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STATE OF MAINE
ONE HUNDRED AND THIRTIETH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

TO: Senator Anne M. Carney, Chair
Representative Thom Harnett, Chair
Joint Standing Committee on Judiciary

FROM: Senator Ned Claxton, Chair *NC (ATB)*
Representative Michele Meyer, Chair *MM (ATB)*
Joint Standing Committee on Health and Human Services

DATE: March 28, 2022

SUBJECT: Public Record Exception Review
LD 1748, An Act Regarding the So-called Leveraging Investments so Families
Can Thrive Report Produced by the Department of Health and Human Services

The Joint Standing Committee on Health and Human Services is requesting the Joint Standing Committee on Judiciary's review, pursuant to 1 MRSA §434, of a confidentiality provision included in LD 1748, An Act Regarding the So-called Leveraging Investments so Families Can Thrive Report Produced by the Department of Health and Human Services. This bill was originally a concept draft. The bill had a public hearing on March 3, 2022, after language had been drafted, posted and circulated prior to the hearing. The bill was then worked and voted on March 11, 2022. It was voted unanimously OTP-A. The amendment is attached.

LD 1748 proposes to make a number of changes to the Temporary Assistance to Needy Families (TANF) program. PL 2019, c. 485 enacted 22 MRSA §3109 which requires an annual report from Department of Health and Human Services to the joint standing committee of the Legislature having jurisdiction over health and human services matters that includes data on child and family economic of TANF participants and those who have been terminated from the program. The purpose of the report is to determine the effectiveness of the TANF program on improving the economic security of children and families and educational outcomes of participants. Section 3 of the LD 1748 amendment proposes to include a qualitative survey of participants and former participants to be included in the report (the amendment also makes the report biennial rather than annual). The department is required to identify (either directly or through a contract) a representative sample of participants, conduct an anonymized survey, and submit a compilation of responses in the report. Section 3 includes a requirement for the department to keep information about survey participants confidential; it is this requirement that triggers this public records exception review.

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packet*

Reviewing the statutory criteria for the proposed exception to public records, we have the following comments.

A. Need to collect the information. The Health and Human Services Committee has determined that the so-called LIFT report would be more useful if it includes both quantitative (pursuant to 22 MRSA §3109, sub-§2) and qualitative (proposed sub-§2-A) data. Collecting that qualitative data requires surveying a sample of current and past TANF recipients.

B. Value in maintaining information. The purpose of the qualitative survey data is to compile that information for inclusion in the biennial report to the Health and Human Services Committee. The report is required to be biennial with the qualitative survey being conducted in even numbered years for reports submitted in odd numbered years. The participant information should be kept confidential as long as it is in the hands of the Department.

C. Federal and state law.

- 42 USC §602(a)(1)(A)(iv) requires states to take reasonable steps to restrict the use and disclosure of information about individuals and families receiving assistance under the TANF program. Additionally, 45 CFR §205.50 limits disclosure of TANF applicants and recipient information. pp. 11-17
- 22 MRSA §3762, sub-§3, ¶A requires that confidentiality for TANF recipients is maintained at least to the same extent as under AFDC unless otherwise required by federal law or regulation. p. 18
- State rules governing TANF and TANF-ASPIRE require the Department of Health and Human Services to ensure information about recipients is maintained in a confidential manner and only released under certain circumstances (for example, in response to subpoenas, to other departments for determining eligibility, in emergency situations, or specific job development information to employers). These circumstances mirror federal code and rules and do not apply to the language in this proposed amendment. pp 19-24
- The TANF State Plan also requires information about TANF applicants and recipients to be maintained in a confidential manner and only released under circumstances. p. 25

(Citations attached)

D. Balancing the individual's privacy rights and the public interest. There is no need for the public to be able to identify the participants in a survey. There may be a clear public interest in a report on performance of the TANF program – the report with the compilation of data is a public document. The law requires the selection of a representative sample to be surveyed.

E. Balancing the effect of disclosure on business competition against the public interest. There is no connection between this information and competitive disadvantages of any business in this State.

F. Interfering in public negotiations. We are unaware of any connection between this information and negotiations involving a public body.

G. Balancing the public interest and potential jeopardy to public safety or a member of the public. There is no need for the public to be able to identify the participants in a survey. As mentioned in paragraph D above, the report is a public document.

H. Narrowness of the exception. The public records exception has been drafted as narrowly as possible. Under current federal and state laws and regulations, TANF participant information is confidential except in certain circumstances.

Thank you for reviewing this proposed public records exception. If you have any questions, please don't hesitate to contact us.

Federal Regulations pp 11-17

Maine law - TANF confidentiality p. 18
(22 S 3102, sub 33, 4(A))

TANF Rules (Maine) pp 19-21

ASPIRE - TANF Rules (Maine) pp 22-24

TANF State Plan (Maine) p. 25

Committee: HHS

Drafter: ATB

File Name: G:\COMMITTEES\HHS\Bill amendments\130th 2nd\227902.docx

LR (item)#: 227902

New Title?: No

Add Emergency?: No

Date: March 23, 2022

Committee Amendment “ ” to LD 1748, An Act Regarding the So-called Leveraging Investments so Families Can Thrive Report Produced by Department of Health and Human Services

Be it Enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3109, sub-§1, ¶E is enacted to read

E. “ASPIRE-TANF” means the Additional Support for People in Retraining and Employment – Temporary Assistance for Needy Families established in section 3781-A.

Sec. 2. 22 MRSA §3109, sub-§2, 1st ¶ is amended to read:

2. Identify measures of child and family economic security. ~~Beginning October 15, 2019 and annually January 15, 2023 and biennially thereafter,~~ the department shall obtain and compile the following data for the State regarding child and family economic security from those sources reasonably available to the department, including, but not limited to, data collected and maintained by the department, data available from the Department of Labor and the Department of Administrative and Financial Services, Bureau of Revenue Services or other state or federal agencies and such other data as can reasonably be obtained from other public or private sources upon request. The data must include:

Sec. 3. 22 MRSA §3109, sub-§2-A is enacted to read:

2-A. Survey experiences of ASPIRE-TANF participants. Beginning in calendar year 2024, and biennially thereafter, the department shall conduct a survey of program participants and compile the answers to include in its biennial report for the following year pursuant to subsection 3. The department shall select a representative sample of current ASPIRE-TANF participants and a representative sample of ASPIRE-TANF participants whose participation in ASPIRE-TANF was terminated in the previous year with contact information that remains available to the Office for Family Independence. The department shall survey the selected samples of participants using an anonymized survey. The department shall provide the opportunity to respond orally to the survey for participants who request interpreter services or another reasonable accommodation. (Information about the participants is confidential.) The department may use funds from the federal Temporary Assistance Block Grant to contract for this work. The survey topics include, but are not limited to:

A. Administrative burdens faced by participants in the program;

B. Availability of interpretation and translation services;

C. Experiences of discrimination based on racial or ethnic identity, sex, gender identity, sexual orientation, ability or disability status, religion, national origin or marital status;

D. Availability of education and training programs, including post-secondary programs, and staff knowledge and referral to appropriate programs and services;

E. Availability of adequate support services, including but not limited to childcare, transportation, and recommendations for other support services needed but not available;

F. Overall experience and recommendations for improvement of the ASPIRE program; and

G. Optional demographic questions, including but not limited to geographic location, racial or ethnic identity, sexual orientation, gender identity, disability, religion, national origin, marital status and need for interpreter.

Sec. 4. 22 MRS §3109, sub-3 is repealed and the following enacted in its place:

3. Measuring the effect of department initiatives to improve child and family economic security; reports. The department shall submit biennial reports, in accordance with this subsection, to the joint standing committee having jurisdiction over health and human services matters that analyze the program's impact on family economic security, including increased ability to meet basic needs, improved educational levels and increased income.

