ES in the village where the client last received assistance will make the necessary changes on the household data sheet. Request must be made with the Records and Document staff to send file to the appropriate office.

(3) Termination. When an eligibility requirement is not met or the client fails to provide information necessary to determine continued eligibility, investigation of another eligibility facts is unnecessary. Complete and mail notice of action APS-7 to the applicant/recipient a MINIMUM of ten (10) days before the proposed action is effective. After the ten (10) day advance notice period and client fails to provide needed information, the case is terminated. The reason for termination will be entered on computer generated household data sheet or (APS-6) to be submitted to Data Processing. Notification of case closure will be sent to the Office of Child Support within three days of the effective date of closure.

WHEN ASSISTANCE IS PENDING DUE TO NONCOOPERATION AND THE CLIENT COOPERATES WITHIN THE 10-DAY ADVANCE NOTICE PERIOD AND

ELIGIBILITY FACTORS ARE MET, ASSISTANCE WILL BE CONTINUED.

The Agency dispenses with timely notice but sends adequate notice no later than the date of action in the situation below:

(A) The agency has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as new payee.

(B) The recipient requests reduction or termination in writing.

(C) The recipient supplies written information which requires termination or reduction. A signed written statement that the client understands the consequences of supplying such information must be included in the case file.

(D) The recipient has been institutionalized and is no longer eligible for federal financial participation. (see State Plan-section 4.1 page 2)

(E) The recipient has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

(F) A recipient's address is unknown and mail to the recipient is returned by the post office. A returned check must be released to the client if a correct address is reported during the month covered by the returned check.

(G) A recipient has been accepted for assistance by another state, and this fact has been verified.

(H) An AFDC child is legally removed from the home or is voluntarily placed in foster care by his legal guardian.

(4) Extended Medicaid Coverage.

(A) An AFDC assistance unit may remain eligible for Medicaid for four (4) months beginning with the month following the last AFDC grant when:

(1) Ineligibility was due to increased earnings or increased hours of employment.

(2) The assistance unit received an AFDC grant for at least three of the six months preceding the extended medicaid coverage.

(3) A member of the assistance unit remains employed during the four month extended medicaid coverage.

(B) An AFDC assistance unit may remain eligible for medicaid coverage for nine months to families who lose eligibility for AFDC due to the termination of the 30 and one-third disregard or the $30 disregard.

(C) AFDC cases terminated due to Child Support Payment shall be provided extended Medicaid Coverage for four (4) months. Effective date of the Medicaid Coverage begins in the first month following the month of termination.

Budget computations and redeterminations are not necessary during the extended medical period, unless the client submits a written request to have the monthly grant reinstated.

(i) Prospective Eligibility and Prospective Budgeting. The Agency shall determine eligibility (and compute the amount of assistance for the six (6) months of certification period) based on its best estimate of income and circumstances which will exist in the month of application and the following issuance month. This estimate shall be base on the Agency's reasonable expectation and knowledge of current, past or future circumstances.

(j) Action on Changes Reports. The ES shall take prompt action on all changes to determine if the change affects the household's eligibility or benefits. Even if there is no change in the benefits, the ES shall document the reported change in the case file, provide another change report for the household, and notify the household of the effect of the change, if any on its benefits. The ES shall also document the date a change is reported, which shall be the date the ES receives a report form or is advised of the change over the telephone or by a personal visit. Restoration of lost benefits shall

be provided to any household if the ES fails to take action on a change which increase benefits within the time limits specified below.

(1) Increase in Benefits. For changes which result in an increase in a household's benefits, other than changes described below, the ES shall make the change effective no later than the first benefit issued ten (10) days after the date the change was reported to the ES. For example, a $30 decrease in income reported on the 15th of May would increase the household's June benefits. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's benefits would have to be increased by July.

Verification required by 201.2(d) must be obtained prior to the issuance of the monthly benefits after the change is reported. The household must provide the needed verification within ten (10) days, in order for the ES to change their benefits the following issuance month. If the verification is submitted after the ten (10) days, the household's benefits will change on the second issuance month. If in these circumstances the household does not provide verification, the household's benefits to reflect a reported changed and subsequent verification shows that the household was actually eligible for fewer benefits, the ES shall establish a claim for the over-issuance in accordance with section 300. In cases where the ES has determined that a household has refused to cooperate as defined in 202.1, the ES shall terminate the household's eligibility following the notice of adverse action.

(2) Decrease in Benefits. If the household's benefits level decreases or the household becomes ineligible as a result of the change, the ES shall issue a notice of action (BES form 90-001), within ten (10) days of the date the change was reported.

(3) Failures to Report. If the ES discovers that the household failed to report a change as required in 201.2(k) and, as a result, received benefits to which they are not entitled, the ES shall file a claim against the household. If the discovery is made within the certification period, the household is

entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household circumstances which they are not required to report. Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the fraud disqualification procedures.

(k) Income and Resources. Income, generally is any benefit in cash or in kind which is in fact currently available to the individual or is received by him as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance agencies. To be considered in determining the AFDC aid payment, income must, in fact, be currently available to needy members of the family in meeting their needs during the budget period.

(1) Earned Income. Earned income encompasses gross income in cash or in-kind earned by a needy individual through the receipt of wages, salary, commissions, or profit from activities in which he is engaged as a self-employed individual or as an employee prior to the taking of payroll and other deductions.

(A) Verification of Income and Expense from Employment. The client is responsible for reporting income and providing verifications. The ES will assist if the client cannot obtain information. If the client refuses to cooperate the case will be closed for lack of cooperation.

Good Cause for failing to make a timely report on earned income is:

(i) if report is lost in the mail;

(ii) circumstances beyond the client's control, such as, but not limited to, illness.

Verifications (any of the following is acceptable)

- Paycheck stubs

- Signed and dated statement from employer

- Copy of ledger sheets or receipts for business income/expenses

If no other verification of tips is available, the client's signed statement providing the amount of tips received or reported to Internal Revenue Service is accepted.

(B) Types of Earned Income of the Assistance Unit

(1) Earnings for AFDC child. Earnings of non-students are income to the assistance unit.

(2) Self-employment Income and Expenses. Verification of Expenses and income will be completed before eligibility can be established. The client is responsible for keeping records of income and expenses. Gross earned income for the self-employed is gross business income less all business operating costs.

Verification. Copy of business records used for computing withholding tax or FICA.

(3) Earned Income in Kind. Work performed by a client in exchange for room, board, or other needs is earned income in kind. The monetary value verified by the employer is EARNED INCOME.

Verification. A signed and dated statement from the employer giving a money value to the earned income in kind must be provided.

(4) Earnings of a Non-Needy Caretaker (Natural Parent). The earnings of Non-Needy Caretaker, Natural Parent who lives with dependent child, are budgeted as Income to the assistance unit.

Verification. Verify as earned income.

FOR EXAMPLE:

The unit received $2,000.00 and their PA grant amount $370.00. 2,000 divided by 370 - 5.41. The unit is

ineligible for 5 months. Five months multiplied by 370 is equal to $1,850.00. $2,000.00 minus $1,850.00 is equal to $150.00. This $150.00 shall be treated as income in the 6th month if the household reapplies and is eligible for assistance.

(5) Earnings from the sale of whole blood or blood plasma. Money resulting from the sale of whole blood or blood plasma is to be considered as earned income from self- employment. Accordingly, the income is subject to the deduction of any necessary business expenses and appropriate earned income disregards.

Verification. A statement or receipt from the business entity purchasing the whole blood or blood plasma. The statement or receipt must indicate the following:

(A) Name of person selling his/her whole blood or blood plasma;

(B) The date it was purchased;

(C) The amount it was purchased for;

(D) The name and title of the purchaser or its representative;

(E) The name and address of the company purchasing the blood.

(2) Earned Income Tax Credit (EITC). Earned Income Tax Credits (EITC) payments received or paid to the assistance units, shall be disregarded as income or resources in determining eligibility for AFDC benefits.

(3) Lump Sum Income (Earned and Unearned). When the AFDC assistance unit's income, after applying applicable disregards, exceeds the need standard for the family because of receipt of non-recurring earned or unearned lump sum income, the family shall be ineligible for aid for the full number of months derived by dividing the sum of lump sum income and other income by the monthly need standard for such assistance unit. Any income remaining from this calculation is income in

the first month following the period of ineligibility.

The period of ineligibility shall begin with the month of receipt of the non-recurring income or with the corresponding payment month. At present, the agency can not shorten the period of eligibility.

Examples of non-recurring lump sum income:

(A) Payments in the nature of a windfall, such as, but not limited to, lottery winnings, inheritances, poker winnings, etc.

(B) Personal injury awards, workman's compensation awards (to the extent it is not earmarked and used for the purpose for which it is paid, i.e., monies for back medical bills) (refer to section 206.4(10).

(C) Social Security retroactive payments, and other retroactive monthly benefits.

Exemptions:

(i) Income Tax Refunds are the only non-recurring lump sum income that is not treated as lump sum income. It should be treated as a resource. However, any portion of a tax refund which represents an earned income payment (EIC) would still be considered as earned income.

(ii) The agency must disregard from the lump sum payment any amount earmarked and used for the purpose for which it is paid. Any remaining amount must be treated as lump sum income.

Treatment of non-recurring lump sum income received PRIOR to the date of application for aid:

When the lump sum income is received prior to the date of application for aid, the policy of dividing the lump sum by the assistance unit's monthly need standard shall **NOT** be applied.

This lump sum income shall be treated as a RESOURCE. The ES shall use prudent judgement

to determine the availability of funds. The applicant shall be required to provide receipts or third party verification to show how the money was used and how much is available to the applicant.

(4) Unearned Income. Income which is not earned. Disregards such as work expense, child care and the 30 plus one-third are not applicable to unearned income.

(A) Evaluation of Unearned Income. All non-excluded unearned income will be verified, documented and applied against the need standard for the applicant or recipient.

When benefits such as Retirement or Survivors and Disability Insurance benefits may be available but the client has not applied, the ES will allow ten (10) working days for making application. Assistance will be denied or terminated if the client refuses to apply for, pursue and accept a claim or fails to provide information essential to establish the claim.

(B) Types of Unearned Income

(1) Disability Benefits. Statement from agency or business establishment allowing the disability.

Copy of award letter.

(2) Retirement, Survivors, and Disability Insurance (RSDI)

Verification (any of the following is acceptable)

- Copy of award certificate
- Copy of disallowance letter
- Copy of monthly check
- SSA 1610

(3) Veteran's Benefits. Clients who may be eligible must apply at the Veteran's Administration in Agana.

Verifications (any of the following is acceptable)

- Copy of award letter
- Copy of disallowance letter
- Copy of benefit check
- Written statement from Veteran's Administration Office

(4) Military Dependent's Allotments. Enlisted service men may make a monthly allowance for dependents.

Verifications (any of the following is acceptable)

- Copy of allotment check
- Written statement from Allotment Branch

(5) Civil Service Annuities (CSA). If the client has been a federal government employee or is the widow/widower or dependent child of a deceased federal employee, possible Civil Service retirement or disability benefits must be verified in writing.

Verifications (any of the following is acceptable)

- Copy of award letter
- Copy of disallowance letter
- Copy of Civil Service annuity check

(6) Public Employee's Retirement Benefits.

If the client has been a public employee or is the widow/widower or dependent child of a deceased public employee, possible retirement, survivors, or disability benefits must be verified in writing.

Verifications (any of the following is acceptable)

- Copy of award letter
- Copy of disallowance letter
- Copy of state retirement check

(7) Income from Rental and Lease. Gross rental income less rental expenses is unearned income to the assistance unit.

Rental expenses include interest on mortgage, property taxes, maintenance/repair costs, insurance on structure, advertising and utilities when paid by the landlord. Verification of income and expenses must be completed before eligibility can be established.

Verifications (any of the following is acceptable)

- Copy of receipt book, checks, or money orders
- Tenant's statement of payment
- Proof of operating expenses

(8) Contributions. Any cash contributed to an assistance unit, unless excluded as a cash gift unearned income.

Verifications (any of the following is acceptable)

- Copy of check or money order
- Client's statement

(9) Child Support Payments. A monthly disregard of $50.00 is applied to current child support payments both at eligibility determination and benefit calculation.

Any non-disregarded child support payments received directly and retained by an AFDC recipient shall be treated as unearned income, and computed against the need standard to determine grant amount. The $50.00 disregard shall also be applied to current support payments retained by the recipient (instead of submitting it to SEU). However, before such contributions can be treated as support payments, either parents must acknowledge that the contribution was for the support of a child in the assistance unit.

Acceptable Verifications:

Signed, written statement from custodial parent and/or absent parent regarding intent of contribution, amount of contribution, frequency and dates of payment.

Copies of contribution checks (such as personal checks, money orders).

(10) Lump Sum Payments

(A Income Tax Refunds are considered a resource for the program, and shall be counted against the $1,000 resource limit.

However, any portion of a tax refund which represents an earned income payment (EIC) would still be considered as earned income.

