

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-01-45
PURPOSE, SCOPE, APPLICATION OF RULES, DEFINITIONS AND RIGHT TO APPLY
FAMILIES FIRST PROGRAM**

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1240-01-45-.01 PURPOSE, SCOPE AND APPLICATION OF RULES.

- (1) Pursuant to the requirements of Public Chapter 950 (1996), the Families First Act of 1996, the Families First (Temporary Assistance) Program was created to replace the Aid to Families with Dependent Children (AFDC) program in order to reform the program of economic assistance to needy families in Tennessee. These rules implement the Families First program as authorized by the Public Act 950 (1996), and as codified in Title 71 of the Tennessee Code Annotated; the federal Temporary Assistance for Needy Families (TANF) block grant under Title IV-A of the Social Security Act; the Personal Responsibility Act of 1996 (P.L. 103-196); and, the Deficit Reduction Act of 2005 (P.L. 109-171), as amended.
- (2) Pursuant to Tennessee Code Annotated, Section 71-3-157(d), the Department of Human Services is directed to administer the program of economic assistance to families under Title IV-A of the Social Security Act pursuant to federal statutes or regulations as they continue to exist after the effective date of Public Chapter 950 on September 1, 1996 or pursuant to any waivers authorized by the federal government as a result of the enactment of Public Chapter 950 (1996).
- (3) Effective Date of Waiver; Applicable Rules for Eligibility or Appeals of Cases Determined During Waiver Period.
 - (a) A waiver to operate the Families First program under certain exceptions to federal law was granted to the State of Tennessee by the U.S. Department of Health and Human Services on July 25, 1996 until June 30, 2007.
 - (b) Upon review of cases or upon review of eligibility determinations, all initial eligibility determinations prior to the expiration of the waiver shall be reviewed, or determined on appeal, pursuant to applicable terms of the waiver and otherwise applicable law during such period. All eligibility determinations after June 30, 2007, shall be reviewed, or determined on appeal, pursuant to the terms of applicable law then in effect. Where terms of the waiver and federal or state law or regulations are in conflict, the terms of the waiver control during the waiver's effective dates.
- (4) In order to provide continued specific interpretation of certain responsibilities of the Department of Human Services under Title IV-A, Title IV-D, and Title XIX of the Social Security Act which continue to be necessary for the administration of the Families First program, the provisions of paragraph (5) referencing Chapters 1240-01-2 through 1240-01-44 inclusive, Rules of the Tennessee Department of Human Services, Family Assistance Division, as they existed prior to September 1, 1996 or prior to the implementation date of Public Chapter 950 (1996), or as they may be amended thereafter, will apply to Chapter

(Rule 1240-01-45-.01, continued)

1240-01-45 through 1240-01-56, but only where not otherwise in conflict with, or superseded by:

- (a) The specific requirements of 1240-01-45 through 1240-01-56;
 - (b) Federal law or regulations or action transmittals or interpretations of the United States Department of Health and Human Services, as they exist or are amended, or by federal or state court orders which affect Chapter 1240-01-1—1240-01-56 or which otherwise affect the Department of Human Services' responsibility under Title IV-A, Title IV-D and Title XIX of the Social Security Act.
- (5) The following provisions of Chapters 1240-01-02 through 1240-01-44, as limited by Paragraph (4), and as they relate to the Title IV-A, Title IV-D, and Title XIX Medicaid programs concerning the operation of the Families First program, are incorporated by reference into the Families First Program:
- (a) Chapter 1240-01-13 - Case Records Management.
 - (b) Chapter 1240-01-14 - Application Process.
 - (c) Chapter 1240-01-15 - Interviewing for Eligibility.
 - (d) Chapter 1240-01-16 - Verification Procedures.
 - (e) Chapter 1240-01-17 - Timeliness Standards.
 - (f) Chapter 1240-01-18 - Authorization of Grants and Allotments.
 - (g) Chapter 1240-01-19 - Continuing Responsibilities.
 - (h) Chapter 1240-01-43 - Protection of Children.
- (6) (a) Families First, also referred to as Temporary Assistance or Temporary Assistance to Needy Families (TANF), means the program to provide economic support and other support services to families which is provided by the State of Tennessee utilizing funds made available by the Congress of the United States and the Secretary of the Federal Department of Health and Human Services to the State of Tennessee pursuant to the Social Security Act, and any state funds which may be appropriated by the General Assembly designated to support the temporary assistance program.
- (b) Throughout Chapter 1240-01-01 through Chapter 1240-01-44 and Chapters 1240-01-45 through 1240-01-56, and where the context requires, the use of the term "Families First" shall encompass the Temporary Assistance (TA)/Temporary Assistance to Needy Families (TANF) program referenced in Public Chapter 950 (1996), and references to the receipt or application for "Families First" shall, only where the context so requires, mean Temporary Assistance or Temporary Assistance to Needy Families.
 - (c) Any existing references to "Aid to Families with Dependent Children" or "AFDC" shall be construed to refer to the Families First program.
- (7) Nothing in this Chapter shall be construed to modify existing Food Stamp regulations in Chapters 1240-01-01 through 1240-01-44 except as otherwise required by federal or state law or regulation, as they are amended, or federal or state court order, or action transmittals or policy interpretations of the United States Department of Agriculture, or any federal waiver requirements.