A. No later than January 15, 2023, the department shall present the data collected pursuant to subsection 2 along with an assessment of how these measures can be improved. The department shall also identify any obstacles to improving the economic security for children, families and individuals which must include an analysis of how methodologies for TANF eligibility may be changed to increase the number of children under poverty eligible to receive assistance, and make recommendations for addressing those obstacles, which may include improved coordination between state agencies. The department shall convene a representative group of current and former TANF participants who volunteer to review the data collected pursuant to subsection 2. This group shall have the opportunity to create a separate report making recommendations to improve economic security for children, families, and individuals, which may also be presented by the group to the committee.

B. Beginning January 15, 2025, and biennially thereafter, the department shall present the data collected pursuant to subsection 2 and the survey responses compiled pursuant to subsection 2-A along with an assessment of how these data measures can be improved. The department shall also identify any obstacles to improving the economic security for children, families and individuals and make recommendations for addressing those obstacles, which may include improved coordination between state agencies. The department shall convene a representative group of current and former TANF participants who volunteer to review the data collected pursuant to subsection 2 and the anonymous survey data collected pursuant to subsection 2-A. This group shall have the opportunity to create a separate report making recommendations to improve economic security for

children, families, and individuals, which may also be presented by the group to the committee.

For all reports required pursuant to this subsection, the committee's review must include the opportunity for public comment and the committee may introduce any legislation that is considered necessary to address barriers faced by the department in improving economic security for children, families and individuals in this State.

Sec. 5. 22 MRSA §3762, sub-§1, ¶¶G and H are enacted to read:

G. "Culturally and linguistically appropriate" means services that are designed to serve culturally diverse populations in their preferred languages; function effectively within the context of cultural beliefs, behaviors and needs presented by program participants and their communities; contribute to a work environment that supports diversity; promote community engagement; build trust and relationships with people in the program; actively support and enable participants to make informed choices; and value and facilitate the exchange of information with participants.

H. "Trauma-informed" means services that acknowledge and are informed by the widespread impact of trauma and recognize the potential paths for recovery; recognizing the unique signs and symptoms of trauma in clients, families and staff; respond by fully integrating knowledge about trauma into policies, procedures and practices; and seek to actively avoid re-traumatization.

Sec. 6. 22 MRSA §3762, sub-§21 is enacted to read:

21. Duty to provide culturally appropriate and trauma-informed services. The department shall work with all TANF participants in a culturally and linguistically appropriate and trauma-informed manner to assist each family in obtaining the services and skills necessary to sustain economic stability and opportunity after leaving the TANF program. Each ASPIRE-TANF participant must be screened to identify any need for culturally or linguistically appropriate or trauma-informed services. If such a need is identified, the department shall use appropriate methods and techniques to work with the participants to develop a goal that reflects, to the greatest extent possible, the preferences of the participants, individualized plans that address the participant's situation and barriers to sustained economic stability. The department shall work with participants to connect with appropriate programs and services available to help the family attain and sustain economic stability and to ensure the well-being of the children.

Sec. 7. 22 MRSA §3788, sub-§1-A is amended to read:

1-A. Information about and application for Parents as Scholars. When there are fewer than 2,000 enrollees in the Parents as Scholars Program under chapter 1054-B, the department shall inform all persons applying for ASPIRE-TANF and all ASPIRE-TANF participants reviewing or requesting to amend their education, training or employment program under ASPIRE-TANF of the program and shall offer them the opportunity to apply for the program, and shall assist people seeking to matriculate for post-secondary education including through appropriate referrals for remedial services or financial aid assistance, and the provision of ASPIRE services for which they are eligible.

Sec. 8. 22 MRSA §3788, sub-§6 is amended to read:

6. Education, training and employment services. The ASPIRE-TANF program must make available a broad range of education, training and employment services in accordance with section 3781-A, subsection 3 and the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105 and the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4. These services and activities must include all of those services and activities offered by the Additional Support for People in Retraining and Employment Program on October 1, 1989, except in 2-year and 4-year postsecondary education and except as provided in chapter 1054-B. This section does not prohibit the department from purchasing equivalent services from providers other than those from whom those services were purchased on October 1, 1989. When a particular approved education or training service is available at comparable quality and cost, including the cost of support services, and the implementation of the family contract would not be unreasonably delayed, the program participant may choose to enroll for that service with the provider of that person's preference. If this decision is not mutually agreed to by the participant and the case manager, the decision must be reviewed by the case manager's supervisor. These services ~~do not~~ must include reimbursement for the cost of tuition or , mandatory fees or the cost of transcripts or transferring credits for postsecondary education unless: when the participant has exhausted any available educational funding to complete the participant's family contract, in accordance with department rules.

~~A. The participant is unable to secure other educational funding needed to complete the participant's family contract due to:~~

~~(1) Poor credit as determined by the educational funding source; or~~

~~(2) The consideration by the educational funding source of resources from past years that are not actually available to the participant;~~

~~B. In the determination of the department, failure to pay the tuition or fee would result in higher ASPIRE-TANF program costs to achieve the participant's approved goal; or~~

~~C. The participant meets an exception specified in rules adopted by the department.~~

When a substantially similar postsecondary education or training program of comparable quality is available at both a public and private institution, within a reasonable commuting distance for the participant, the department may choose to approve the program offered at the public institution if the participant's program can be completed at less cost at the institution.

Sec. 9. 22 MRSA §3788, sub-§6-A is enacted to read:

6-A. Parents as Scholars pre-matriculation services. The department shall assist ASPIRE-TANF participants interested in applying for the Parents as Scholars program to prepare to matriculate, including enrolling, or preparing to enroll, in a program providing remedial services necessary for matriculation, identifying the strengths, needs, and barriers faced by the participant and making referrals to programs qualified to assist the participant with the services, supports, education, training, and accommodations needed to reduce or overcome barriers to enrollment in the Parents as Scholars Program. The department will cover the cost of support services in accordance with this section needed for any activity under this subsection

included in the family contract. Any hours spent preparing for matriculation under this subsection including, but not limited to, exploring educational opportunities and financial aid options and applying for educational programs or financial aid, shall be considered hours of participation in the ASPIRE-TANF program for the purposes of state participation under Chapter 1053-B. These hours may also be counted for federal participation as allowable by federal law.

Sec. 10. 22 MRSA 3790, sub-§1 is amended to read:

1. Established. The department shall establish a student financial aid program based on need for up to 2000 participants known as the Parents as Scholars Program, referred to in this section as the "program," to aid needy students who have dependent children and who are matriculating in postsecondary undergraduate 2-year and 4-year degree-granting education programs. Enrollees in the program must be provided with a package of student aid that includes aid for living expenses equivalent to that provided pursuant to chapter 1053-B, medical assistance pursuant to chapter 855 and services and benefits at least equivalent to those provided pursuant to chapter 1054-A and to participants in the Higher Opportunity to Pathways to Employment program pursuant to chapter 1054-C. A family that ceases to receive aid under this chapter as a result of increased child support or increased hours of, or increased income from, employment is eligible to receive transitional support services in accordance with section 3762, subsection 8. The program must be supported with funds other than federal block grant funds provided under the United States Social Security Act, Title IV-A, except that federal funds may be used in accordance with federal law if their use does not result in the imposition of conditions of participation or program requirements other than those established by this chapter.