(B) The Agency must disregard from the lump sum payment any amount that is earmarked and used for the purpose for which it is paid:

Example 1:

Personal Injury Awards and Worker's Compensation are treated as lump sum income. However, the agency must exclude from consideration, that portion which is paid for medical bills resulting from the injury or funeral costs.

Verifications: Court Order

Medical Bills

(C) Treatment of Tax Rebates and Cost Living Allowance (COLA) to Government of Guam Retirees

Tax Rebates shall be disregarded as income in the month it was received. However, any remaining amount after the month it was received, shall be treated as a resource in the same treatment with Tax Refunds. If the remaining amount of such rebates plus available resources in the case file exceeds the resource limit, the household is ineligible for benefits.

The COLA to Government of Guam Retirees shall be treated as lump sum income to the household. The ES shall divide the lump sum income by the assistance unit's monthly needs standard to determine the months of ineligibility.

(11) Trust Funds. Income or interest from trust funds is unearned income.

Verifications: (any of the following is acceptable)

- Copy of check

- Signed and dated statement from the Administrator of trust funds.

(12) Income from Boarders. One-half the total payment for room and board is unearned income.

Verifications (all of the following is acceptable)

- Copy of receipt

- A signed and dated statement from the roomer/boarder.

(13) JTPA Basic Allowance. Any allowance for JTPA participants based on paid wages (i.e., Need-Based payment) for full-time students is disregarded for six (6) months per calendar year.

Verifications (any of the following is acceptable)

- Signed and dated statement from the agency issuing payment

- Copy of check

(14) Earned Income of Full-time Students. The earned income of a full-time student, who secures employment unrelated to JTPA participation is disregarded for six month per calendar year.

(15) Income From Live-In-Mate or Common-Law Husband or Wife. The contribution from this source is considered unearned income.

Verification

- Statement from the live-in-mate.

(16) Funds obtained through Personal Loans. Any personal loan obtained from a lending institution such as a bank or credit unit, etc., shall be treated as unearned income in the month it is received if the funds are used for purposes of current living costs, i.e., utility bills, clothing, etc.

Medical, shelter and utility arrears are not to be considered current living costs. Therefore, any portion of the loan amount that was used to pay medical, shelter or utility arrears will not be counted as income.

The recipient shall be required to provide proof that the loan amount was used for purposes other than current living costs.

Verifications:

- Receipt of the purchase of travel fare, i.e., airline ticket;

- Receipts of the medical, shelter or utility arrears that were paid;

- Receipt of the amount used as down payment on a vehicle the client purchased;

- Any other receipts proving that the loan amount was not used for current living costs.

Example 1:

An AFDC recipient obtained a $1,200 personal loan from the GovGuam Credit Union. The recipient used $800. to purchase an airline ticket to bring one of her children home and then used the remaining $400.00 to purchase clothing.

The $800 is not counted as income to the household; however, the $400.00 is counted as income because it was used for current living costs.

Example #2:

An AFDC recipient obtained a $1,200 personal loan from a Bank and used the entire amount as a down payment for a vehicle she purchased. The loan amount is not counted as income to the household; however, the value of the vehicle purchased shall be counted as a resource.

Example #3:

On February 10, 1988, an AFDC recipient obtained a $1,500 personal loan from a Bank and used the entire amount

to pay medical bills in arrears since July and August 1987. This amount is not counted as income.

(C) Stepparent Income/Minor Parent's Parents Income. In a household where the stepparent or minor parent's parent(s) (or legal guardian(s) live with the dependent AFDC child, the stepparent's income and Minor Parent's Parents or legal guardian's income are income to the assistance unit. The following disregards will be applied to the stepparent and minor parent's parents or legal guardian's gross income before it is counted in reducing the AFDC grant. [Exception: if the stepparent or minor parent's parent(s) is included in the assistance unit, the disregards under section 208.4 apply instead].

(1) First $75 for full-time/part-time employee who is regularly scheduled to work the number of hours and days required by employer;

(2) An additional amount for the support of the stepparent and other individuals who are living in the home, but whose needs are not taken into account in making the AFDC eligibility determination, except for sanctioned individuals, and are/or could be claimed by the stepparent as dependents for purposes of deter mining his Federal income tax liability; this amount must equal the need standard amount for a family size of the same composition as the stepparent and those other individuals described in the preceding sentence;

(3) Alimony and child support payments to individuals not living in the household; and

(4) Amounts actually paid by the stepparent to individuals not living in the home but who are claimed by him or her as dependents.

If stepparent is unemployed and has no natural children in the household, the needs of the stepparent will be included as an essential person to the assistance unit.

(D) Unearned Income-In-Kind. Any non-cash benefit, goods, services, facilities from any source,

provided at no cost to the client, and which may meet, in whole or in part, a recognized budgetary need.

All unearned income-in-kind shall be disregarded at eligibility determination and benefit calculation. A dollar amount shall not be assigned to the unearned in-kind contributions.

CASE EXAMPLE:

An absent father voluntarily provides a dependent AFDC child with pampers, milk,, toys, clothing, food, etc. This non-cash in-kind contribution shall be disregarded at eligibility determination and benefit calculation. However, this type of contribution does not satisfy the support requirements. All necessary assignment of support papers shall be forwarded to OCSE as usual.

The ES should advise the recipient to:

(1) obtain a statement from the absent parent indicating the type of contributions, frequency and dates of contribution; and if possible, the ES shall obtain the absent parent's home address, mailing address and/or telephone number(s) from the recipient in order to verify such statements.

(2) encourage the absent parent to report to OCSE so that a monetary support assignment may be established.

(3) report all contributions (cash or in-kind), no matter how small, to the ES.

(5) Resources.

(A) Resource Reserve Limits. The resource reserve limit is $1,000 for the assistance unit.

(1) Resources, personal and real properties are counted toward the resource reserve limit, for all persons included in the assistance unit. Property of the non- needy caretaker, natural, legally liable, or an adoptive parents, with whom the children are living, is also included in the assistance unit's property reserve. Properties are evaluated at market value less encumbrances. The following are considered real property:

Land, houses, mobile homes, and immovable property attached to the land; personal property is all assets other than real property. When the reserve limits are exceeded, the assistance unit is ineligible.

(2) Client is representative payee or legal guardian for managing someone else's funds. These funds are NOT included in the client's personal property reserve when they are kept in an account separate and apart from the client's monies AND can be identified as being received and designated for someone other than the client.

(B) Types of Personal Property.

(1) Cash on hand

(2) Stocks, bonds, notes, mortgages and deed of trust

Evaluate at current retail market value less encumbrances

Verifications:

- Stock report
- Copy of bond or maturity scheduled
- Copies of receipt
- Copy of the note, mortgage or deed

(3) Checking or Savings Accounts. Any amount in the accounts is considered a resource.

Verifications:

- Copy of current bank statement
- Copy of bank passbook/checkbook

(4) Insurance. If the client is the OWNER of a policy, the cash value is applied to the property reserve.

Verifications:

- Insurance policy
- Written statement from insurance company

(5) Vehicles. The first $1,500 of the equity value of one car is exempted from consideration as a resource.

Verifications:

Client's statement regarding the number of vehicles owned, ownership status and availability is acceptable. Possible sources of verification are:

- Kelly Blue Book
- Copy of bill of sale
- Copy of vehicle registration
- Estimate from auto dealer
- Cars not in the Kelly Blue Book worker's assessments

(6) Farm Machinery/Equipment. The wholesale value of machinery and equipment less encumbrances is placed in the property reserve.

Verifications:

- Written dealer's estimate
- Written estimate from agricultural agent

(7) Trust Funds. Trust funds are referred to the Attorney General Office for a decision on availability.

(8) Individual and Family Grant (IFG). Funds received through the Individual and Family Grant Program shall be treated as a resource and counted towards the $1,000 resource reserve limit IF a recipient cannot provide proof that the IFG funds were used for the purposes intended, i.e., purchase of building materials, clothing, appliance, etc.

The recipient shall be required to provide a copy of the IFG award document.

Verifications:

- A receipt from the retailer describing the item(s) purchased and the amount and date purchased and the amount and date of purchase; or

Verifications:

- A statement from the retailer (building supplier, department store, etc.) indicating that the retailer has received the IFG funds to be held in trust for the purchase of goods at some later date. The statement must also indicate the retailer's name and address, the amount received and the date of the funds were received.

(9) Income Tax Refunds. Income Tax Refunds are considered a resource and shall be counted against the $1,000.00 resource limit. However, any portion of a tax refund which represents an earned income payment (EIC) shall be considered as earned income.

(C) Real Property. The fair market value, less encumbrances, of property will be applied toward the property reserve limit, unless excluded Cash settlement received from the sale of real or personal property will be considered a resource. See 208.2

Verifications:

- Signed and dated statement from a licensed real estate broker
- Tax lists
- Copy of mortgage papers
- Copy of deed

(D) Transfer of Resources.

(1) At the time of application, households shall be asked to provide information regarding any re sources which any household member (or ineligible alien or disqualified person whose resources are being considered available to the household) and transferred within the 3-month period immediately preceding the date of application. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for Public Assistance benefits shall be disqualified for Public Assistance benefits shall be disqualified from participation in the program for up to

1 year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the 3-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets which the household acquires after being certified and which are then transferred to prevent the household from exceeding the maximum resource limit.

(2) Eligibility for the program will not be affected by the following transfers:

(i) Resources which would not otherwise affect eligibility, for example, resources consisting of excluded personal property such as furniture, or of money that, when added to other nonexempt household resources, totaled less at the time of the transfer than the allowable resource limits;

(ii) Resources which are sold or traded at, or near, fair market value;

(iii) Resources which are transferred between members for the same household (includ ing ineligible aliens or disqualified persons whose resources are being considered available to the household); and

(iv) Resources which are transferred for reasons other than qualifying or attempting to qualify for Public Assistance benefits, for example, a parent placing funds into an educational trust fund.

(3) In the event the ES establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for Public Assistance benefits the household shall be sent a notice of denial explaining the reason for the and length of the disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and length of the disqualification shall be sent. The period of disqualification shall be made effective with the

first allotment to be issued after the notice of adverse action period has expired, unless the household has requested a fair hearing and continued benefits.

(4) The length of the disqualification period shall be based on the amount by which non-exempt transferred resources, when added to other countable resources, exceeds the allowable resource limits. For example, if a one-person household with a $1,750 in the bank transferred ownership of a car worth $5,000, $250 of that transfer would be considered because the first $1,500 of the car's value was exempt and an additional $500 of the transferred asset would have been applied toward the $1,000 resource limit.

(6) Disaster and Emergency Assistance. Any assistance to individuals and families under the Disaster Relief Act of 1974, which is provided by the federal or local government and disaster assistance organizations, such as the Red Cross, shall not be considered as income or resources when determining eligibility.

The following defines an Emergency or Major disaster situations:

EMERGENCY:

any occasion or instance in which the President has declared that Federal assistance is needed to supplement State local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the territories.

MAJOR DISASTER:

any natural catastrophe, or regardless of cause, such as any fire, flood, or explosion, in any part of the territories, and where the President declares it a major disaster area which warrants assistance to supplement the efforts and available resources of local governments and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused by the disaster.

(l) Parent and Relatives Responsibility to Contribute.

Parents are responsible for the support of their children until they reach age 18, unless otherwise specified in a court order. All cases approved for AFDC will be referred to the Office of Child Support Enforcement for action in locating absent parents, establishing support obligations, enforcing court orders, and establishing paternity.

In the case of a deceased parent or parents, verification of death will be obtained by the ES through a death certificate or obituary notice. Incapacitated parent cases will not be referred to the Office of Child Support unless the incapacitated parent is absent from the home and deprivation exists.

(m) Exclusions, Deductions and Disregards.

(1) Excluded Income.

(A) Assistance from Vocational Rehabilitation agencies.

(B) Assistance from other agencies and organizations when the assistance is for items not included in the AFDC need standard.

(C) Student Assistance:

(1) Basic Education Opportunity Grants Program (BEOG)

(2) Supplemental Educational Opportunity Grant (SEOG)

(3) Professional and Technical Award (PTA)

(4) Guaranteed Student Loans (GSL)

(5) Merit Scholarship

(D) Student loans, grants and scholarships COVERING ITEMS NOT INCLUDED IN AFDC NEED STANDARDS.

(E) Payments from ACTION programs including:

Retired Senior Volunteer Program

(F) Incentives Allowances and training relating expenses

(G) College work study EARNINGS. Earnings from

a college work study program based on need

(H) CASH GIFTS: Small, non-recurring cash gifts to the assistance unit which do not exceed $30.00 per person per calendar quarter and which are received for: (a) BIRTHDAYS; (b) CHRISTMAS; and (c) GRADUATION.

(I) Payments received as reimbursement for child care services under the Child Care and Development Block Grant (CCDBG).

(2) Excluded Property.

(A) Clothing, personal items, furniture, household equipment, food for personal use.

(B) The first $1,500 of the equity value of one car is exempt from consideration as a resource.

(C) One burial plot and one funeral agreement, not to exceed a maximum equity value of $1,500 per family member.

(D) Real Property is excluded when:

(1) The property is a home, including any surrounding land in which a client lives and owns or is buying. Land is contiguous to the home when not separated by property owned by another person.