(Rule 1240-01-45-.01, continued)

Authority: TCA §§4-5-201 et seq. 4-5-202, 4-5-209, 71-1-105, 71-3-152, 71-3-153, 71-3-154, 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq.; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31; Public Chapter 950 (1996); Section 1115 of the Social Security Act; 42 USC §§601-617; 45 CFR 201-257.

Administrative History: Original rule filed December 2, 1996, effective February 15, 1997. Public Necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007.

1240-01-45-.02 DEFINITIONS. Listed below are definitions of some of the frequently used terms used by the Department of Human Services in the Families First program. This list is not inclusive and should be read in the context of instructions/policies contained in the Families First Handbook of the Family Assistance Manual.

- (1) Absence. Refers to an individual who is physically not in the home.
- (2) Adoptive Parent. The mother and/or father of a child whose parental relationship to the child has been formally established by order of a court of competent jurisdiction.
- (3) Alleged Father. The natural father of a child born out of wedlock for whom paternity has not been established.
- (4) Assistance or Temporary Assistance. Cash benefits paid to an eligible Families First group.
- (5) Assistance Group. A group of individuals for whom Families First is requested or authorized. An assistance group may also be referred to as an AG.
- (6) Caretaker. A relative within a specified degree of relationship to the child who provides a home for the child, exercises primary responsibility for care and control of the child, and is included in the assistance group.
- (7) Child or Children. A person or persons under 18 years of age, or a person who has not reached his/her 19th birthday and who is a full-time student expected to graduate by the 19th birthday.
- (8) Continued Absence of the Parent from the Home (Reference State Rule 1240-01-47-.26 (Absence of a Parent) of these rules).
 - (a) Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and may have left only recently or some time previously.
 - (b) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States (as defined in section 101(3) of the Title 37, United States code) is not considered absent from the home.
 - (c) A parent 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 workday is considered absent from the home.

(Rule 1240-01-45-.02, continued)

- (9) Custody. Immediate charge and control exercised by a person (or an authority) over another. Legal custody is granted by a court of competent jurisdiction.
- (10) Department. The Department of Human Services.
- (11) Dependent Child. A needy child age 17 or younger who is deprived of parental support or care because at least one parent is dead, absent, physically or mentally incapacitated, or unemployed. Included in this definition also is a child age 18 who is deprived of parent support or care and is a full-time student in a secondary school or an equivalent level of vocational or technical school, and is reasonably expected to complete the course of education/training before age 19 or in the month of his/her 19th birthday.
- (12) Disability. Disability is considered to exist if an individual has been approved for Social Security or SSI on the basis of his/her disability, Veterans Benefits based on his/her 100% disability, or Black Lung benefits based on his/her disability.
- (13) Diversion. An option for assistance groups determined eligible for Families First where the family can get a one-time lump sum grant and/or child care assistance instead of a monthly recurring grant. AGs able to choose the diversion option must meet other criteria beyond Families First eligibility as described in 1240-01-49-.09.
- (14) Family. A family is an eligible group of children and parent(s) or caretaker relatives living in a common residence.
- (15) Family Cap. A ceiling on assistance group grant payments for a period of eligibility that occurs when a child is born to the assistance group at least 10 months from the date of application for Families First or the date of implementation of the Families First program, whichever is later.
- (16) Grantee Relative. A person who receives Families First for children in his/her care. A grantee relative may be a relative other than a parent. A relative other than a parent may be included in or excluded from the AG, depending on case circumstances, but is not required to be included in the group.
- (17) Guardian/Conservator. A guardian is a person who has been named to manage the affairs and/or the person of a minor; a conservator is an individual who has been named to manage the affairs and/or the person of a minor.
- (18) Half-Siblings. Half-brothers/sisters who share one natural or adoptive parent.
- (19) Home. A home is considered to be a family setting maintained (or in the process of being established) by the relative who requests Families First for a child living with him/her. Under this definition, the family setting may include, but is not limited to, a fixed address, a homeless shelter, or no stationary location. A home exists as long as the relative exercises care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting.
- (20) Incapacity. Incapacity is deemed to exist when a parent of a dependent child has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child and must be expected to last for a period of at least 30 days. Incapacity may be a reason for deprivation or may be a reason for a temporary exemption from a work requirement.