Sec. 11. 22 MRSA §3790, sub-§3 is amended to read:

3. Program requirements. An enrollee must participate in a combination of education, training, study or work-site experience for an average of 20 hours per week in the first 24 months of the program. Aid under this chapter may continue beyond 24 months if the enrollee remains in an educational program and agrees to participate in either of the following options:

- A. Fifteen hours per week of work-site experience in addition to other education, training or study; or
- B. A total of 40 hours of education, training, study or work-site experience.

The department shall present both options to enrollees and permit them to choose either option. For the purpose of this subsection, work-site experience includes, but is not limited to, paid employment, work study, practicums, internships, clinical placements, laboratory or field work directly related to the enrollee's employment goal or any other work activities that, as determined by the department, will enhance the enrollee's employability in the enrollee's field. In the last semester of the enrollee's educational program, work-site experience may also include resume preparation, employment research, interviews and other activities related to job placement.

For the purposes of this subsection, study hours are counted as three times the number of hours of classroom instruction, which may include virtual instruction. These study hours are not

required to be scheduled or supervised. A participant shall be deemed to meet the participation requirements of this subsection if the participant, in order to improve their academic performance or to improve their attendance or to more appropriately meet the needs of their family, has chosen to matriculate less than full time but at least half-time, as defined by acceptance to and official registration of at least a half-time study by the training or educational institution.

The department shall make reasonable adjustments in the participation requirements in this subsection for good cause. For the purpose of this subsection, "good cause" means circumstances in which the required participation would cause the enrollee to seriously compromise academic performance. "Good cause" includes, but is not limited to, a verifiable need to take care of a family member with special needs, a physical or mental health problem, illness, accident, death or a serious personal or family problem that necessitates reduced participation or time off from education, training or work. An enrollee receiving aid under this chapter must make satisfactory progress in the enrollee's educational program. The department shall adopt rules defining satisfactory academic progress. The department may not disapprove an educational plan based solely on the length of the educational program.

Sec. 12 MRSA §3790-A, sub-§2-A is enacted to read:

2-A. Coordination with state educational institutions and programs. The department shall deem a referral from an educational institution or program that is part of the University of Maine System; the Maine Community College System; Jobs for Maine's Graduates established in Title 20-A, chapter 226; an adult education program established in Title 20-A, chapter 315; or the career centers established by the Department of Labor as an application for the Higher Opportunity to Pathways to Employment Program as long as, in accordance with department rules, the referral is submitted by a qualified person at the institution or program on a form provided by the department for this purpose and signed by the prospective student expressing a desire to enroll in the Higher Opportunity to Pathways to Employment program. The department shall notify these institutions and programs of the opportunity to refer prospective students in accordance with this subsection and make available to prospective students and these institutions and programs referral forms to serve as an application for purposes of this subsection.

Sec. 13. Improve application processes for post-secondary education programs. In order to improve access to post-secondary certificate and degree programs through ASPIRE, Parents as Scholars, Higher Opportunity to Pathways to Employment program, Competitive Skills Scholarship Program, and other programs providing this opportunity, the departments of health and human services, education and labor as well as the University of Maine System and the Maine Community College System shall work together to explore the feasibility of creating a pre-application for persons expressing a desire to enroll in post-secondary education and training programs to be available from the departments and at relevant educational institutions or programs including, but not limited to, the University of Maine System, the Maine Community College System, adult education programs established in Title 20-A, chapter 315, and the career centers established by the Department of Labor. The Departments of Health and Human Services, Education and Labor as well as the University of Maine System and the Maine Community College System shall identify opportunities for an individual to initiate their application, with the departments coordinating and facilitating the application for the correct

program based on the applicant's interests and the programs' eligibility requirements. By March 1, 2024, the Department of Labor, University of Maine System, the Maine Community College System, adult education program, and the Department of Health and Human Services shall provide a written status update for the Joint Standing Committee on Health and Human Services, regarding the feasibility of facilitating applications for post-secondary education programs. This written status update must include any needs, financial, technological, or otherwise, identified by the departments, university and college systems to achieve this type of enhanced coordination and strategies to meet those needs. The committee may introduce any legislation that it considers necessary in response to this status update.

Sec. 14. Rulemaking. No later than October 1, 2023, the department shall adopt rules to implement this Act. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, Chapter 375, subchapter 2-A. For the purposes of Sections 5 and 6 of this Act, in advance of rulemaking pursuant to these sections the department shall consult with current and former participants in the ASPIRE-TANF Program and consider their recommendations.

SUMMARY

This amendment replaces the concept draft. It accomplishes the following:

1. It requires the addition of qualitative survey data of ASPIRE-TANF participants in the report that is submitted to the joint standing committee of the Legislature having jurisdiction over health and human services matters pursuant to Title 22, section 3109. It changes the report from an annual report to a biennial report beginning January 15, 2023.
2. It requires the Department of Health and Human Services to provide "culturally and linguistically appropriate" and "trauma-informed" services to TANF recipients. It requires the rulemaking process to define these terms to include consultation with current and former TANF participants.
3. It requires the Department to assist recipients of TANF seeking to matriculate for the Parents as Scholars program, with access to remedial services, financial assistance and the provision of ASPIRE services. Services must include reimbursement for tuition, fees, and transcript costs. Hours spent preparing for matriculation are considered hours of participation in the ASPIRE-TANF program.
4. It creates parity between the Parents as Scholars program and the Higher Opportunity to Pathways to Employment Program by making services and benefits equivalent between programs, and by requiring, for both programs, that study hours for child care be counted for three hours for every one hour of enrollment, and options for half-time study are available. It also modifies program requirements regarding how study hours and half-time enrollment are counted.
5. It requires the Departments of Health and Human Service, Labor and Education and the University of Maine System and the Maine Community College System to explore the feasibility of simplifying the application process for education programs including ASPIRE, Parents as Scholars, Higher Opportunity to Pathways to Employment, and the Competitive Skills Scholarship Program to a single application.

“(E) The younger the single-parent mother, the less likely she is to finish high school.

“(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

“(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at \$120,000,000,000.

“(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

“(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

“(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact 2-parent families.

“(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

“(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

“(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

“(N) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in part A of title IV of the Social Security Act [this part] (as amended by section 103(a) of this Act) is intended to address the crisis.”

[References to the food stamp program established under the Food and Nutrition Act of 2008 considered to refer to the supplemental nutrition assistance program established under that Act, see section 4002(c) of Pub. L. 110-246, set out as a note under section 2012 of Title 7, Agriculture.]

APPROPRIATION BY STATE LEGISLATURES

Section 901 of Pub. L. 104-193 provided that:

“(a) IN GENERAL.—Any funds received by a State under the provisions of law specified in subsection (b) shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

“(b) PROVISIONS OF LAW.—The provisions of law specified in this subsection are the following:

“(1) Part A of title IV of the Social Security Act [this part] (relating to block grants for temporary assistance for needy families).

“(2) The Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9858 et seq.] (relating to block grants for child care).”

§ 602. Eligible States; State plan

(a) In general

As used in this part, the term “eligible State” means, with respect to a fiscal year, a State that, during the 27-month period ending with the close of the 1st quarter of the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

(1) Outline of family assistance program

(A) General provisions

A written document that outlines how the State intends to do the following:

(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier, consistent with section 607(e)(2) of this title.

(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 607 of this title.

(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 603(a)(2)(C)(iii)¹ of this title) for calendar years 1996 through 2005.

(vi) Conduct a program, designed to reach State and local law enforcement officials, the education system, and relevant counseling services, that provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men.

(B) Special provisions

(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

(iii) The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.

(iv) Not later than 1 year after August 22, 1996, unless the chief executive officer of the State opts out of this provision by notifying the Secretary, a State shall, consistent with

¹ See References in Text note below.

the exception provided in section 607(e)(2) of this title, require a parent or caretaker receiving assistance under the program who, after receiving such assistance for 2 months is not exempt from work requirements and is not engaged in work, as determined under section 607(c) of this title, to participate in community service employment, with minimum hours per week and tasks to be determined by the State.