(2) The property is owned by a stepparent and is not available to the assistance unit.

(E) Additional Real property is exempted for six months which the family is making a good faith effort to sell, but only if the family agrees in writing to use the proceeds from the sale to repay the AFDC benefits received had disposal occurred at the beginning of the period. Any remaining proceeds would be considered a resource. If property is not disposed in 6 months, case is terminated due to resources and payments received is considered as overpayment.

A good faith effort will be to list the property with

any of the licensed realtors to be put up for sale. A statement from the realtor must be submitted to verify such good faith effort.

(3) Other Exclusions.

(1) Income/resources of a non-needy caretaker or a Protective Payee (PP) (not the natural parent).

(2) Payments received from the Agent Orange Settlement Fund or any funds connected with paying Agency Orange liability claims, shall be excluded as income or resources for determining eligibility or amount of benefits under any Federal or Federally assisted program. This is retroactive to January 1, 1989.

(4) Earned Income Deductions and Disregards.

(A) Prospective eligibility for each payment month. ES shall determine eligibility prospectively for each of the payment month by determining whether gross earned income for the month exceeds 185% of need standard for the household size.

(1) Compute total monthly gross earned income received or expected to be received for the month.

(2) Determine assistance unit need standard.

(3) Determine 185% of need standard.

(4) Compare gross income to 185% of need standard.

(i) If gross income exceeds 185 percent of need standard, the client is ineligible.

(ii) If gross income does not exceed 185 percent of need standard, ES shall apply the applicable disregards when determining the benefit amount of the unit.

(B) Disregards. The ES shall apply the following earned income disregards when determining the benefit amount for the household;

(1) Work Expense Disregards. Deduct the first $90 from monthly gross income for full- time and part-time employment.

(2) $30 Plus One-Third of the Remainder. The $30 and 1/3 disregard is applied for four (4) consecutive months. Once the four consecutive months has been applied, ES shall not apply the disregard again for the individual until that individual has been terminated from AFDC for twelve (12) consecutive months.

(a) The four (4) months must be consecutive unless the suspension or termination is due to temporary increase of income and such increase is less than two months. If the suspension is caused by temporary increase of income, the consecutive month is delayed but not discontinued. ES shall continue the four consecutive month count when assistance is received in the month following the month of suspension.

(b) The individual remains eligible for the $30 and 1/3 disregard and the four month count starts over if such disregard is received for three (3) month or less, because of one of the following reasons:

(i) Non-voluntary termination of assistance; or

(ii) Loss of employment with good cause.

(c) If the unit received AFDC assistance in one of the four (4) months prior to the month of application, ES shall apply the $30 disregard when determining eligibility and benefit for the unit. However, $30 and one-third disregard will not apply to an individual if the four (4) months disregard has been previously applied to his earned income and the recipient has not been terminated from AFDC for 12 consecutive months.

(d) The four (4) consecutive months shall be counted even if the disregards did not actually apply when:

(i) An applicant reapplies within 12 months of receiving assistance and it is determined that the applicant voluntarily terminated assistance in an attempt to interrupt the four month disregard sequence.

(ii) A recipient quits work without good cause.

(iii) Makes an untimely income report without good cause.

(3) $30 Disregard for Eight (8) Consecutive Months

(a) Apply the $30 disregard beginning with the first month following the fourth consecutive month the $30 and 1/3 disregard is applied.

(b) Extend the disregard for eight (8) consecutive months, whether or not the recipient has income or is on the assistance.

(c) The disregard cannot be applied again until the individual has not received AFDC for 12 consecutive months.

(4) Child Care and Incapacitated Adult Care Disregards. Apply the dependent care disregards to the earned income for the actual child care cost for each dependent up to the maximum.

(a) The maximum amount for dependent care of a child under age two (2) is $200.00.

(b) The maximum amount for dependent care of a child age two (2) and above is $175.00.

(c) The disregard for dependent care can be applied to the earned income for care of an incapacitated adult in the wage earner's assistance unit for the actual cost up to $175.00

(d) For part-time employment, ES shall apply the disregard for dependent care at 50% level for cost incurred for items indicated above.

In order to be eligible for the dependent care disregards, the recipients shall provide verification of expenses incurred.

(C) Determine the Net Income Effect on Eligibility.

(1) After all applicable earned income disregard has been applied, ES shall compare the net income to the payment

standard according to the number of the eligible members in the assistant unit.

(2) If the net income exceeds the payment standard, the unit is not eligible.

(3) If the net income is less than the payment standard, ES shall subtract the net income from the payment standard and provide the difference as payment to the assistance unit.

EXAMPLE:

STEP 1 Determine monthly gross income $125.00

(Twice monthly) X 2

Total Monthly Gross $250.00

STEP 2 Determine if monthly gross income is over 185% of standard of need for family of four. If income is over standard, family is ineligible. However, if income passes the 185% income limit, continue to **STEP 4**.

STEP 3 Take monthly gross income from **STEP 2** - $250.00.

STEP 4 Apply the $90 disregard for work

expense for $ 90.00

either full/part-time employment $160.00

STEP 5 Apply 30 1/3 disregard $ 30.00

$130.00

1/3 of remainder - $43.33

STEP 6 Apply dependent care disregard $175.00

full-time ages 2 and over/or incapaci-

tated adult $200.00 full-time below

age 2. $87.50 for part-time ages 2

and over $100.00 for part-time below

age 2

Total Countable income $ 86.67

NOTE: If total countable income is greater than standard of need for family of four, ($776. including rental and utilities), family is ineligible. If countable income is less than standard, proceed to Step 7.

STEP 7 Calculation of benefits

Take standard of need for family	
of four including rental and utilities	$776.00
Subtract countable income	- $ 86.67
Monthly PA grant	$689.33

NOTE: Regulation requires that amount must be rounded down to the lowest dollar.

Therefore, monthly PA grant would be $689.00

(n) Protective, Vendor, or Two-Party Payments.

(1) Protective, vendor, or two-party payments, may be issued when the recipient voluntarily chooses to have them made. The request must be in writing and included in the cases file.

(2) Protective Payments can be made to a sanctioned caretaker for the remaining member of the assistance unit if after making reasonable efforts an appropriate individuals to whom such protective payment can be made cannot be located. the provisions does not change the requirement that individuals who do not meet the work incentive or child support requirements are subject to the penalty of being removed from the grant.

(o) Procedures in the Replacement of a PA Check. When a client contacts the agency to report that his/her PA check was not received, the following procedures shall be followed:

(1) The Receptionist shall verify on the system if a PA check was generated and the mailing address is correct. If yes, client shall be referred to DOA Accounting Division, to inquire if their PA check was returned or unclaimed.

(2) If the receptionist verifies on the system that the mailing address is incorrect and a PA check was generated, the receptionist shall refer client to his/her caseworker for correction. The ES shall then refer the client to DOA (Accounting) for immediate replacement.

(3) If the receptionist verifies with the Issuance Unit that the PA check is withheld, the client shall be referred to his/her caseworker to release the check. If client complies to the ES's request, the ES shall write a note for the client to present to DOA for the PA check to be released.

§ 1823. Recoupment and Correction of Payments. Recoupment of overpayment and correction of underpayments are applied uniformly throughout the Territory of Guam. The recovery of an overpayment can be waived when it can be reasonably assumed that the cost to collect will exceed the amount owed. Except in fraud cases, the amount of less than $35.00 will be waived from recoupment to former recipients. In fraud cases the amount will be collected.

(a) Recoupment of Overpayments. Overpayment is the amount of difference between what the assistance unit received and what it should have received.

(1) All attempts must be made to recoup all overpayments regardless if the overpayment is a result of IPV or non-IPV.

(2) Recoupment will be made in such a way that available income, resources, and the assistance payment equal to 90 percent of the amount payable to an assistance unit of the same composition with no other income. If recoupment is made from current assistance payment only, 90% of the payment will be made available to client.

(3) Where a former recipient with an outstanding overpayment reapplies and is found to be eligible, the agency must recover the overpayment considering the current income, resources, and assistance payment of the recipient in determining the monthly recovery amount.

(4) All terminated cases with an overpayment must be

referred to Investigation and Recovery Unit for collection. The EW shall determine the amount of overpayment and the period the overpayment existed.

(5) All other recoupment cases must be reported to Investigation and Recovery Office (IRO).

(6) For cases in which overpayments resulted due to Intentional Program Violation, refer to Chapter VII, Section 707.12 of this Manual.

(b) Corrected Payments of Underpayment.

(1) Payment of underpayments is not considered as income or resources in the month paid nor in the following months.

(2) All underpayments must be paid to current recipients.

(3) If an assistance unit has both an outstanding overpayment and an underpayment, the agency may offset one against the other before adjusting the incorrect payment.

(c) Determination of Overpayment. Overpayment is the amount of difference between what the household received and what should be received. This means ES shall compare the amount of payment received by the assistance unit for the payment month and subtract the amount the assistance unit is entitled. The difference between the two amounts is the overpayment amount and should be recouped.

EXAMPLE:

$480.00 - PA received

- $250.00 - actual grant the household is entitled

$230.00 - overpayment that should be recouped

NOTE: If the assistance unit is found to be ineligible for the payment month, the entire grant received is considered as overpayment and should be recouped.

(d) Procedures in Restoration of Payments Due to Overpaid Claims Procedures for Active Cases:

(1) Should the ES receive a referral that the household is

entitled to a restoration due to an overpaid claim collection from the Bureau of Management Support, Claims Management Unit, the ES shall take action to determine the correct amount to be restored.

(2) After the ES has determined the correct amount to be restored, the amount shall be keyed into the system as the extra amount. The extra amount will be added to the household's welfare payments for the Issuance month.

(3) The ES shall indicate the status of restoration on the IRO referral form and return it to the IRO for information. The following shall include:

(i) what action had been taken,

(ii) the date of restoration, and

(iii) the amount to be restored.

(4) The ES shall maintain a copy of the referral form in the case file.

Procedures for Inactive Cases:

(1) If the IRO staff discovered that the household is entitled to restoration of benefits due to overpaid claims collection, the IRO staff shall determine the correct amount to be restored and prepare direct payment request to pay the individual or household.

(2) IRO staff shall not refer any overpaid claims to BES when a case is terminated.

EXAMPLES: Claim Amount: $332.00

HHLD Total Payments		
Made to Date	$382.00	
Benefit Reduction	$332.00	
Cash Payments		$ 50.00
Amount to be Restored	$ 50.00	

§ 1824. Transitional Child Care Services. (a) **Introduction.** The

purpose of this manual is to provide instructions on actions to be taken by Bureau of Economic Security (BES) staff in the administration of the Transitional Child Care Services. This manual is intended to provide directions for determining eligibility and furnishing assistance in compliance with the requirements of Title IV-A of the Social Security Act, Federal Regulations contained in the Code of Federal Regulation (45 CFR), and the Guam State Plan.

(1) Organization of the Manual. This manual is organized so that, whenever possible, sections are presented in the same order as the procedures in practice.

(2) Changes and Responsibilities for Updating Manual. The Program Management Section (PMS), Policy Development Unit (PDU) will be responsible for updating the manual and keeping it current. Information regarding changes will be sent to all BES staff and official holders of the manual via memorandum. Necessary controls will be established to assure that all manuals are current and up to date at all times.

(b) The Application Process.

(1) Eligibility. AFDC recipients who are terminated from Public Assistance due to employment may be eligible for Transitional Child Care Services (TCC).

(2) Initial Contact with Agency. The family shall be informed of the availability of Transitional Child Care Services at the time of AFDC termination. An application must be filed with BES requesting transitional child care services using Form BES-008, 08/87. A face-to-face interview would only be required if the information is incomplete or inconsistent.

An individual contacting the agency for assistance or information will be provided application forms by the receptionist.

(3) Person Who May Sign Applications. The applicant must sign the application forms.

(4) Applicant's Rights. Applicants or recipients of TCC have certain rights which are protected by Federal and Local policy. Informing individuals of these rights, and interpreting

them as necessary, is a basic part of the application process and review of eligibility. These include:

(A) Right to apply

(B) Right to a Fair Hearing

(C) Right to Appeal

(D) Right to Confidentiality

(E) Civil Rights

(c) Applicant's Responsibilities. The applicant or a protective payee is responsible, to the extent permitted by his physical and mental condition, for providing documentation to establish eligibility. Some applicant responsibilities include:

(1) Verification of required documents such as:

(i) Receipts; or

(ii) Statement from service provider.

(2) The service provider may be:

(i) A licensed day care center;

(ii) Licensed Institution Business providing domiciling care services;

(iii) Individual providing sitting services.

When additional information is needed to establish eligibility, the applicant shall be given specific written instructions at time of interview regarding any information that the applicant is responsible for providing within five (5) days from the date of the written request for additional information.

(d) Delay of Information. If the requested verification is not submitted within five (5) days from the date of the written request, it shall be considered a delay on the part of the applicant. The delay shall be the basis for denial of the application when it appears that the applicant is not cooperating in establishing eligibility. The specific reason for the denial shall be clearly stated in the case record and in the notice of denial sent to the applicant.