(Rule 1240-01-45-.02, continued)

- (21) Joint Custody. Legal custody of a child held simultaneously by two or more persons. Usually, joint custody is granted to parents of children when the parents are divorced.
- (22) Legal Father. The biological father of a child married to the child's mother; the mother's husband when a child is born during the marriage; the child's legally adoptive father; the natural father whose paternity of a child has been legally established.
- (23) "Living With." Occupying a place of residence maintained by a specified relative as his/her own home and the home of the child for whom Families First assistance is requested.
- (24) Marriage During the Receipt of Assistance. A legal union between a caretaker and another individual during a period of Families First eligibility.
- (25) Minor. A person under 18 years of age. A minor is considered a dependent child if he/she is living with a specified relative who is requesting/receiving assistance for him/her. A minor parent may apply for assistance for her/himself and his/her child as a separate assistance group if living outside of a parent's home, or when living in the parent's home and the parent does not choose to apply for that minor (and his/her siblings, if appropriate), or the parent is ineligible for assistance.
- (26) Natural Parent. The birth mother; the biological father of a child born in or out of wedlock.
- (27) Payee. The person to whom a Families First grant check is payable.
- (28) Protective Payee. The person other than the caretaker or grantee relative to whom a Families First grant is made payable. A protective payee has responsibility for administering the payment for the benefit of the assistance group.
- (29) Relative Within a Specified Degree of Relationship. Any blood relative, i.e., father, mother, brother, sister, uncle, aunt, first cousin, nephew, niece, or first cousin once removed. This includes relationships to persons of the preceding generations as denoted by prefixes of grand, great or great-great, and those of half-blood; stepfather, stepmother, stepbrother and stepsister; legally adoptive parents of the child or of the child's parents; the natural and other legally adopted children of such persons and the blood relatives of such persons, including persons within the 5th degree of relationship to the child for whom assistance is requested. Termination of parental rights does not affect a child's blood relationship to his natural extended family. However, adoption of a child or his/her parent establishes a legal relationship to a new set of relatives - both immediate and extended families. The adopted relatives within specified degrees of relationship and the blood relatives within specified degrees of relationship qualify to receive Families First for an adopted child. Legal spouses of any of the above-named relatives are considered to be within the specified degree of relationship to the child. This applies even though the marriage may have been terminated by death or divorce. In determining whether any of these relationships exist, for the purpose of either granting or denying assistance, only the necessary blood relationship must be established.
- (30) Set of Children. A set of children is one child, or two or more children who are whole brothers and/or sisters, half-brothers and/or sisters, or adoptive brothers and/or sisters.
- (31) Stepparent. A person who is not the natural or adoptive parent of the child, but who is married to the child's natural or adoptive parent.
- (32) SSI Beneficiary. A person who receives Supplemental Security Income benefits through the Social Security Administration.

(Rule 1240-01-45-.02, continued)

- (33) Step-Siblings. Stepbrothers/sisters share no natural or adoptive parent, but their respective parents are married to each other.
- (34) Support. Refers to the furnishing of a means of livelihood or sustenance.
- (35) Supportive Services. Those services deemed essential by the state for a Families First participant to become engaged in countable work, training or educational activities or continue engagement in countable work, training or educational activities.
- (36) Technically Eligible. Meets all non-financial Families First eligibility requirements.
- (37) Temporary Absence. Being away from the home for a short period of time (usually not to exceed three months) with a specific intention of returning to the home on or about a specific date. (Reference State Rule 1240-01-47-.20 (Living in the Relative's Home) of these rules).
- (38) Whole Siblings or Siblings. Brothers/sisters who share the same mother and father.

Authority: TCA §§4-5-201 et seq. 4-5-202, 4-5-209, 71-1-105, 71-3-152, 71-3-153 and 71-3-154; 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq.; 42 U.S.C. 607(c) and (d); 45 C.F.R. 233.90 45 C.F.R. § 233.90(c)(1)(iii), 45 C.F.R. § 233.90(c)(1)(v)(A) and (B), 45 C.F.R. § 260.31, and 45 C.F.R. 261.2; and Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31, and Acts 2007, Chapter 31; Public Chapter 950 (1996); 42 USC §§601--617; Section 1115 of the Social Security Act; and 45 CFR 201-257.

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1240-01-45-.03 RIGHT TO APPLY.

- (1) Any person wishing to do so shall have the right to apply for Families First without delay.
- (2) Information about programs of assistance administered by the Department of Human Services shall be provided to any person requesting it.
- (3) Applications must be filed in the Department of Human Services county office of the applicant's residence and must be on a form prescribed by the agency. The application must be filed by the applicant himself/herself, his/her authorized representative or designated agent, or someone acting responsibly for him/her.
- (4) An applicant may be assisted by an individual of his/her choosing in the various aspects of the application/redetermination of eligibility process. However, it is unlawful for any person/agency to charge or receive any thing of value, either directly or indirectly, for providing such assistance to a person requesting aid.
- (5) Reserved for future use.
- (6) Proof of eligibility is not required of a person prior to his/her filing an application.
- (7) The right to file an application shall not be denied to any person even though it is apparent to the worker that eligibility for Families First benefits does not exist.

Authority: TCA §§4-5-201 et seq. 4-5-202, 4-5-209, 71-1-105, 71-3-152, 71-3-153 and 71-3-154; 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq.; 42 U.S.C. § 608(a)(6)(A); 45 C.F.R. § 206.10; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31; Public Chapter 950 (1996); 45 CFR 206.10. **Administrative History:**

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