(v) The document shall indicate whether the State intends to assist individuals to train for, seek, and maintain employment—

(I) providing direct care in a long-term care facility (as such terms are defined under section 1397j of this title); or

(II) in other occupations related to elder care determined appropriate by the State for which the State identifies an unmet need for service personnel,

and, if so, shall include an overview of such assistance.

(2) Certification that the State will operate a child support enforcement program

A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D of this subchapter.

(3) Certification that the State will operate a foster care and adoption assistance program

A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E of this subchapter, and that the State will take such actions as are necessary to ensure that children receiving assistance under such part are eligible for medical assistance under the State plan under subchapter XIX of this chapter.

(4) Certification of the administration of the program

A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

(B) have had at least 45 days to submit comments on the plan and the design of such services.

(5) Certification that the State will provide Indians with equitable access to assistance

A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a tribal family assistance plan approved under section 612 of this title, with equitable access to assistance under the State program funded under this

part attributable to funds provided by the Federal Government.

(6) Certification of standards and procedures to ensure against program fraud and abuse

A certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

(7) Optional certification of standards and procedures to ensure that the State will screen for and identify domestic violence

(A) In general

At the option of the State, a certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to—

(i) screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;

(ii) refer such individuals to counseling and supportive services; and

(iii) waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

(B) "Domestic violence" defined

For purposes of this paragraph, the term "domestic violence" has the same meaning as the term "battered or subjected to extreme cruelty", as defined in section 608(a)(7)(C)(iii) of this title.

(b) Plan amendments

Within 30 days after a State amends a plan submitted pursuant to subsection (a) of this section, the State shall notify the Secretary of the amendment.

(c) Public availability of State plan summary

The State shall make available to the public a summary of any plan or plan amendment submitted by the State under this section.

(Aug. 14, 1935, ch. 531, title IV, §402, as added Pub. L. 104-193, title I, §103(a)(1), Aug. 22, 1996, 110 Stat. 2113; amended Pub. L. 105-33, title V, §§5501, 5514(c), Aug. 5, 1997, 111 Stat. 606, 620; Pub. L. 106-169, title IV, §401(a), Dec. 14, 1999, 113 Stat. 1858; Pub. L. 111-148, title VI, §6703(a)(2)(A), Mar. 23, 2010, 124 Stat. 798.)

REFERENCES IN TEXT

Section 603(a)(2) of this title, referred to in subsection (1)(A)(v), was amended generally by Pub. L. 109-171,

title VII, §7103(a), Feb. 8, 2006, 120 Stat. 138, and, as so amended, no longer defines "illegitimacy ratio".

Parts D and E of this subchapter, referred to in subsec. (a)(2), (3), are classified to sections 651 et seq. and 670 et seq., respectively, of this title.

PRIOR PROVISIONS

A prior section 602, acts Aug. 14, 1935, ch. 531, title IV, §402, 49 Stat. 627; Aug. 10, 1939, ch. 666, title IV, §401, 53 Stat. 1379; Aug. 28, 1950, ch. 809, title III, pt. 2, §321, pt. 6, §361(c), (d), 64 Stat. 549, 558; Aug. 1, 1956, ch. 836, title III, §312(b), 70 Stat. 849; July 25, 1962, Pub. L. 87-543, title I, §§ 103, 104(a)(2), (3)(A), (B), (5)(A), 106(b), 76 Stat. 185, 188; July 30, 1965, Pub. L. 89-97, title IV, §§403(b), 410, 79 Stat. 418, 423; Jan. 2, 1968, Pub. L. 90-248, title II, §§201(a), (b), 202(a), (b), 204(b), (e), 205(a), 210(a)(2), 211(a), 213(b), 81 Stat. 877, 878, 881, 890, 892, 895, 896, 898; Dec. 28, 1971, Pub. L. 92-223, §3(a)(1)-(7), 85 Stat. 803, 804; Oct. 30, 1972, Pub. L. 92-603, title II, §299E(c), title IV, §414(a), 86 Stat. 1462, 1492; Jan. 4, 1975, Pub. L. 93-647, §§3(a)(1), (2), (6), 101(c)(2)-(5), (8), 88 Stat. 2348, 2349, 2359, 2360; Aug. 9, 1975, Pub. L. 94-88, title II, §§202, 207, 208(a), 209, 89 Stat. 434, 436, 437; Dec. 20, 1977, Pub. L. 95-216, title IV, §403(c), 91 Stat. 1561; Apr. 1, 1980, Pub. L. 96-222, title I, §101(a)(2)(A), 94 Stat. 195; June 9, 1980, Pub. L. 96-265, title IV, §§401(a)-(f), 403(a), 406(b), 94 Stat. 460-462, 465, 466; June 17, 1980, Pub. L. 96-272, title I, §101(a)(3)(A), title III, §302(a), 94 Stat. 512, 528; Oct. 19, 1980, Pub. L. 96-473, §6(f), 94 Stat. 2266; Aug. 13, 1981, Pub. L. 97-95, title XXIII, §§2301-2306(a), 2310, 2313(b), (c)(1), 2314, 2315(a), 2316, 2318, 2320(a), (b)(1), 2353(b)(1), (c), 95 Stat. 843-846, 852, 854-857, 872; Sept. 3, 1982, Pub. L. 97-248, title I, §§151(a), 152(a), 154(a), 96 Stat. 395, 396; Oct. 13, 1982, Pub. L. 97-300, title VI, §603, formerly title V, §503, 96 Stat. 1398, renumbered title VI, §603, Nov. 7, 1988, Pub. L. 100-628, title VII, §712(a)(1), (2), 102 Stat. 3248; Jan. 6, 1983, Pub. L. 97-424, title V, §545(b), 96 Stat. 2198; Apr. 20, 1983, Pub. L. 98-21, title IV, §404(b), 97 Stat. 140; July 18, 1984, Pub. L. 98-369, div. B, title VI, §§2621-2624(a), 2625(a), 2626, 2628, 2629, 2631-2634, 2636, 2639(a), (c), 2640(a), (c), 2642(a), (b), 2651(b)(1), (2), 2663(c)(1), (3)(B), (7)(1), 98 Stat. 1134-1137, 1141, 1142, 1144-1146, 1149, 1165, 1166, 1171; Aug. 16, 1984, Pub. L. 98-378, §9(a)(2), 98 Stat. 1316; Apr. 7, 1986, Pub. L. 99-272, title XII, §§12303(a), 12304(a), 100 Stat. 292; Oct. 22, 1986, Pub. L. 99-514, §2, title XVIII, §1883(a)(5)(B), (b)(1)(A), (2)(A), (B), (3)(A), (4), (5), 100 Stat. 2095, 2916, 2917; Nov. 6, 1986, Pub. L. 99-603, title II, §201(b)(1), title III, §§302(b)(1), 303(e)(1), 100 Stat. 3403, 3422, 3431; Dec. 22, 1987, Pub. L. 100-203, title IX, §§9102(b), 9133(b)(1), 101 Stat. 1330-300, 1330-314; Oct. 13, 1988, Pub. L. 100-485, title I, §102(a), 123(d), title II, §§201(a), 202(b)(1)-(3), title III, §§301, 302(a), (b)(1), (c), 303(b)(3), (f)(2)(B), (C), 304(b)(2), title IV, §§401(a)(1), (2)(A), (b)(2), (f), (h), 402(a)-(c), 403(a), 404(a), title VI, §§604(a), 605(a), 102 Stat. 2346, 2353, 2356, 2377, 2382-2384, 2392, 2393, 2395-2398, 2409; Dec. 19, 1989, Pub. L. 101-239, title X, §10403(a)(1)(B)(i), (C)(i), 103 Stat. 2487; Nov. 5, 1990, Pub. L. 101-508, title V, §§5051(a), (b), 5053(a), 5054(a), 5055(a), 5060(a), 5081(a), (c), (d), title XI, §11115(a), 104 Stat. 1388-227 to 1388-229, 1388-231, 1388-233, 1388-236, 1388-414; Aug. 10, 1993, Pub. L. 103-66, title XIII, §13742(a), 107 Stat. 663; Oct. 20, 1994, Pub. L. 103-382, title III, §394(k), 108 Stat. 4029; Oct. 31, 1994, Pub. L. 103-432, title II, §§235(a), 264(c), 108 Stat. 4466, 4468; Aug. 22, 1996, Pub. L. 104-193, title I, §103(c)(1), (2)(A), 110 Stat. 2161; related to State plans for aid and services to needy families with children prior to repeal by Pub. L. 104-193, §103(a)(1), as amended by Pub. L. 105-33, title V, §5514(c), Aug. 5, 1997, 111 Stat. 620, effective July 1, 1997.