(e) Worker's Role. The Eligibility Specialist (ES) represents the agency in dealing with inquiries, applicants, and recipients. The ES must:

(1) Explain the TCC program and the different categories of child care available to the applicants.

(2) Assist the applicant to complete and file his/her application within agency policy.

(3) Explain that some factors of eligibility must be verified and explain what the applicant/recipient is expected to provide in the way of verification and that failure to provide information related to eligibility within five (5) days may be used as basis for denying the case.

(4) Explain that if assistance is granted, the client must assume the responsibility of notifying the agency of any change which would affect eligibility or the amount of payment within ten (10) days from the date of change.

(f) Appraisal of the Right to Appeal. Each applicant must be apprised of his/her right to appeal any action or failure to act by the Agency.

(g) Client's Responsibility. It is the applicant's/recipient's responsibility to report any of the following changes in the household within ten (10) days from the date the change occurs:

(1) New address or change in mailing address;

(2) Changes in household's income if it increases or decreases by $25.00 or ceases;

(3) Changes in household composition - increase or decrease;

(4) Changes in child care providers.

(h) Non-Discrimination. No person will be subject to discrimination (on the basis of race, sex, color, ethnic origin, handicap, age, religious beliefs, etc) for any reason under any program of the Guam Division of Public Welfare according to Federal Rules and Regulations.

The Eligibility Specialist (ES) must inform applicants and recipients of their right to file a complaint with the Division of Public Welfare, the Federal Agency (Family Support Administration), or both, if they believe discrimination is being practiced.

(i) Securing Essential Information. Before approval, all verifications necessary to determine eligibility must be completed.

Applicants and/or recipients are the primary source of information. If a client is unable to obtain information, the Social Worker (SW) shall assist.

If the verification/information is to be provided by a third party, an "Authorization to Release Information" form must be signed by the applicant/recipient. Lack of third party cooperation must be verified/documented.

(j) time Limits on Processing. Applicants must be determined eligible or ineligible and notification of such determination mailed to the client within thirty (30) days from the date of application.

(1) DISPOSITION OF APPLICATION

(A) DENIAL. Applications are denied when:

(i) Ineligibility is established by the ES;

(ii) Applicant fails to provide information essential to determine eligibility; and

(iii) The agency loses contact with the applicant before eligibility is determined. Documentation in the case file is necessary.

(B) Withdrawal. Applications are withdrawn when the client initiates a voluntary request. The reason for withdrawal must be documented in the case file.

(C) Approval. When eligibility requirements are met, assistance is approved.

(k) Eligibility Requirements. Recipients must be employed and in need of child care to maintain such employment. In addition, they must also have been terminated from the AFDC program due to

increased hours of, or earnings from employment or termination of $30.00 + 1/3 or $30.00 disregard.

Recipients who are interested in TCC services must file an application to request such services.

The Caretaker must meet all the conditions specified.

The assistance unit must have been terminated from AFDC program due to:

(1) termination of $30.00 + 1/3 or $30.00 disregards; however, if a household lost the disregard because it failed to submit a change report within 10 days, the household does not qualify for TCC due to the loss of the disregard; or

(2) child care must be necessary to maintain employment.

(3) increased hours of, or income from employment.

The assistance unit must have dependents under the age of 13, or a dependent who is physically or mentally incapable of caring for himself/herself as determined by a physician or licensed or certified psychologist.

A member of the assistance unit must remain employed in order to be eligible for TCC services.

The household must have been on AFDC for at least three of six months preceding the first month of ineligibility.

(l) Period of Eligibility. Eligibility for TCC begins with the first month for which the family is ineligible for AFDC and continues for a period of twelve (12) consecutive months. Determination of eligibility shall be made within thirty (30) days from the date of application. Reimbursements for child care expenses incurred may be requested retroactively to the first month of TCC eligibility.

If the caretaker relative loses a job with good cause and then finds another job, the family can qualify for the remaining portion of the 12-month eligibility period.

Families not needing TCC at the time of AFDC termination may request such services at any time during the 12-month period

following termination, provided a member remains employed and child care is necessary to maintain such employment.

(m) Cost Sharing method/Income Based (See Table A, PG. B-81). The assistance unit shall be required to contribute to the cost of child care.

If the gross income is below the federal poverty guidelines, the unit shall pay one-fourth (25%) of the actual child care cost.

If the gross income is between 100% and 185% of the federal poverty guidelines, the unit shall pay one-half (50%) of the actual child care cost.

If the gross income exceeds 185% of the federal poverty guideline, the unit shall pay the full cost (100%) of child care. (See Poverty Guidelines).

The Social Worker (SW) will determine whether the family is unable to pay the prescribed percentage. If such is the case, the family shall contribute a minimum of $50.00 in lieu of the above requirement.

Contributions shall be paid directly to the child care provider. TCC benefits shall be suspended if participants fail to pay their share of the expenses, unless arrangements have been made by the client with the TCC provider.

Arrangements of child care shall be verified with the Expense Report and Receipt (BES 90-015) and Calendar Showing Breakdown of Child Care in Hours (BES 90-016).

(n) Good Cause Provision. Good cause for reducing hours or earnings; or terminating employment includes, but is not limited to:

The participant was ill or temporarily incapacitated preventing employment, as medically verified;

The participant was required to care for an ill member of the immediate household, and no other care arrangements were feasible;

The participant experienced a family crisis, such as death of a family member and required immediate attention;

The participant was admitted to a drug and/or alcohol

rehabilitation program;

The employment and/or training is in excess of the participant's physical or mental capacity;

The employment and/or training violated applicable health and safety laws and regulations;

The participant's salary for employment and/or training was either delayed or never received.

The employer reduced hours of employment;

The employee was discriminated against or harassed at work.

(o) Adverse Action. TCC benefits may be terminated if:

(1) The parent or caretaker relative terminates employment without good cause; or

(2) he parent or caretaker relative reduces hours or earning without good cause; or

(3) The parent or caretaker fails to cooperate with the agency in establishing payments and enforcing child support obligations.

(p) TCC Participant Reimbursement. The family's share of child care fees shall be paid directly to the child care provider. A receipt will be provided to the family who will submit a copy to BES. The agency will remit the balance of the child care fees to the provider under the direct payment procedures. Receipts shall be submitted to BES no later than the fifth of the month in order to ensure the provider's payments are processed by the twentieth of the month.

The amounts of TCC reimbursement shall be based on the following criteria:

AGE GROUPS	PART-TIME	FULL-TIME
0 - 2 years	$ 115.00	$180.00
2 - 5	$ 160.00	$180.00
6 - 12	$ 150.00 (After school care)	

The maximum monthly payment or reimbursement for center-

based, full- time child care shall be the actual cost up to $200.00 for children below age 2, and the actual cost up to $190.00 for children age 2 or older. For the part-time care, the maximum monthly payment or reimbursement shall not exceed the amount specified above. The maximum monthly payment or reimbursement shall not exceed the amount specified above. The maximum monthly reimbursements for children who have special needs shall be consistent with the above rates.

The participant shall be informed that the dependent care reimbursement request must be accompanied with the verification of dependent care expenses incurred.

The SW shall follow the "Procedures for Direct Payment Process" for dependent care reimbursement.

(q) Overpayment for Transitional Child Care (and Child Care Under Job Opportunity and Basic Skills (JOBS) Training Program). An overpayment to a family or provider currently receiving child care payments or benefits must be recovered through repayment (in part or in full) by the family or provider responsible for the overpayment or by recovering the overpayment through a reduction in the amount payable to the family or provider.

TABLE A. GROSS MONTHLY INCOME AT 100% AND AT 185% OF THE FEDERAL POVERTY GUIDELINE. (EFFECTIVE OCTOBER 1, 1991)

IF THE HOUSEHOLD SIZE IS:	THE GROSS MONTHLY INCOME AT 100% OF THE FEDERAL POVERTY GUIDELINE IS:	THE GROSS MONTHLY INCOME AT 185% OF THE FEDERAL POVERTY GUIDELINE IS:
1	$ 552.00	$ 1,021.00

2	740.00	1,369.00
3	928.00	1,717.00
4	1,117.00	2,066.00
5	1,305.00	2,414.00
6	1,493.00	2,762.00
7	1,682.00	3,112.00
8	1,870.00	3,460.00
9	2,058.00	3,807.00
10	2,247.00	4,157.00
11	2,435.00	4,505.00
12	2,623.00	4,853.00
13	2,812.00	5,202.00
14	3,000.00	5,550.00
15	3,188.00	5,899.00
Each additional member	+ 188.00	+ 348.00

NOTE: THIS TABLE IS SUBJECT TO CHANGE EVERY OCTOBER OF EACH YEAR.

ARTICLE 8

ELIGIBILITY AND PAYMENT MANUAL

PART III

ADULT ASSISTANCE PROGRAMS

§ 1831. Introduction.
§ 1832. Eligibility Requirements - OAA, AB, APTD.
§ 1833. Old Age Assistance Program.

§ 1831. Introduction.

The purpose of this manual is to provide instructions on actions

to be taken by Bureau of Economic Security (BES) staff in the Administration of Public Assistance Programs under Guam's Public Assistance State Plan. This manual is intended to provide directions for determining eligibility and furnishing assistance i compliance with the requirements of Title I - Old Age Assistance, Title X - Aid to the Blind, and Title XIV - Aid to the Permanently and Totally Disabled, of the Social Security Act, Federal Regulations contained in the code of Federal Regulations (45 CFR), and the Guam State Plan.

(a) Federal Requirements. The Federal requirements for Public Assistance Payment Programs are contained in Public Welfare parts 200 to 499, Code of Federal Regulation (45 CFR).

(b) Guam Laws. The Government Code of Guam, Title X contains laws relative to the administration of welfare programs in Guam.

(c) Program Coordinations. The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau of Management Support, Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department and other agencies in order to assure proper program administration.

§ 1832. Eligibility Requirements - OAA, AB, APTD.

(a) Residency Requirement. To be eligible for assistance, applicants must be living in Guam with the intention of making Guam their home permanently or for an indefinite period or entering Guam with a job commitment or seeking employment.

Clients/Representatives must provide verification of their Guam residency.

Verification: (any of the following is acceptable)

(1) Rent/Mortgage Receipt

(2) Landlord Statement

(3) Guam's Driver's License

(4) Guam Vehicle Registration

(5) Proof of Voter Registration in Guam

(6) Utility Bills/Receipts

(7) Employer Statement

(8) Village Mayor's Statement of Residency

(b) Citizenship Requirements. An applicant or recipient must be U.S. Citizen or an Alien legally admitted for Permanent Residence to the U.S. in order to be ELIGIBLE for program benefits.

Verification (any of the following is acceptable)

(1) Birth Certificate (U.S. or its possession)

Vital Records that are Off-Island

The agency shall assist the applicant by:

(i) Providing the applicant with the name and address of the appropriate vital statistics office.

(ii) Informing the applicant of the fee(s) charged to obtain a copy of the birth record.

The name, address and fees for vital statistics offices may be obtained from the "WHERE TO WRITE FOR VITAL RECORDS" handout issued by the Department of Health and Human Services. A copy of this handout in on file with certification case managers and district supervisors.

The agency shall allow the applicant thirty (30) days to obtain a copy of the birth record. After the thirty (30) days and the applicant has not provided the agency with a copy of the birth record, the agency shall take action to deny the applicant's Application for Financial/Medical Assistance.

The applicant shall be responsible for mailing the request and (appropriate fees) to the vital statistics office.

(2) For CNMI citizens - any of the following documents is acceptable verification:

(i) Certificate of Citizenship (from court with official seal stamped on it)

(ii) Certified copy of Birth Certificate (from CNMI government for individuals born after 1950)

(iii) Certificate of Identity (Blue Card)

(iv) Voting Registration Card (from CNMI)

(v) U.S. Passport

(vi) Naturalization Papers

(vii) Permanent Resident or Resident Alien Card (Green Card)

(c) Furnishing Social Security Numbers (Enumeration). Each applicant/recipient must provide proof of a Social Security Number or apply for a Social Security Number in order to be ELIGIBLE for assistance.

Clients who cannot produce a Social Security Card or number must obtain a receipt of an application for a Social Security Number before they can be included in the assistance unit. Clients are required to submit their Social Security card or number as soon as it is received. If a Social Security Number or Card is not submitted within 90 days from the date of application for an SS number, that person without a SS number shall be excluded from the assistance unit, unless there is a good cause.

In cases where the client has a Social Security Number but cannot provide proof, such as a SS card, the ES shall verify the SS number provided by the client by using the BES referral form which is sent to the Social Security Office by the Program Coordinator in the Program Compliance and Coordination Unit (PCCU).

(d) Cooperation. Clients are required to cooperate with the Division of Public Welfare, Bureau of Economic Security in securing all information needed to determine initial or continuing eligibility. Failure or refusal to do so will result in denial or termination of the grant.

When assistance is pending termination due to non-cooperation and the client cooperates within the ten (10) day notice period and

all eligible factors are met, assistance will be continued. Clients must inform the Division of Public Welfare, Bureau of Economic Security of the following within ten (10) days from date the change occurs.

(i) Change of name

(ii) Change of address

(iii) Change in shelter costs

(iv) Change of household composition - number of people in the home

(v) Resources

(vi) Special Needs

(vii) Any other change in circumstances

(e) Terminations. When an eligibility requirement is not met or the client fails to provide information necessary to determine continued eligibility, investigation of other eligibility factors is unnecessary. Complete and mail notice of action to the applicant/recipient a MINIMUM of ten (10) days before the proposed action is effective. After the ten (10) days advance notice period and client fails to provide needed information, the case shall be terminated or denied. The reason for termination or denial shall be entered on the case folder and the case data on the computer shall be updated on-line.

WHEN ASSISTANCE IS PENDING TERMINATION DUE TO NON-COOPERATION AND THE CLIENT COOPERATES WITHIN THE 10-DAY ADVANCE NOTICE PERIOD AND ELIGIBILITY FACTORS ARE MET, ASSISTANCE SHALL BE CONTINUED.

(f) Adequate Notices - When to use Them. The Agency dispenses with timely notice (advance notice) but sends adequate notice no later than the date of action in the situation below:

(1) The agency has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as new payee.

(2) The recipient requests reduction or termination in writing.

(3) The recipient supplies written information which requires termination or reduction. A signed written statement that the client understands the consequences of supplying such information must be included in the case file.

(4) The recipient has been institutionalized and is no longer eligible for Federal financial participation. (See State Plan - Section 4.1 page 2).

(5) The recipient has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

(6) A recipient's address is unknown and mail to the recipient is returned by the post office. A returned check must be released to the client if a correct address is reported during the month covered by the returned check.

(7) A recipient has been accepted for assistance by another state, and this fact has been verified.

(g) Income. Income, generally is any benefit in cash or in-kind which is in fact currently available to the individual or is received by him as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from person, organizations or assistance agencies. To be considered in determining the assistance payment, income must, in fact, be currently available to needy members of the family in meeting their needs during the budget period.

(1) Earned Income. Earned income encompasses gross income in cash or in-kind earned by a needy individual through the receipt of wages, salary, commissions, or profit from activities in which he is engaged as a self-employed individual or as an employee prior to the taking of payroll and other deductions.

(A) Verification of income and Expense from Employment. The client is responsible for reporting income and providing verifications. The ES will assist if the client cannot obtain information. If the client refuses

to cooperate the case will be closed for lack of cooperation.

Good Cause for failing to make a timely report on earned income is:

(i) if report is lost in the mail;

(ii) circumstances beyond the client's control, such as, but not limited to, illness.

VERIFICATIONS (any of the following is acceptable)

(i) Paycheck stubs

(ii) Signed and dated statement from employer

(iii) Copy of ledger sheets or receipts for business income/expenses

(iv) If no other verification of tips is available, the client's statement providing the amount of tips received or reported to Internal Revenue Service is accepted.

(2) Types of Earned Income.

(A) Self-Employed Income and Expenses. Verification of expenses and income will be completed before eligibility can be established. The client is responsible for keeping records of income and expenses. Gross income less all business operating costs.

Payments received for child care expenses under the Child Care and Development Block Grant (CCDBG).

Verification

(i) Copy of business records used for computing withholding tax or FICA.

(ii) Receipts of payments received for child care expenses.

(B) Earned Income in Kind. Work performed by a client in exchange for room, board, or other needs is

earned income in-kind. The monetary value verified by the employer is EARNED INCOME.

Verification

A signed and dated statement from the employer giving a money value to the earned income in-kind must be provided.

(C) Earnings from the Sale of Whole Blood or Blood Plasma. Money resulting from the sale of whole blood or blood plasma is to be considered as earned income from self-employment. Accordingly, the income is subject to the deduction of any necessary business expenses and appropriate earned income disregards.

Verifications

A statement or receipt from the business entity purchasing the whole blood or blood plasma. The statement or receipt must indicate the following:

(i) Name of person selling his/her blood or blood plasma;

(ii) The date it was purchased;

(iii) The amount it was purchased for;

(iv) The name and title of the purchaser or its representative;

(v) The name and address of the company purchasing the blood.

(3) Earned Income Credit (EIC) Any advanced Earned Income Tax Credit (EITC) deducted from the household's gross income earnings shall be disregarded from the gross income. Any EITC received as a refund of Federal income taxes, shall be totally disregarded as income or resources to the household.

(4) Unearned Income. Income which is not earned.

Evaluation of Unearned Income.

All non-excluded unearned income will be verified, documented and applied against the need standard of the applicant or recipient.

When benefit such as Retirement or Survivors and Disability Insurance benefits may be available but the client has not applied, the ES will allow ten (10) working days for making application. Assistance will be denied or terminated if the client refuses to apply for, pursue and accept a claim or fails to provide information essential to establish the claim.

(5) Types of Unearned Income.

(A) Disability Benefits. Statement from agency or business establishment allowing the disability.

Verification

Copy of award letter.

(B) Retirement, Survivors, and Disability Insurance (RSDI).

Verification

(i) Copy of award certificate

(ii) Copy of disallowance letter

(iii) Copy of monthly check

(iv) SSA 1610

(C) Veteran‘s Benefits. Clients who may be eligible must apply at the Veteran’s Adminis-tration in Hagåtña.

Verifications (any of the following is acceptable)

(i) Copy of award letter

(ii) Copy of disallowance letter

(iii) Copy of benefit check

(iv) Written statement from Veteran’s Administration Office

(D) Military Dependents Allotments. Enlisted

servicemen may make a monthly allowance for dependents.

Verifications (any of the following is acceptable)

Copy of allotment check

Written statement from Allotment Branch

(E) Civil Service Annuities (CSA) If the client has been a federal government employee or is the widow/widower or dependent child of a deceased federal employee, possible Civil Service retirement or disability benefits must be verified in writing.

Verifications (any of the following is acceptable)

(i) Copy of award letter

(ii) Copy of disallowance letter

(iii) Copy of Civil Service annuity check

(F) Public Employee's Retirement Benefits. If the client has been a public employee or is the widow/widower or dependent child of a deceased public employee, possible retirement, survivors, or disability benefits must be verified in writing.

Verifications (any of the following is acceptable)

(i) Copy of award letter

(ii) Copy of disallowance letter

(iii) Copy of state retirement check

(G) Income From Rental and Lease. Gross rental income less rental expenses is unearned income to the assistance unit. Rental expenses include interest on mortgage, property taxes, maintenance/repair costs, insurance on structure, advertising and utilities when paid by the landlord. Verification of income and expenses must be completed before eligibility can be established.

Verifications (any of the following is acceptable)

(i) Copy of receipt book, checks or money orders

(ii) Tenant's statement of payment

(iii) Proof of operating expenses

(H) Contributions. Any cash contributed to an assistance unit, unless excluded as a cash gift is unearned income.

Verifications (any of the following is acceptable)

(i) Copy of check or money order

(ii) Client's written statement

(iii) Statement from person who made contribution

(I) Lump Sum Payments.

(i) Income Tax Refunds are considered a resource for the program, and shall be counted against the $2,000 resource limit.

However, any portion of a tax refund which represents an earned income payment (EIC) would still be considered as earned income.

(ii)The Agency must disregard from the lump sum payment any amount that is earmarked and used for the purpose for which it is paid:

Example: Personal injury awards and worker compensation are treated as lump sum income. However, the agency must exclude from consideration, that portion which is paid for medical bills resulting from the injury or funeral costs.

Verifications:

- Court Order

- Medical Bills

(iii) In treatment of lump sum payment/income, ES shall divide the total payment or income by the applicant or recipient's monthly needs standard to determine the months of ineligibility.

(J) Trust Funds. Income or interest from trust funds is unearned income.

Verifications (any of the following is acceptable)

(i) Copy of check

(ii) Signed and dated statement from the Administrator of trust funds

(K) Income From Boarders. One-half the total payment for room and board is unearned income.

Verifications (any of the following must be provided)

- Copy of receipt
- A signed and dated statement from the roomer/boarder

(L) JTPA Basic Allowance. Any allowance for JTPA participants based on a paid wages (i.e., Need-Based payment) for full-time students is disregarded for six (6) months per calendar year.

Verifications (any of the following is acceptable)

- Signed and dated statement from the agency issuing payment.
- Copy of check

(M) Income From Live-in-Mate or Common-Law Husband or Wife. The contribution from this source is considered unearned income.

Verification

Statement from the live-in-mate

(N) Funds Obtained Through Personal Loans. Any personal loan obtained from a lending institution such as a bank or credit union, etc., shall be treated as unearned income in the month it is received if the funds are used for purposes of current living costs, i.e., utility bills, clothing, etc.

Medical, shelter and utility arrears are not to be considered current living costs. Therefore, any portion of the loan amount that was used to pay medical, shelter or utility arrears will not be counted as income.

The recipient shall be required to provide that the loan amount was used for purposes other than current living costs.

Verifications

(i) Receipt of the purchase of travel fare, i.e., airline ticket;

(ii) Receipts of the medical, shelter or utility arrears that were paid;

(iii) Receipt of the amount used as down payment on a vehicle the client purchased;

(iv) Any other receipts proving that the loan amount was not used for current living costs.

EXAMPLE 1:

A recipient obtained a $1,200 personal loan from the GovGuam Credit Unit. The recipient used $800 to purchase an airline ticket to bring one of her children home and then used the remaining $400.00 to purchase clothing.

The $800.00 is not counted as income to the household; however, the $400.00 is counted as income because it was used for current living costs.

EXAMPLE 2:

A recipient obtained a $1,200 personal loan from a Bank and used the entire amount as a down payment for a vehicle she purchased. The loan amount is not counted as a resource.

EXAMPLE 3:

On February 10, 1988, a recipient obtained a $1,500 personal loan from a Bank and used the entire amount to pay medical bills in arrears since July and August 1987. This amount is not counted as income.

(6) Unearned Income-in-Kind.

(A) Definition: Any non-cash benefit, goods, services, facilities from any source, provided at no cost to the client, and which may meet, in whole or in part, a recognized budgetary need.

All unearned income in-kind shall be DISREGARDED at eligibility determination and benefit calculation. A dollar shall NOT be assigned to the unearned in-kind contributions.

The ES should advise the recipient to:

(i) obtain a written statement from the individual who made the contribution. Such statement shall indicate the type of contribution(s), frequency and dates of payment; if possible, the ES shall obtain that individual's home address, mailing address and/or telephone number(s) from the recipient in order to verify such statements.

(ii) report all contributions (cash or in-kind), no matter how small, to the ES.

(h) Resources.

(1) Resource Reserve Limits. The resource reserve limit for all Adult programs is $2,000 for each individual recipient.

(A) Resources, personal and real properties are counted toward the resource reserve limit, for all persons

included in the assistance unit. Properties are evaluated at market value less encumbrances. The following are considered real property: Land, houses, mobile homes, and immovable property attached to the land; personal property is all assets other than real. When the reserve limits are exceeded, the individual or assistance unit is ineligible.

(B) Client is representative payee or legal guardian for managing someone else's funds.

These funds are NOT included in the client's personal property reserve when they are kept in an account separate and apart from the client's monies AND can be identified as being received and designated for someone other than the client.

(2) Types of Personal Property.

(A) Cash on hand

(B) Stocks, bonds, notes, mortgages and deed of trust. Evaluate at current retail market value less encumbrances

Verifications

- Stock report
- Copy of bond or maturity scheduled
- Copies of receipt
- Copy of the note, mortgage or deed

(C) Checking or Savings Account. Any amount in the accounts is considered a resource.

Verifications

- Copy of current bank statement
- Copy of bank passbook/checkbook

(D) Insurance. If the client is the OWNER of a policy, the cash value is applied to the property reserve.

Verifications

- Insurance policy
- Written statement from insurance company

(E) Vehicles. The first $1,500 of the equity value of one care is exempted from consideration as a resource. (Equity value means fair market value minus legal debts; fair market value means the price that particular vehicle will sell on the open market in the geographic area involved).

(F) Farm Machinery/Equipment. The wholesale value of machinery and equipment less encumbrances is placed in the property reserve.

Verifications

- Written dealer's estimate
- Written estimate from agricultural agent

(G) Trust Funds. Trust funds are referred to the Attorney General's Office for a decision on accessibility. If the funds are determined to be accessible, it shall be counted as a resource.

(H) Individual and Family Grant (IFG). Funds received through the Individual and Family Grant Program shall be treated as resource and counted towards the resource reserve limit IF a recipient cannot provide proof that the IFG funds were used for the purposes intended, i.e., purchase of building materials, clothing, appliance, etc.

The recipient shall be required to provide a copy of the IFG award document.

Verifications

- A receipt from the retailer describing the item(s) purchased and the amount and date of purchase; or
- A statement from the retailer (building supplier, department store, etc.) indicating that the retailer has received the IFG funds to be held in trust for the purchase

of goods at some later date. The statement must also indicate the retailer's name and address, the amount received and the date the funds were received.

(3) Real Property. The fair market value, less encumbrances (legal debts), of property will be applied toward the property reserve limit, unless excluded. Cash settlement received from the sale of real or personal property will be considered a resource. See 233.20

Verifications.