AMENDMENTS

2010—Subsec. (a)(1)(B)(v). Pub. L. 111-148 added cl. (v).
 1999—Subsec. (a)(1)(B)(iv). Pub. L. 106-169 made technical amendment to reference in original act which appears in text as reference to August 22, 1996.
 1997—Pub. L. 105-33, §5514(c), made technical amendment to directory language of Pub. L. 104-193, §103(a)(1), which enacted this section.

Subsec. (a). Pub. L. 105-33, §5501(a), substituted "27-month period ending with the close of the 1st quarter of" for "2-year period immediately preceding" in introductory provisions.

Subsec. (a)(1)(A)(ii). Pub. L. 105-33, §5501(b), inserted "consistent with section 607(e)(2) of this title" before period at end.

Subsec. (a)(1)(A)(v). Pub. L. 105-33, §5501(c), substituted "section 603(a)(2)(C)(iii)" for "section 603(a)(2)(B)".

Subsec. (b). Pub. L. 105-33, §5501(d)(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 105-34, §5501(d)(2), inserted "or plan amendment" after "plan".

Pub. L. 105-33, §5501(d)(1), redesignated subsec. (b) as (c).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title VI, §6703(a)(2)(B), Mar. 23, 2010, 124 Stat. 798, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect on January 1, 2011."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-169, title IV, §401(q), Dec. 14, 1999, 113 Stat. 1859, provided that: "Except as provided in subsection (f) [amending section 604 of this title and enacting provisions set out as a note under section 604 of this title], the amendments made by this section [amending this section and sections 604, 609, 613, 616, 629a, 652, 654, 655, 657, 666, 671, and 1320b-7 of this title] shall take effect as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2105)."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 5514(c) of Pub. L. 105-33 effective as if included in the provision of Pub. L. 104-193 amended at the time the provision became law, see section 5518(d) of Pub. L. 105-33, set out as a note under section 862a of Title 21, Food and Drugs.

Section 5518(a) of title V of Pub. L. 105-33 provided that: "The amendments made by this chapter to a provision of part A of title IV of the Social Security Act [chapter 1 (§§5501-5518) of subtitle F of title V of Pub. L. 105-33, amending this section and sections 603, 604, 607, 608, 609, 611, 612, 613, and 616 of this title] shall take effect as if the amendments had been included in section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193] at the time such section became law."

EFFECTIVE DATE

Section effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as a note under section 601 of this title.

DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM

Section 9121 of Pub. L. 100-203 authorized State of Washington, upon application of State and approval by Secretary of Health and Human Services, to conduct demonstration project for purpose of testing whether operation of its Family Independence Program enacted in May 1987, as alternative to AFDC program under this subchapter, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning, prior to repeal by Pub. L. 104-193, title I, §110(b), Aug. 22, 1996, 110 Stat. 2171.

CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE

Section 9122 of Pub. L. 100-203 authorized State of New York, upon application by State and approval by

(13)

Secretary of Health and Human Services, to conduct demonstration program in accordance with this section for purpose of testing State's Child Support Supplemental Program as alternative to the program of Aid to Families with Dependent Children under this subchapter, prior to repeal by Pub. L. 104-193, title I, §110(c), Aug. 22, 1996, 110 Stat. 2171.

UTILITY PAYMENTS MADE BY TENANTS IN ASSISTED HOUSING

Pub. L. 98-181, title II, §221, Nov. 30, 1983, 97 Stat. 1188, as amended by Pub. L. 98-479, title I, §102(g)(3), Oct. 17, 1984, 98 Stat. 2222, provided that notwithstanding any other provision of law, for purposes of determining eligibility, or amount of benefits payable, under this part, any utility payment made in lieu of any rental payment by person living in dwelling unit in lower income housing project assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or section 1715z-1 of Title 12, Banks and Banking, was to be considered to be shelter payment, prior to repeal by Pub. L. 104-193, title I, §110(d), Aug. 22, 1996, 110 Stat. 2171.

EXCLUSION FROM INCOME

Section 159 of Pub. L. 97-248 provided that payments made under statutorily established State program to meet certain needs of children receiving aid under State's plan approved under this part were to be excluded from income of such children and their families for purposes of section 602(a)(17) of this title and for all other purposes of this part and of such plan, effective Sept. 3, 1982, if the payments were made to such children by State agency administering such plan, but were made without Federal financial participation under section 603(a) of this title or otherwise, and if State program had been continuously in effect since before Jan. 1, 1979, prior to repeal by Pub. L. 104-193, title I, §110(e), Aug. 22, 1996, 110 Stat. 2171.

STATE PLANS TO DISREGARD EARNED INCOME OF INDIVIDUALS IN DETERMINATION OF NEED FOR AID; EFFECTIVE DATE

Section 202(d) of Pub. L. 90-248 provided that effective with respect to quarters beginning after June 30, 1968, in determining need of individuals claiming aid under State plan approved under this part, State was to apply provisions of this part notwithstanding any provisions of law other than this chapter requiring State to disregard earned income of such individuals in determining need under such State plan, prior to repeal by Pub. L. 104-193, title I, §110(f), Aug. 22, 1996, 110 Stat. 2171.

§ 603. Grants to States

(a) Grants

(1) Family assistance grant

(A) In general

Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, 2002, and 2003, a grant in an amount equal to the State family assistance grant.

(B) State family assistance grant

The State family assistance grant payable to a State for a fiscal year shall be the amount that bears the same ratio to the amount specified in subparagraph (C) of this paragraph as the amount required to be paid to the State under this paragraph for fiscal year 2002 (determined without regard to any reduction pursuant to section 609 or 612(a)(1) of this title) bears to the total amount required to be paid under this paragraph for fiscal year 2002 (as so determined).

(C) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated,

there are appropriated for fiscal year 2003 \$16,566,542,000 for grants under this paragraph.

(2) Healthy marriage promotion and responsible fatherhood grants

(A) In general

(i) Use of funds

Subject to subparagraphs (B), (C), and (E), the Secretary may use the funds made available under subparagraph (D) for the purpose of conducting and supporting research and demonstration projects by public or private entities, and providing technical assistance to States, Indian tribes and tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under another provision of this part.