- Signed and dated statement from a licensed real estate broker
- Tax Lists
- Copy of mortgage papers
- Copy of deed

(4) Transfer of Resources. (Refer to Section 206.5 of the AFDC Manual)

(i) Exclusions, Deductions and Disregards.

(1) Assistance from Vocational Rehabilitation agencies.

(2) Assistance from other agencies and organizations when the assistance is for items not included in Need Standard.

(3) Payments from ACTION program including:

Retired Senior Volunteer Program

(D) Incentives Allowances and training relating expenses

(5) CASH GIFTS: Small, non-recurring cash gifts to the assistance unit which do not exceed $30.00 per person per calendar quarter and which are received for: 1) BIRTHDAYS; 2) CHRISTMAS; and 3) GRADUATION.

(2) Income Disregards.

(A) Standard Deduction - 0AA, AB, and APTD. Disregard some amount up to $7.50 per month of income from any source, earned and unearned.

(B) Earned Income Disregards - OAA, and APTD only. The following amounts shall be disregarded from the earned income of each individual with earnings for eligibility determination:

(1) Deduct $20.00 from the first $80.00 of monthly earnings;

(2) Deduct ONE-HALF of the next $60.00 in excess of $80.00 of such earned income.

(3) One burial plot and one funeral agreement, not to exceed a maximum equity value of $1,500 per family member.

(4) Real property is excluded when: The property is a home, including any surrounding land in which a client lives and owns or is buying. Land is contiguous to the home when not separated by property owned by another person.

(5) Additional Real Property is exempted for six months which the family is making a good faith effort to sell, but only if the family agrees in writing to use the proceeds from the sale to repay the PA benefits received had disposal occurred at the beginning of the period. Any remaining proceeds would be considered a resource. If property is not disposed of in 6 months, case is terminated due to resources and payments received is considered as overpayment.

(6) When the Client is a representative payee or legal guardian for managing someone else's funds, these funds are NOT included in the client's personal property received when they are kept in an account separate and apart from the client's monies AND can be identified as being received and designated for someone other than the client.

(j) Issuance and Replacement Cards.

(1) Request for Replacement. A recipient may come in and request for replacement of his/her welfare check if:

(A) The recipient has not received its benefits within ten (10) days of the date of the check; or

(B) The recipient received its "check" and was destroyed in a disaster, i.e., fire, typhoon, flood, or

(C) The recipient received its check but due to unexpected reasons, the condition of the check made it unnegotiable, i.e., manipulated, torn, burned, etc.

(2) Procedures in the Replacement of a PA Check: (Refer to Part II, Section 210 of the AFDC Manual)

§ 1833. Old Age Assistance Program.

(a) Eligibility Requirements Specific to OAA, AB and APTD.

(1) Old Age Assistance (OAA). To be eligible for Old Age Assistance, an applicant must be 65 years or older.

Verifications:

(i) Birth Certificates

(ii) Guam ID Card

(iii) SPIMA ID Card

(iv) U.S. Passport

(v) Permanent Resident Alien Card

(2) Aid to the Blind (AB). An applicant must have central visual acuity of 2-/100 or less in the better eye with correcting glasses, or field defect in which the periphical field has contracted to such extent that the widest diameter of visual fields subtends an angular distance of no greater than 20 degrees.

Blindness must be certified by a Licensed Opthamologist and the client must 18 years of age or older.

(3) Aid to the Permanently and Totally Disabled (APTD). An applicant must have disability or a combination of disabilities which prevent him/her from engaging in a gainful employment as determined and approved by the Medical Review Board Committee.

"Permanently" is related to the duration of the impairment(s) and "Totally" is related to the degree of disability.

Applicant must be 18 years of age or over.

(4) Income Limit. The income of an applicant must not exceed 100% of the needs standard. Should the income exceed the needs standard, the individual is ineligible.

(b) Income Disregards and Deductions.

(1) Standard Deduction (OAA, AB and APTD).Disregard $7.50 per month of income from any source, earned or unearned.

(2) Earned Income Disregards - OAA AND APTD ONLY. The following amounts shall be disregarded from the earned income of each individual with earnings for eligibility determination:

(A) Deduct $20.00 from the first $80.00 of monthly earnings;

(B) Deduct ONE-HALF of the next $60.00 in excess of $80.00 of such earned income.

(C) The balance after disregards is countable earned income. Any unearned income shall be added to the countable earned income. All income, after disregards, shall be considered against the need standard to determine the amount of the grant.

The following is an example:

Step 1 Determine monthly gross earned income $ 75.00

Twice a month	x 2
Total Monthly Gross	$150.00

Step 2 Add monthly earned income credit + 6

if actually received

Total Monthly Gross	$150.00

Step 3 LESS Standard Deduction - $7.50

$142,50

Step 3 Disregard $20.00 from first $80.00 - 20.00

$122.50

Step 4 Disregard ONE-HALF of the next $60.00

in excess of $80.00 (142.50-80=62.50;

1/2 of 60=30) - $ 30.00

Total Countable Earned Income $ 92.50

NOTE: If the countable income is greater than the need standard of the applicant/recipient, the individual is INELIGIBLE for aid. If the countable income is less, proceed to STEP 5.

Step 5 CALCULATION OF BENEFITS

Take need standard for one, including

rental and utilities $139.00

Subtract Countable Income -$ 92.00

Monthly PA Grant $ 47.00

Regulations requires that amount must be rounded down to the lowest dollar. Therefore, the monthly PA grant would be $47.00.

(c) Recoupment of Overpayments for Adult Programs.

(1) Treatment of Overpayments Due to Agency Error. ESs shall NOT RECOUP any Over payments which was due to an agency error from a recipient who has NO INCOME OR RESOURCES other than the welfare grant.

CASE EXAMPLE 1:

Mr. Laygo (ES) discovered that six months ago he failed to reduce the rental allowance on Ms. San Nicolas' OAA grant, causing an overpayment since June. Ms. San Nicolas has no income, only welfare. Mr. Laygo must correct the grant amount

for the following payment month. However, the recoupment shall not be done because Ms. San Nicolas has no income other the assistance payment.

If the recipient has income or resources exclusive or apart from the current assistance payment, the ES SHALL RECOUP the overpayment which was due to an agency error. The amount to be recouped shall not exceed the amount of the recipient's non-welfare income or resources.

CASE EXAMPLE 2:

Ms. Rojas (ES) failed to reduce the rental allowance on Mr. Benavente's OAA grant 12 months ago although Mr. Benavente reported the decrease. Mr. Benavente has income of $50.00 monthly from a part-time job. The ES may recoup the overpaid amount from Mr. Benavente's assistance payment because he has income other than the assistance payment. However, the amount the ES may recoup from the grant may not exceed Mr. Benavente's non-welfare income. In this case, the monthly recoupment amount must be less than $50.00.

(2) Treatment of Overpayments Due to Household Error. Where Over payments were caused by the recipient's willful withholding of information concerning his income, resources, or other circumstance which may affect the amount of payment, the ES SHALL recoup the Over payments from the current assistance grants irrespective of current income or resources.

EXAMPLE:

The recipient failed to report income which caused an overpayment in his grant. The ES may recoup such overpayment, even if the non-welfare income has been terminated.

(3) Withholding of Information. Withholding of information includes the following:

(A) Willful misstatements (either oral or written) made by a recipient in response to oral or written questions from BES concerning the recipient's income,

resources, or other circumstances which may affect the amount of payment. Such misstatements may include understatements of amount of income or resources and omission of entire category or resources;

(B) A willful failure by the recipient to report changes in income, resources, or other circumstances which may affect the amount of payment, if the BES has clearly notified the recipient of an obligation to report such changes. The recipient shall be given such notification periodically at times (not less frequently than semi-annually) and by other methods which will bring such reporting requirements to the recipient's attention;

(C) A willful failure by the recipient (i) to report receipt of a payment which the recipient knew represented an erroneous overpayment, or (ii) to notify the Bureau of Economic Security (BES) or receipt of a check which exceeded the prior check by at least the amount which the State agency previously notified the recipient might represent an overpayment and constitute a sum to which the recipient would not be entitled.

(4) Recoupment Time Frames. Any recoupment of over payments due to agency error, shall be limited to over payments made during the TWELVE (12) MONTHS preceding the month in which the overpayment was discovered.

EXAMPLE:

In November 1988, the ES discovered an overpayment due to the ES's failure to decrease the rental allowance when the client reported it in July 1986. The ES shall recoup only the amounts overpaid from November 1987 to November 1988. The overpaid amounts from July 1986 to October 1987 may be calculated and documented but not recouped because it exceeded the 12 month limitation.

(5) Definition of Overpayment. Overpayment means a cash payment received by or for a public assistance recipient which EXCEEDS the amount for which that individual/unit

was eligible.

(d) Correction of Underpayment for Adult Programs. Retroactive corrective payments (restoration) shall be made only for the TWELVE (12) MONTHS preceding the month in which the underpayment is discovered.

For purposes of determining continued eligibility and amount of assistance, such retroactive corrective payments shall not be considered as income or as a resource in the month paid nor in the following month.

(1) Essential Person. Please refer to Section 202.7 (E), Part II AFDC, Chapter II.

ARTICLE 8

ELIGIBILITY AND PAYMENT MANUAL

PART IV

GENERAL ASSISTANCE PROGRAM

§ 1841. Introduction.
§ 1842. The Application Process.
§ 1843. Eligibility Criteria.
§ 1844. Work Registration.
§ 1845. Recoupment and Correction of Payments.
§ 1846. Glossary.

§ 1841. Introduction.

The purpose of this manual is to provide the Bureau of Economic Security (BES) staff with requirements and procedures for determining eligibility and authorizing assistance in the administration of the General Assistance Program.

(1) Guam Laws. General Assistance Program is authorized under 10 GCA § 2601.

(2) Background. On a national basis, "General Assistance" is a generic term used to describe programs of emergency (non-continuing) income assistance funded solely by the local agency. General Assistance program is an

important component of the income assistance system in the Territory of Guam, serving as the ultimate safety net for low-income persons not eligible for federally funded programs such as Aid for Families with Dependent Children (AFDC) and the Adult Programs (OAA, AB, APTD). It provides for short term or emergency assistance pending determination of eligibility for other programs or the realization of self support. The program is based on financial need only. Benefit levels are provided based on the need standards for all PA programs.

(3) Program Coordination. The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau of Management Support's Investigation and Recovery Office (IRO), Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department of Public Health and Social Services, and other agencies in order to assure proper program coordination.

§ 1842. The Application Process.

(a) Request for Application for Assistance.

(1) Right to Apply. Each individual shall have the opportunity apply for assistance and receive an application form without delay. An applicant may be assisted by other individuals in the various aspects of the application process. These individuals may serve as the authorized representative on behalf of the application.

(2) Reapplication. Terminated for denied cases must file a new application to reapply for assistance.

(3) Reinstatements. Assistance shall be reinstated without a new application when eligibility can be re-established on the basis of information provided by the recipient before the effective date of termination. A new application is needed if the information is provided after the effective date of termination.

In case of agency error or directed by a fair hearing or court decision, aid shall be reinstated.

(4) Distinction Between Application and Inquiry. A request for General Assistance is considered an inquiry until a signed application with applicant's name and address is received by the Bureau of Economic Security.

(b) Steps in the Application Process.

(1) Initial Contact with the Agency. When an individual first contacts the agency for assistance, the Eligibility Specialist (ES) provides Part I application form for completion to pre-screen and determine the urgency of the applicant's situation.

If the application is determined to be in urgent need of assistance, the applicant shall be interviewed immediately.

If the applicant is determined not to be in urgent need of assistance, he/she will be scheduled for a mass screening orientation within two (2) weeks following the date of application. The applicant shall be provided with a list of required documents (document checklist) necessary for the interview.

Factors used in determining urgency of need are:

(i) No income/resource;

(ii) Renting and there is possibility of eviction because payment of rent is behind.

(iii) Utilities to be discontinued because of outstanding bills.

(2) Persons Who May Sign Applications. the adult applicant, the designated authorized representative, or other responsible relatives acting on behalf of an incapacitated adult may sign the application. In the case of couples who do not qualify for AFDC, both parties must sign the application.

When there is a change in grantee-relative and the new grantee-relative is a person who has not signed the current application, a new application must be completed and signed by the new grantee-relative.

If the new grantee-relative is the spouse of the former grantee-relative and signed the current application, no new

application is needed.

(3) Applicant's Rights. Applicants for and recipients of General Assistance have certain rights which are protected by Federal and Local Policy.

Informing individuals of their rights, and interpreting them as necessary, is a basic part of the application process and each review of eligibility. these include

(i) Right to apply;

(ii) Right to a fair hearing;

(iii) Right to confidentiality;

(iv) Civil rights.

(4) Applicant's Responsibilities. The applicant or a protective payee is responsible to the extent permitted by his physical and mental condition for providing documentation to establish eligibility. Some applicant responsibilities include:

(i) Verification of applicant's identify and age;

(ii) Verification of applicant's present address and living arrangement;

(iii) Verification of the family composition and relationships of persons in the household.