(ii) Limitations

The Secretary may not award funds made available under this paragraph on a noncompetitive basis, and may not provide any such funds to an entity for the purpose of carrying out healthy marriage promotion activities or for the purpose of carrying out activities promoting responsible fatherhood unless the entity has submitted to the Secretary an application (or, in the case of an entity seeking funding to carry out healthy marriage promotion activities and activities promoting responsible fatherhood, a combined application that contains assurances that the entity will carry out such activities under separate programs and shall not combine any funds awarded to carry out either such activities) which—

(I) describes—

(aa) how the programs or activities proposed in the application will address, as appropriate, issues of domestic violence; and

(bb) what the applicant will do, to the extent relevant, to ensure that participation in the programs or activities is voluntary, and to inform potential participants that their participation is voluntary; and

(II) contains a commitment by the entity—

(aa) to not use the funds for any other purpose; and

(bb) to consult with experts in domestic violence or relevant community domestic violence coalitions in developing the programs and activities.

(iii) Healthy marriage promotion activities

In clause (ii), the term "healthy marriage promotion activities" means the following:

(I) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

(II) Education in high schools on the value of marriage, relationship skills, and budgeting.

(III) Marriage education, marriage skills, and relationship skills programs,

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essential under emergency conditions for care and services for public assistance recipients and potential recipients;

(4) Coordinating with other government and voluntary welfare agencies, and welfare-related business and professional organizations and associations, in developing emergency operating plans and attaining operational readiness;

(5) Preparing and maintaining data on kinds, numbers, and locations of essential welfare resources, including manpower;

(6) Developing ability to assess emergency welfare resources and determining requirements necessary to care for public assistance cases in the event of disaster or attack;

(7) Preparing plans for claiming and distributing the above resources;

(8) Developing mutual aid agreements at State and local levels with neighboring welfare organizations;

(9) Preparing and distributing written emergency operations plans for public assistance agencies and operating units;

(10) Participating in preparedness exercises for the purpose of testing plans and determining the role of public assistance programs in relation to the overall preparedness program; and

(11) Travel incidental to any of the above activities.

(b) Federal financial participation is available at 50 percent under title IV-A for providing training in emergency welfare preparedness for all staff and for volunteers.

(c) In Guam, Puerto Rico, and the Virgin Islands, Federal financial participation is available at the rate of 75 percent in expenditures for emergency welfare preparedness under titles I, X, XIV, XVI (AABD) of the Social Security Act.

(d) The cost of these activities must be allocated to all programs benefited in accordance with part 74, subtitle A of title 45 of the Code of Federal Regulations.

[41 FR 23387, June 10, 1976, as amended at 51 FR 9203, Mar. 18, 1986]

§ 205.50 Safeguarding information for the financial assistance programs.

(a) *State plan requirements.* A State plan for financial assistance under title IV-A of the Social Security Act, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with:

(A) The administration of the plan of the State approved under title IV-A, the plan or program of the State under title IV-B, IV-D, IV-E, or IV-F or under title I, X, XIV, XVI (AABD), XIX, XX, or the Supplemental Security Income (SSI) program established by title XVI. Such purposes include establishing eligibility, determining the amount of assistance, and providing services for applicants and recipients.

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs.

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need.

(D) The verification to the Employment Security Agency, or other certifying agency that an individual has been an AFDC recipient for at least 90 days or is a WIN or WIN Demonstration participant pursuant to Pub. L. 97-34, the Economic Recovery Tax Act of 1981.

(E) Any audit or similar activity, e.g., review of expenditure reports or financial review, conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity.

(F) The administration of a State unemployment compensation program.

(G) The reporting to the appropriate agency or official of information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under circumstances which indicate that the child's health or welfare is threatened.

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(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients:

(iii) Disclosure of any information that identifies by name or address any applicant or recipient to any Federal, State, or local committee or legislative body other than in connection with any activity under paragraph (a)(1)(i)(E) of this section is prohibited.

(iv) Publication of lists or names of applicants and recipients will be prohibited. *Exception.* In respect to a State plan for financial assistance under title I, IVA, X, XIV, or XVI (AABD) of the Social Security Act, an exception to this restriction may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

(v) The State or local agency responsible for the administration of the State plan has authority to disclose the current address of a recipient to a State or local law enforcement officer at his or her request. Such information is disclosed only to law enforcement officers who provide the name and Social Security number of the recipient and satisfactorily demonstrate that:

(A) The recipient is a fugitive felon (as defined by the State);

(B) The location or apprehension of such felon is within the law officer's official duties; and

(C) The request is made in the proper exercise of those duties.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(A) The names and addresses of applicants and recipients and amounts of assistance provided (unless excepted under paragraph (a)(1)(iv) of this section);

(B) Information related to the social and economic conditions or circumstances of a particular individual including information obtained from any agency pursuant to § 205.55; information obtained from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) must be safeguarded in accordance with procedures set forth by those agencies;

(C) Agency evaluation of information about a particular individual;

(D) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving financial assistance is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the financial assistance programs.

(iii) Except in the case of information requested pursuant to §§ 205.55 and 205.56, or in the case of an emergency situation when the individual's prior consent for the release of information cannot be obtained, the family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, the individual will be notified immediately.

(iv) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(v) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement officer (except as provided for under paragraph (a)(1)(v) with respect to fugitive felons) as from any other outside source.

(3)(i) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions

imposed for improper disclosure and use, and will make these provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(ii) All information obtained pursuant to the income and eligibility verification requirements at §§ 205.55 and 205.56 will be stored and processed so that no unauthorized personnel can acquire or retrieve the information by any means.

(iii) All persons with access to information obtained pursuant to the income and eligibility verification requirements under §§ 205.55 and 205.56 will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications except to the extent required to implement the National Voter Registration Act of 1993 (NVRA), Pub. L. 103-31. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, alien registration notices, and partisan voting information.

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

(iv) Under NVRA, the agency must distribute voter information and registration materials as specified in NVRA.

(b) *Voluntary voter registration activities.* For States that are exempt from the requirements of NVRA, voter reg-

istration may be a voluntary activity so long as the provisions of section 7(a)(5) of NVRA are observed.

(c) *State plan requirements for programs of financial assistance in Puerto Rico, the Virgin Islands, and Guam.* A State plan under title I, X, XIV, or XVI (AABD) of the Social Security Act must meet all the requirements of paragraph (a) of this section, with the exception of paragraphs (a)(1)(i) (D) and (E), of this section, and also provide for disclosure of information concerning applicants and recipients for use by public officials who require such information in connection with their official duties. Under this requirement, such information shall be available only to public officials who certify in writing that:

(1) They are public officials as defined by State or Federal law of general applicability; and

(2) The information to be disclosed and used is required in connection with their official duties.

[46 FR 56684, Aug. 25, 1980, as amended at 47 FR 46506, Oct. 19, 1982; 49 FR 35599, Sept. 10, 1984; 51 FR 7214, Feb. 28, 1986; 51 FR 9203, Mar. 18, 1986; 54 FR 42243, Oct. 13, 1989; 57 FR 30157, July 8, 1992; 58 FR 49220, Sept. 22, 1993; 59 FR 26142, May 19, 1994; 61 FR 58143, Nov. 13, 1996]

§ 205.51 Income and eligibility verification requirements.

(a) A State plan under title I, IV-A, X, XIV or XVI (AABD) of the Social Security Act must provide that there be an Income and Eligibility Verification System in the State. Income and Eligibility Verification System (IEVS) means a system through which the State agency:

(1) Co-ordinates data exchanges with other Federally-assisted benefit programs covered by section 1137(b) of the Act;

(2) Requests and uses income and benefit information as specified in section 1137(a)(2) of the Act and §§ 205.55 and 205.56; and

(3) Adheres to standardized formats and procedures in exchanging information with the other programs and agencies and in providing such information as may be useful to assist Federal, State and local agencies in the administration of the child support program and the Social Security Administration in the administration of the title

H. The municipalities of the State both individually and collectively; [PL 1997, c. 530, Pt. A, §16 (NEW).]

I. The Maine Community College System; [PL 1997, c. 530, Pt. A, §16 (NEW); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

J. The University of Maine System; and [PL 1997, c. 530, Pt. A, §16 (NEW).]

K. Local service providers appropriate for TANF participants. [PL 1997, c. 530, Pt. A, §16 (NEW).]

[PL 2005, c. 397, Pt. A, §23 (AMD); PL 2005, c. 397, Pt. C, §14 (AMD).]