(iv) Verification of his financial need and eligibility for assistance.

(v) Provision of Social Security Numbers for every member in the assistance unit.

When additional is needed to establish eligibility, the applicant shall be given specific written instructions at the time of interview regarding any information that the applicant is responsible for providing within 5 days from the date of the written request for additional information (APS-77 FORM).

(c) Delay of Information. Any time beyond the five days written notice shall be considered a delay on the part of the application. The delay shall be the basis for denial of the application

when it appears the applicant is not cooperating in establishing eligibility. The specific reason for the denial shall be clearly stated in the case record and in the notice of denial sent to the applicant.

(d) Worker's Role. The Eligibility Speciality (ES) represents the agency in dealing with inquiries, applicants and recipients. The ES must:

(1) Explain the choice of assistance programs available and recommend the program most appropriate to meet the needs of applicant such as Aid to Families with Dependent Children (AFDC), Old Age Assistance (OAA), Aid to the Permanently and Totally Disabled (APTD), Aid to the Blind (AB), General Assistance (GA), Medicaid and Food Stamps.

(2) Assist the applicant to complete and file his/her application within agency policy.

(3) Inform the individual that the agency will reach a decision within thirty (30) days with respect to the eligibility based on the information presented on the application form and that the applicant/recipient is expected to furnish complete and accurate information on all areas covered by the form.

(4) Explain that some factors of eligibility must be verified and explain what the applicant/recipient is expected to provide in the way of verification.

(5) Explain that if assistance is granted, the client must assume the responsibility of notifying the agency of any change which would affect eligibility or the amount of payment within 10 days of the change.

(6) Explain that a number of persons receiving public assistance, as well as a number of rejected applications and terminated cases will be investigated by the Quality Control staff for an extensive review and verification of data provided in the case record. In signing the application or review the individual agrees to cooperate fully in such an investigation if the individual's name is selected; also, in signing the form, the individual assumes responsibility for accuracy of the information contained.

(7) Explain the necessity for contacting the absent parent to enlist aid in providing support for the children and that income from relatives on a regular basis, whether in the form of cash or income-in-kind, whenever available to a client shall be taken into consideration in determining the amount of assistance.

(8) Discuss certain factors involved in determining eligibility; such as treatment of income, registration with JOBS program, Social Security numbers, and assignment of Child Support. The ES will also discuss additional benefits that may be available to them, such as medical coverage (retroactive also), food stamps and social services.

(9) Furnish information pertaining to the client's right to receive a ten (10) day advance notice on adverse actions and the right to appeal the decisions of the Department of Public Health and Social Services.

(e) Prudent Person Concept. The ES shall follow the prudent person concept in determining eligibility whenever consistent with the procedures set forth in the manual.

The prudent person concept refers to the capability of the ES for reviewing and analyzing information provided by an applicant/recipient and accurately deciding that such information is sufficient for making an eligibility determination or that further inquiry in the client's circumstances is indicated. Proper execution of this concept is of critical importance to the successful administration of all programs. By definition, the prudent person must be vigilant, cautious, perceptive and governed by generally sound judgment.

(f) Duplicate Assistance. Applicants may apply for assistance from any of the public assistance low income programs, but may receive cash assistance from only one. Anyone receiving GA cash assistance from another state is ineligible for GA assistance from Guam, as long as assistance from that state continues.

(g) Right to Appeal. An explanation of the right to appeal any action or failure to act by the Division will be given to each applicant. (See Chapter IV, Section 400, Fair Hearing).

(h) Cooperation with Investigation and Recovery Office (BMS), Child Support Enforcement Unit (SEU). Applicants will be advised that the ES must refer the case to the Office of Child Support Enforcement upon approval, and that cooperation of the applicant with the Office of Child Support Enforcement is a requirement for continuing eligibility. Clients will not be required to cooperate when a determination of good cause for non-cooperation is pending or established. The client must submit a written request for a good cause determination to the ES and provide requested verification.

(i) Client‘s Responsibility. It is the applicant‘s/client‘s responsibility to report any of the following changes in household within 10 days after the change occurred:

(i) New address or change in mailing address;

(ii) New rental amount (increase/decrease);

(iii) The number of people in the household (if someone moves in or out of the home)

(iv) Changes in resources;

(v) Changes in household’s income if it increases, decreases or ceases;

(vi) Changes in utilities or dependent care.

(j) Non-Discrimination. No person will be subjected to discrimination (such as race, sex, color, national origin, handicap, age, etc.) for any reason under any program of the Guam Public Welfare Division according to the Federal Rules and Regulations.

The eligibility Specialist must inform applicants and recipients of their right to file a complaint with the Division, the Federal Agency, or both, if they believe discrimination is being practiced.

(k) Securing Essential Information. Before approval and at each redetermination, all verifications necessary to determine eligibility must be completed.

Applicants and/or recipients are the primary source of information. If a client is unable to obtain information the ES

will assist.

If a third party refuses to supply information without an individual's permission, an Authorization to Release of Information (APS Form) must be signed by the applicant/recipient. lack of third party cooperation must be verified/documented.

(l) Time Limits on Processing. Applicants must be determined eligible or ineligible within 30 days (no later than 45 days) from the date of application. The applicant must be notified via mail, Notice of Approval or Denial, whichever is appropriate.

(m) Disposition of Application.

(1) Denial. Applications are denied when:

(i) Ineligibility is established by the department;

(ii) Applicant fails to provide information essential to determine eligibility; and

(iii) The agency loses contact with the applicant before eligibility is determined. Documentation in the case file is necessary.

(2) Withdrawal. Applications are withdrawn when the client initiates a voluntary request. The reason for withdrawal must be documented in the casefile.

(3) Approval. When eligibility requirements are met, assistance is approved.

§ 1843. Eligibility Criteria.

An individual shall be considered for General Assistance after he/she has applied for the federally funded Public Assistance programs and has been determined to be ineligible.

(a) Citizenship Requirements. A recipient must be a U.S. citizen or an Alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. under color of law (PRUCOL).

The agency shall allow the applicant thirty (30) days to obtain proof of citizenship. After the thirty (30) days and the

applicant has not provided the agency with proofs of citizenship the agency shall take action to deny the applicant application for General Assistance.

Verification (Any of the following is acceptable)

(1) Certified copy of birth certificate (U.S. or its possessions)

(2) Passport

(3) Certificate of citizenship with official seal

(4) Certificate of identify

(5) Voter‘s registration card

(6) Naturalization papers

(7) Vital statistics records from off-island

The agency shall assist the applicant by:

(i) Providing the applicant with the name and address of the appropriate vital statistics office.

(ii) Informing the applicant of the fee(s) charged to obtain a copy of the birth record.

The name, address and fees for vial statistics offices may be obtained from the “Where to Write for Vital Records“ handout issued by the Department of Health and Human Services. A copy of this handout is on file with certification case managers and district supervisors.

The applicant shall be responsible for mailing the request and appropriate fee(s) to the Vital Statistics office.

(b) Residency Requirements. To be eligible for assistance, applicants must be living in Guam with the intention of making Guam their home. applicants must provide verification of residence. Any of the following is acceptable:

Verifications:

(1) Rent/mortgage receipt

(2) Landlord Statement

(3) Guam Driver‘s License

(4) Guam Vehicle Registration

(5) Voter Registration

(6) Utility Bills/Receipts

(7) Employer‘s Statement

(8) Village Mayor‘s Statement

(9) School Records

Applicants must furnish the agency with their Social Security Numbers. The ES shall assist an applicant without Social Security Number to apply for one at the Social Security Administration.

(c) Age Requirement. Applicants must be 18 years of age or older, or an emancipated minor. Any one of the following is acceptable verification:

(1) A birth certificate from Vital Statistics, or from the hospital;

(2) A statement from school records showing the date of birth;

(3) Naturalization Record. The worker should note the naturalization number(s) and the names and birth date(s) of the child(ren) and parents.

(4) Immigration Papers or Government Record of Immigration.

(5) Passport. Record the date issued, full name, and age of the client.

(6) Adoption Decree;

(7) Newspaper Notices. A newspaper clipping is acceptable if it gives the name of the child and parents along with the date of birth.

(8) Marriage certificate;

(9) Court documents verifying emancipation rights.

(d) Income Requirement. Applicants must have no income at all to qualify for General Assistance. Income, generally, is any benefit in cash or in kind which is currently available to the individual or is received by him as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance agencies.

(e) Resource Requirement. To qualify for General Assistance, applicants must have no resources other than those specifically excluded in Section 300.80 of this manual.

Resources, personal and real properties are counted toward the resource reserve limit for all persons included in the assistance unit. Property of the natural, legally liable, or an adoptive parent, with whom the children are living, is also included in the assistance unit‘s property reserve. Properties are evaluated at market value less encumbrances. the following are considered real property: land, houses, mobile homes, and immovable property attached to the land; personal property is all assets other than real property. When the reserve limits are exceeded, the assistance unit is ineligible.

Client is representative payee or legal guardian for managing someone else‘s funds. These funds are not included in the client‘s personal property reserve when they are kept in an account separate and apart from the client‘s monies and can be identified as being received and designated for someone other than the client.

(f) Types of Personal Property.

(1) Cash on hand

(2) Stocks, bonds, notes, mortgages and deed of trust. Evaluate at current retail market value less encumbrances.

Verifications:

Stock report

Copy of bond or maturity schedule

Copies of receipt

Copy of the note, mortgage or deed

(3) Checking and/or Savings Accounts. Any amount in the accounts is considered a resource.

Verifications

Copy of current bank statement

Copy of bank passbook/checkbook.

(4) Life Insurance. If client is the owner of a policy, the cash value is applied to the property reserve.

Verifications

Insurance policy

Written statement from the insurance company

(5) Vehicles. Applicants are allowed on vehicle regardless of the value. The equity value of any additional vehicle is counted as available resource.

Verifications

Client‘s statement regarding the number of vehicles owned, ownership status and availability is acceptable.

Possible sources of verification are:

Kelly Blue Book

Copy of Bill of Sale

Copy of vehicle registration

Estimate from auto dealer

Cars not in the Kelly blue Book, worker‘s assessments.

Transportation Records Management System (TRIMS)

(6) Farm Machinery/Equipment. the wholesale value of machinery and equipment is placed in the property reserve.

Verification

Written dealer‘s estimate

Written estimate from agricultural agent

(7) Trust Funds. Trust funds are referred to the Attorney

General's Office for a decision on availability.

(8) Individual Family Grant (IFG)

(9) Income Tax Refunds

(10) Other Real Property. Any property, other than that where the family resides will be considered a resource.

Verifications:

Signed and dated statement from a licensed real estate broker.

Tax lists.

Copy of mortgage papers

Copy of deed

Certificate of Title.

(11) Lump Sum Income (Earned and Unearned)

(i) Payment in the nature of a windfall, such as, but not limited to, lottery winnings, inheritances, poker winnings, etc.

(ii) Personal injury awards, workman's compensation awards (to the extent it is not earmarked and used for the purpose for which it is paid, i.e. monies for back medical bills).

(iii) Social Security retroactive payments, and other retroactive monthly benefits.

(g) Excluded Property.

(1) Clothing, personal items, furniture, household equipment, food for personal use.

(2) One vehicle, regardless of value, is excluded as a resource. Any additional vehicle is counted as available resource.

(3) One burial plot and one funeral agreement per family member.

(3) Real Property is excluded when the property is a

home, including any surrounding land in which a client lives and owns. Land is contiguous to the home when not separated by property owned by another person.

(h) Transfer of Resources. The applicant/recipient shall not have transferred property with intent to qualify for assistance.

(i) Job Search Requirement. GA recipients between the ages of 18 and 54 who are able bodied and not receiving food stamp benefits shall be required to comply with the Job Search requirements.

(1) Initial Application. Upon initial application, applicant must show proof that he/she had satisfied the following requirements

(i) Applicant shall be registered with the Department of labor and,

(ii) He/she has sought employment from a minimum of three prospective places of employment immediately prior to scheduled interview.

(2) On-Going. In order to satisfy the requirement of seeking work, an eligible individual in the GA program shall furnish to the Department, a minimum of one written statement per week from prospective employers substantiating his/her attempts to obtain employment. In addition, each eligible individual shall be required to visit the Department of Labor on a monthly basis to inquire into employment opportunities and to maintain active employment registration status.

Applicants/Recipients may be permitted to obtain verification of employment search through use of Department‘s form. However, other valid written statements from the prospective employer substantiating the recipient‘s effort to obtain employment, may be acceptable in lieu of the Department‘s form.

A client shall be afforded a grace period up to two (2) work days in the week following in which to submit Job Search verifications for any given week.

(h) Job Search Exemptions.

(1) 55 years and over and has need for assistance.

(2) Mentally or physically impaired whether temporarily or permanently as medically verified.

(3) GETP participants.

(i) Non-compliance with Job Search. A refusal or failure to accept and pursue a referral for employment from the Department of Labor or Department of Public Health and Social Services shall disqualify the individual or in the case a family, the individual and all other members of the assistance household from General Assistance.

(j) Definition of Good Cause for refusing job offer or leaving employment/work training.