3. **Administration.** The department may administer and operate a program of aid to needy dependent children, called "Temporary Assistance for Needy Families" or "TANF," in accordance with the United States Social Security Act, as amended by PRWORA and DRA, and this Title.

A. The department shall adopt rules as necessary to implement and administer the program. The rules must include eligibility criteria, budgeting process, benefit calculation and confidentiality. The confidentiality rules must ensure that confidentiality is maintained for TANF recipients at least to the same extent that confidentiality was maintained for families in the Aid to Families with Dependent Children program unless otherwise required by federal law or regulation. [PL 1997, c. 530, Pt. A, §16 (NEW).]

B. The department may use funds, insofar as resources permit, provided under and in accordance with the United States Social Security Act or state funds appropriated for this purpose or a combination of state and federal funds to provide assistance to families under this chapter. In addition to assistance for families described in this subsection, funds must be expended for the following purposes:

(1) To continue the pass-through of the first \$50 per month of current child support collections and the exclusion of the \$50 pass-through from the budget tests and benefit calculations;

(2) To provide financial assistance to noncitizens legally admitted to the United States who are receiving assistance under this subsection as of July 1, 2011. Recipients of assistance under this subparagraph are limited to the categories of noncitizens who would be eligible for the TANF programs but for their status as aliens under PRWORA. Eligibility for the TANF program for these categories of noncitizens must be determined using the criteria applicable to other recipients of assistance from the TANF program. Any household receiving assistance as of July 1, 2011 may continue to receive assistance, as long as that household remains eligible, without regard to interruptions in coverage or gaps in eligibility for service. A noncitizen legally admitted to the United States who is neither receiving assistance on July 1, 2011 nor has an application pending for assistance on July 1, 2011 that is later approved is not eligible for financial assistance through a state-funded program unless that noncitizen is:

(a) Elderly or disabled, as described under the laws governing supplemental security income in 42 United States Code, Sections 1381 to 1383f (2010);

(b) A victim of domestic violence;

(c) Experiencing other hardship, such as time necessary to obtain proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; or

(d) Unemployed but has obtained proper work documentation, as defined by the department by rule. Rules adopted by the department under this division are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A;

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR FAMILY INDEPENDENCE**

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A. LEGAL BASIS:

Federal legislation, the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (PRWORA), Public Law 104-193 enacted August 22, 1996 provides states with an opportunity to administer a financial aid and job preparation program. As a condition of receipt of a Part-A, Block Grant for Temporary Assistance for Needy Families (TANF) under Title IV of the *Social Security Act*, Maine agrees to administer a welfare program in accordance with the rules of PRWORA, provisions of its State Plan, and all applicable State laws and regulations.

B. GENERAL RULE:

TANF provides temporary financial assistance to families with needy dependent children while the family works towards becoming self-supporting.

C. PROGRAM REQUIREMENTS:

Basic eligibility criteria and program requirements are contained in chapters I through IV and are arranged by subject. Chapter order follows the eligibility determination process generally used for new applicants.

(1) Confidentiality:

The Department of Health and Human Services must by Federal and State rules provide for the basic rights and dignity of all applicants or recipients of financial services regarding their confidentiality. The Department must ensure that information about the recipient is maintained in a confidential manner and only released under certain circumstances. ~~✗~~

NOTE: All employees of the Department must adhere to this policy.

a) Address Confidentiality Program

The Address Confidentiality Program, administered by the Secretary of State, provides address confidentiality for victims of domestic violence, stalking or sexual assault and requires state and local agencies and the courts to accept a designated address as the program participants' address when creating a public record. When an applicant or recipient verifies that they are a certified participant in the Address Confidentiality Program, the designated address is the only address accepted and provided when staff is required to release information in each circumstance described in pages 1 through 3 of this chapter.

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b) Information requested from outside the Office for Family Independence shall be released by the following:

i. Permission:

Whenever possible, the individual shall be informed of any outside request for information. Permission for release of information shall either be provided by the inquiring source or requested from the recipient. In an emergency situation when a release cannot be obtained and releasing the information would be in the best interest of the client, they shall be notified promptly of the disclosure and the reason for it.

NOTE: The Department shall not release identifying information to absent parents without release from Specified Relatives.

ii. Subpoena:

When the court subpoenas a record or an agency representative to testify concerning an applicant or recipient, the Department's representative shall bring to the court's attention the statutes and regulations regarding disclosure. The decision then rests with the presiding judge.

NOTE: The above conditions apply to requests from other government authorities, courts and law enforcement agencies unless the situation is described in iii(f).

iii. Program Administration:

The release of information must be limited to programs which establish eligibility and provide services through agencies subject to comparable standards of confidentiality. The Department shall release information for the following—

a. Investigation and Recovery

b. Fair Hearing Preparation: The Department shall make all information pertaining to a decision on eligibility, including medical and social data available to the applicant or recipient or their authorized representative.

c. General Assistance: The Department shall provide, to the municipality, financial information necessary to make a determination as to the need and amount of General Assistance. The Department shall not provide Medical reports without the individual's written permission.

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- d. **Law Enforcement:** The Department shall provide the current address of a recipient to a Federal, State or local law enforcement officer upon request of the officer if the officer provides the agency with:
1. The recipient's name and enough information to identify the individual, and
 2. Notification that the individual is fleeing to avoid prosecution or custody or confinement after conviction or that the individual has information that is necessary for the officer to conduct the official duties of the officer and the location or apprehension of the recipient is within such official duties.
- e. **Other Social Service Agencies:** The Department shall provide information upon receipt of written authorization from the individual.
- NOTE:** This authorization is not required of Social Services within the Department; however, they are required to seek permission of the Worker to access the record and may not remove it without permission.
- f. **Suspected Child Abuse or Neglect:** Information regarding suspected child abuse or neglect of any child on the assistance grant must be reported to Department of Human Services Bureau of Child and Family Services. Also, information must be released to any local or state agency or official legally authorized to investigate child abuse and neglect under Maine law.
- g. **Immigration and Naturalization Service:** The Department shall not provide information regarding counterfeit, altered or fraudulent documentation used to obtain benefits unless it has been requested by INS in writing for criminal investigation.

D. APPLICATION PROCESS

All individuals have the right to file an application for TANF/PaS benefits. Completed referrals received from qualified public educational institutions are considered an application for PaS only.

(1) Minimum Requirements:

- a) The applicant or their authorized representative must:
 - i. Complete and sign, under penalty of perjury, an application;
 - ii. Complete an interview; and

**MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR FAMILY INDEPENDENCE
ASPIRE-TANF PROGRAMS RULES**

SECTION 4: CONFIDENTIALITY, PARTICIPANT'S RIGHTS AND RESPONSIBILITIES, GOOD CAUSE, FAIR HEARINGS, SANCTIONS, INTENTIONAL PROGRAM VIOLATIONS, OVERPAYMENT PROCEDURES

SUMMARY: This Section summarizes participants' rights and responsibilities including fair hearings, grievance procedures, and confidentiality. The Section also outlines Good Cause and sanctionable actions.

I. CONFIDENTIALITY

- A. Release of information about a participant to other Offices and Divisions within the Department of Health and Human Services or agencies under contract with ASPIRE-TANF, will be made only when such release is directly related to the administration of the ASPIRE-TANF activity for which information is needed.

Release of information to entities, other than those within the Department or agencies under contract with ASPIRE-TANF regarding participants will be made only upon receipt of written permission from the participant affected. This general rule relating to release of information applies to all requests from outside of the Department including other governmental authorities (local, State and Federal), courts of law, and law enforcement agencies, except as provided in Section 4, Subsection I, B. No information will be given to an absent parent concerning a participant without the written permission of said participant.

In addition, when information is sought and the participant's permission is furnished, ASPIRE-TANF will disclose only such information as is directly related to the administration of ASPIRE-TANF or the agency requesting the information.

- B. Exceptions to the requirement of obtaining the participant's written permission for release of information outside the Department are as follows:
1. In an emergency situation when the participant's consent for release of information cannot be obtained, and ASPIRE-TANF decides it is in the best interest of the participant to release the requested information, ASPIRE-TANF may release such information without written permission of the participant, with approval of a supervisor or supervisor's designee. The participant will be notified as soon as possible about the release and the reason for such release.
 2. Release of information to employers may be made as part of a job development or ASPIRE-Plus/OJT contract development activity providing that activity is included in the Family Contract Amendment which has been signed by the participant.

(I.B. CONFIDENTIALITY CONTINUES ON THE NEXT PAGE)

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(I.B. CONFIDENTIALITY CONTINUED)

3. If a subpoena or order is issued from a court for a case record, or for ASPIRE-TANF staff to testify concerning a participant, ASPIRE-TANF will call the court's attention to statutory provisions and regulations against disclosure of information. The decision regarding release of information will reside with the presiding judge.
 4. A participant's current address only may be made available to Federal, State or local law enforcement officers if the officer furnishes ASPIRE-TANF with the participant's name and demonstrates that:
 - a. The participant is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees; or
 - b. The participant is violating a condition of probation or parole imposed under Federal or State law; and
 - c. The location or apprehension of the participant is within the officer's official duties; and
 - d. The request is made in proper exercise of those duties.
 5. In circumstances other than those covered in Section B, 4, when ASPIRE-TANF employees are asked by a law enforcement officer for the current address or other information regarding a participant, the employee should State that ASPIRE-TANF has no legal authority to disclose the information; but that ASPIRE-TANF will contact the participant and ask for permission to discuss the information, or to encourage the participant to come forward.
- C. With advance written notice of one working day a participant, or a participant's designated representative, may view the contents of the case record during normal business hours and on the premises where the case record is normally kept. Upon request, ASPIRE-TANF will make photocopies of relevant portions of the case record for the participant, or the designee, to take from the premises. The provision for advance written notice of one working day will be waived in instances where a supervisor meeting, or similar event, has been scheduled within twenty-four hours of its being requested.

Information contained in the case record and deemed confidential by ASPIRE-TANF (e.g., names of persons providing information, or information about other persons, of which the participant should not be aware and which has no bearing on the participant's right to due process) must be removed, de-identified or deleted prior to the participant viewing the record. Information removed from the case record will not be used by either party in hearings or similar proceedings.

(I.D. CONFIDENTIALITY CONTINUES ON NEXT PAGE)

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(I. CONFIDENTIALITY CONTINUED)

- D. ASPIRE-TANF will take all necessary precautions to ensure that paper case records and other information regarding participants are kept, when not in use, in filing cabinets or drawers out of public view. Case records may be viewed by supervised ASPIRE-TANF trainees, temporary employees or contractors who have signed a Statement informing them of their responsibilities to ensure client confidentiality.

II. PARTICIPANTS' RIGHTS AND RESPONSIBILITIES

- A. Participants will be notified orally of their rights and responsibilities at the time of the Assessment interview and when a sanctionable act is committed if ASPIRE-TANF is able to meet face-to-face with the participant.
- B. A Notice of Rights and Responsibilities will be printed on the reverse side of all correspondence sent to participants as well as on the Family Contract Amendment and other ASPIRE-TANF documents signed by the participant.
- C. The Notice of Rights and Responsibilities will include a description of sanctions and participant rights and responsibilities including fair hearings.
- D. Federal law and regulations require that mandatory participants who fail without Good Cause to comply with ASPIRE-TANF program rules be sanctioned for failure to comply. Failure of a mandatory ASPIRE recipient to attend ASPIRE appointments or to sign or abide by the terms of the Family Contract Amendment without Good Cause will result in termination of benefits to the individual for the lesser of ninety (90) days or until the failure to comply ceases. TANF cash assistance for the remainder of the eligible family members will continue, if they are otherwise eligible for TANF. Should the first failure to comply last for longer than 90 days or for a second and subsequent non-compliance, TANF cash assistance for the full family unit will be terminated. Food Supplement (SNAP) benefits may also be reduced for a specified period. Non-mandatory participants who do not comply with ASPIRE-TANF program rules may have services and support withdrawn, but TANF and Food Supplement (SNAP) benefits will not be reduced.
- E. Any participant who has Good Cause for failure to comply with ASPIRE-TANF program rules as determined by ASPIRE-TANF will not be sanctioned.
- F. Participants who disagree with ASPIRE-TANF decisions have the right to an Administrative Hearing, sometimes referred to as a Fair Hearing (Section 4, IV).
- G. The ASPIRE-TANF program is obligated by Federal regulations and State law to protect the basic rights and dignity of participants by ensuring confidentiality of information concerning those participants.
- H. The *Deficit Reduction Act of 2005* requires States to report actual, verified hours of activity of TANF recipients. ASPIRE participants must provide verification of their hours of participation in ASPIRE activities.

(III. GOOD CAUSE ON NEXT PAGE)

After ninety (90) days of noncompliance or a subsequent instance of noncompliance, the Department terminates cash assistance to the entire family. The penalty becomes effective on the next benefit month after the adverse action period.

Confidentiality (42 U.S.C. 602(a)(1)(A)(iv))

Take reasonable steps, as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

Federal and State rules provide for the basic rights and dignity of all applicants or recipients of financial services regarding their confidentiality.

Information about TANF applicants and recipients is maintained in a confidential manner and only released under certain circumstances. Information requested from outside the Office for Family Independence (OFI) shall be released by permission by the client or by subpoena. The release of information shall be limited to programs which establish eligibility and provide services through agencies subject to comparable standards of confidentiality.

Prevention and Reduction of Out-of-wedlock and Adolescent Pregnancies (42 U.S.C. 602(a)(1)(A)(v))

Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies.

Maine's TANF program continues to collaborate with and support the efforts of other State agencies and local groups on issues pertinent to adolescent health and specifically to reduce teen pregnancy and unintended births. Those agencies include the Teen and Young Adult Health Program administered by the Maine Center for Disease Control and Prevention.

Maine uses TANF funding for a variety of programs that aim to prevent out of wedlock pregnancies. For example, Maine uses TANF to support programs that provide training and technical assistance to schools and community-based organizations who are delivering evidence-based programming to teenagers that includes topics such as pregnancy prevention, abstinence, and healthy relationships. Maine also uses TANF funds to support domestic violence and sexual assault providers who provide educational programming to children from pre-kindergarten through college. Topics include healthy relationships, and others that assist children to make positive relationship decisions and thus reduce the incidence of out-of-wedlock pregnancy. Maine directs TANF funds to support vulnerable youth who are more susceptible to out-of-wedlock and adolescent pregnancies, such as homeless youth. These programs provide for the youth's basic needs and provide the resources and support they need to improve their lives, and thus lower the incidence teenage pregnancies.