(1) It is the responsibility of the individual to provide the necessary verification to establish his good cause for refusing or leaving his employment/work training. The Department may contact the applicant/recipient‘s last employer or prospective employer to corroborate good cause.

(2) Good cause for refusing or leaving employment/work training, when substantiated with written verification or documentation exists when:

(A) The applicant has filed a charge of discrimination against the employer based upon age, race, sex, handicap, religious belief, national origin, or political affiliation, with the appropriate state or federal agencies administering equal employment opportunity practices.

(B) Conditions of employment or training violated health and safety laws or regulations. Such violation must cause actual detriment to the individual‘s health or safety.

(C) The wages offered were less than or reduced to below the prevailing minimum wage in Guam, or in occupations where set minimum wage has been established.

(D) The applicant has filed a charge with the Department of Labor stating that the conditions or

demands of employment violate applicable laws, rules or regulations; and the Department of Public Health and Social Services determines that such charge is valid.

(E) The individual left his job to accept a definite and firm offer of employment elsewhere, as evidence by letter of confirmation, and such employment does not materialize because of circumstances beyond his control. The letter of confirmation must specify the following:

(i) Name of employer and or representative of employer who made the offer.

(ii) Address and/or telephone number of employer.

(iii) Statement of actual job offer.

(F) The resignation of the individual is recognized by the employer as retirement.

(G) The employment of training is beyond the individual's mental or physical capacity, as mutually determined by the employer and individual. If the individual was determined as physically capable of doing the work by the employer, but the individual disagrees, he must provide documentation to verify his physical inability to do the job.

(H) There is severe illness in the individual's immediate family (spouse and children) which requires his presence at home and no other care arrangements were feasible. The existence of such illness subject to the verification of a medical doctor or physician.

§ 1844. Work Registration.

GA recipients between the age 18 and 54 who are able bodied and are receiving food Stamp benefits must work register and participate in the Guam Employment and Training Program.

(a) Guam Employment and Training Program (GETP) The Department of Public Health and Social Services, Bureau of Economic Security Administration (BES) implements the

Guam Employment and Training Program in conjunction with GES, the Agency for Human Resources Development (AHRD), and Guam Community College (GCC). The program provides employment and training opportunities to recipients who are not exempted from the work registration requirements of subsection (b). The program also provides employment and training opportunities to those recipients who are exempted from work registration volunteering to participate in the program.

(b) Exemptions from Work Registration. The following persons are exempt from the work registration requirement:

(1) 55 years or older, has no means of income or resource, and has a need for cash assistance.

(2) Incapacitated. A person physically or mentally unfit for employment. If a mental or physical unfitness is claimed and the unfitness is not evident to the ES, verification from a certified physician shall be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

(3) Caretaker. A parent or other household member who is responsible for the care of a dependent child under age (6) or an incapacitated person. If the child has its 6th birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirement by the next scheduled recertification, unless the individual qualifies for another exemption.

(4) Drug Addicts or Alcoholics. A regular participant in a drug addition or alcoholic treatment and rehabilitation program.

(5) The GETP may exempt certain work registered individuals to undergo the GETP when one of the following conditions exists:

(6) Temporary physical/mental disabilities.

Statement from licensed psychiatrist or physician stating the extent and duration of disability at each recertification of disability whichever is earlier.

(7) Pregnancies from the 7th month/high risk pregnancies.

(8) Status changes which become exempt pursuant to 7CFR(b)(1) during participation in component activities. Individual exemptions shall be evaluated at each recertification and exemptions granted to participants should be reviewed annually to determine whether they should be reviewed annually to determine whether they remain valid. However, participants having been determined by a licensed physician or psychiatrist or temporarily exempts shall be reevaluated upon the cessation of such status and be work registered.

(9) With the consent of GETP Coordinator, the ES may exempt from participation individual household members for whom participation is impractical because of personal circumstances such as:

(i) Lack of job readiness;

(ii) The remote location of work opportunities;

(iii) Physical condition; and

(iv) The unavailability of child care. If a person who is assigned to a component, does commence the component and is determined to have good cause, shall be considered exempted if the reason for good cause will last for 60 days or longer. When the reason for the exemption is not applicable, the person may be placed in a component.

(c) Agency's responsibilities. The ES shall register for work each non-exempt household member. Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the ES shall explain to the applicant or household member the pertinent work requirements, the rights and responsibilities of work registered

household members, and the consequences of failure to comply. The ES shall provide a written statement of the above to each work registrant in the household. A notice shall also be provided when a previously exempt member or new household member becomes subject to a work requirement, and at certification. The ES shall permit the applicant to complete a record or form for each household member required to register for employment. Household members are considered to have registered when the registration form is completed and submitted to the ES within 10 calendar days from the date the form is handed to the applicant or household member.

When a person is not exempted from Work Registration requirement, the ES shall be responsible for referring him or her to the Program Compliance and Coordination Unit (PCCU) for referral and placement into the Guam Employment and Training Program.

Upon reaching a determination that an applicant or a member of the applicant‘s household is require to register, the ES shall explain to the applicant the work registration and Guam Employment and Training Program (GETP) requirements, his or her rights and responsibilities, and the consequences of failure to comply. The ES shall provide work registration forms to the applicant for each household member required to register for employment, and permit the applicant to complete the form for those member. Household members are considered to have registered when an identifiable work registration form is submitted to the ES. An identifiable form shall contain those items necessary for entry into the GETP. The necessary information include: applicant‘s name, address, phone number, GA benefit amount, village, social security number (or some other identifying number when a social security number is not available), the expiration date of the household‘s certification period, and indication of exemption from GETP and other information agreed upon by the Agency and GES in their operation agreements. The Agency and GES must agree before any information in the last category can be specifically required. The Agency shall not forward work registration forms to GES until the household is certified, so

that GES will not have to expend unnecessary efforts on applicants who are subsequently denied rather than certified for GA program. The ES shall forward completed EW-511 to the GETP Coordinator within 24 hours of the time the household has been certified as eligible for benefits, for referral to GES.

The ES shall be responsible for notifying the GETP Coordinator of those work registrants who become exempt from the work registration requirement subsequent to registration, are no longer certified for participation in the Program, or move from the area. Such notification shall be provided to the GES office within a reasonable timeframe established and agreed on by both agencies, but not to exceed 30 days from the date the change becomes known to the Agency. The Agency shall also notify GES promptly of a change in address if the ES becomes aware that a work registrant has moved from one location to another within the same jurisdiction.

(d) Work Registrant Requirements.

(1) Registrants shall participate in an Employment and Training Program is assigned;

(2) Respond to a request from the Agency for supplemental information regarding employment status or availability for work;

(3) Report to an employer to whom referred by the GETP if the potential employment meets the suitability requirements described in Section 406;

(4) Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable Local or Federal minimum wage.

(5) Additional work registration requirements. Work registrants shall also:

(i) Report for an interview upon the reasonable request of GES.

(ii) Respond to a request from GES for

supplemental information regarding employment status or availability for work;

(iii) Report to an employer to whom referred by GES if the potential employment meets the suitability requirements of Section 406;

(iv) Accept a bona fide offer of suitable employment to which referred by the Employment Service Office; and

(v) Continue suitable employment to which referred by GES. Household members shall continue such employment until it is no longer considered suitable, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in Section 402.

(e) Guam Employment Service (GES) Review**.** If a work registrant believes that a GES determination is improper, review of the determination may be obtained from a designated GES official not involved in the original determination. For example, if the work registrant believes he or she has been improperly assigned to a component category or assigned an improper number of job search contacts, or that an action which should have been counted as a contact was not, a review may be obtained.

(f) Sanctions. Persons required to register for work shall be subject to the GETP requirements. Failure to comply with the Work Registration or GETP. Program Requirements shall result in disqualification to receive GA benefits for a period of two (2) months.

If the GETP Coordinator determines that an individual other than the head of household has refused or failed without good cause to comply with the requirements imposed by the GETP and by the Good Stamp Work Registration requirements, that individual shall be ineligible to participate in the GA program for a period of two months and is treated as an ineligible household member.

If the Head of household fails to comply, the entire household is ineligible to receive GA benefits.

Ineligibility shall continue either until the member who caused the violation complies with the requirement, leaves the household, becomes exempt from work registration through Section 402 other than through the exemptions of Section 402.12 or the two months disqualification period had been served, whichever occurs earlier.

In a household with no principal wage earner, the individual designated as head of household at the time of work program violation continues to be considered head of household, rather than letting the household make a redesignation after the violation occurred.

A household determined to be ineligible due to failure to comply with the provisions of work registration or the GETP may reestablish eligibility if a new and eligible person joins the household as its head of household.

If any household member who failed to comply joins another household as head of the household, that entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply joins another household where he/she is not head of household, the individual shall be considered an ineligible household member.

The Agency should determine whether good cause for the non-compliance exists. Within 10 days of the GETP determination that the noncompliance was without good cause, the individual or household shall be provided with a Notice of Adverse Action.

The Notice of Adverse Action notification shall contain (a) the particular act of noncompliance committed, (b) the proposed period of disqualification and (c) specify that the individual or household may reapply at the end of the disqualification. Information shall also be included on or with the notice describing the action which can be taken to end or avoid the sanction.

The disqualification period shall begin on the first month

following the service of the adverse notice period, unless a fair hearing is requested.

The GETP Coordinator shall be responsible for taking appropriate sanction action within ten working days should the individual not comply.

The GETP Coordinator must ensure that GES notifies the Agency within 10 days if an GETP mandatory participant fails to comply with the requirements of the program.

(g) Ending Disqualification. Following the end of the 2 month disqualification period for noncompliance with the work registration or GETP requirements, participation may resume if a disqualified individual or household applies again and is determined eligible; or

If a person is disqualified because of refusal to register to the Work Registration of the household member has complied with the requirement.

When disqualification is due to refusal to respond to request from the agency or GES requiring supplemental information on employment status or evaluation for work, disqualification terminates when household complies with request.

When disqualification is due to refusal to report to an employer to whom referred, such disqualification terminates when household reports to an employer and work is still available or reports to another employer to whom referred.

When disqualification is due to refusal to report to an employer to whom referred, such disqualification terminates when household reports to an employer and work is still available to reports to another employer to whom referred or securing any other employment of at least 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.

When such disqualification is due to persons failing to comply initially with GETP requirements, such disqualification terminates when the household complies at the second

opportunity. If the work registrant fails to comply on the second opportunity, without good cause, and such failure results in disqualification, the disqualification of the household containing the work registrant maybe ended only if the person who caused the disqualification becomes exempt from the registration and the GETP requirements or is no longer a member of the household (although any new household containing this person shall be subject to disqualification for the remainder of the disqualification period), or at the end of two months, whichever occurs earlier. This means, for example, that if the noncomplying household member secures full-time employment and thereby becomes exempt from the work registration requirement before the two month disqualification period is over, the disqualification would end at that point.

(g) Fair Hearings. Each individual or household had a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to a determination of nonexempt status, or determination of failure to comply with the work registration or the GETP requirements. Individuals or households may appeal the agency‘s actions such as exemption status, the type of requirement imposed, or agency refusal to make a finding of good cause, if the individual or household believes that a finding of failure to comply has resulted from improper decisions on these matters.

(h) Participant Reimbursement. Under the Food Stamp rule:

GA recipients participating in GETP will be allowed to receive a payment for anticipated transpiration costs of $25.00 for each month during the period of component participation.

Reimbursement assistance for approved dependent care expenses at $160.00 per dependent per month for each month or component participation will be allowed if such expenses are incurred.

§ 1845. Recoupment and Correction of Payments.

Recoupment of overpayment and correction of underpayments

are applied uniformly throughout the Territory of Guam. The recovery of an overpayment can be waived when it can be reasonably assumed that the cost to collect will exceed the amount owed. Except in fraud cases, the amount of less than $35.00 will be waived from recoupment to former recipients. In fraud cases the amount will be collected.

(a) Recoupment of Overpayments. Overpayment is the amount of difference between what the assistance unit received and what it should have received.

All attempts must be made to recoup all overpayments regardless if the overpayment is a result of IPV or non-IPV.

Recoupment will be made in such a way that available income, resources, and the assistance payment equal to 90 percent of the amount payable to an assistance unit of the same composition with no other income. If recoupment is made from current assistance payment only, 90% of the payment will be made available to client.

Where a former recipient with an outstanding overpayment reapplies and is found to be eligible, the agency must recover the overpayment considering the current income, resources, and assistance payment of the recipient in determining the monthly recovery amount.

All terminated cases with an overpayment must be referred to Investigation and Recovery Unit for collection. The EW shall determine the amount of overpayment and the period the overpayment existed.

All other recoupment cases must be reported to Investigation and Recovery Office (IRO).

For cases in which overpayments resulted due to Intentional Program Violation, refer to Chapter VII, Section 707.12 of this Manual.

(b) Corrected Payments of Under payments. Payment of under payments is not considered as income or resources in the month paid nor in the following months.

All under payments must be paid to current recipients.

If an assistance unit has both an outstanding overpayment and an underpayment, the agency may offset one against the other before adjusting the incorrect payment.