

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

**CHAPTER 1240-01-49
FAMILIES FIRST WORK REQUIREMENTS**

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1240-01-49-.01 FAMILIES FIRST WORK REQUIREMENTS.

- (1) The Department of Human Services administers the Families First Program directly and through contractual arrangements with other entities to provide or arrange for employment, training, education, and support services for Families First recipients. All Families First adult recipients in the AG must participate in the Families First work requirements unless they are exempt from this requirement.

Authority: T.C.A. §§ 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. § 602, 42 U.S.C. § 607(c), (d) and (e), 42 U.S.C. § 608 and 42 U.S.C. § 609; Public Acts of 1996, Chapter 950, and 45 C.F.R. 250, 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2, 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31, and 45 C.F.R. § 261.32; 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. **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.

1240-01-49-.02 EXEMPTION DETERMINATION.

- (1) The following individuals are exempt, except as otherwise provided in this Chapter, from participation in the Families First/TANF work and/or educational requirements:
 - (a) An individual who is disabled. An individual is disabled if the individual:
 1. Has been approved for Social Security Disability (Title II) or Supplemental Security Income on the basis of his/her disability;
 2. Receives Veterans benefits on the basis of his/her one hundred percent (100%) disability; or
 3. Receives Black Lung benefits based on his/her disability;
 - (b) An individual who is determined to be incapacitated for the purpose of participating in a work and/or educational activities requirement. The incapacity determination shall be made according to paragraph (2);
 - (c) An individual for whom an incapacity determination, under paragraph (2), is pending;
 - (d) An individual who is age sixty-five (65) or older;

(Rule 1240-01-49-.02, continued)

- (e) An individual who is needed in the home to care for an in-home relative who is disabled as determined by a physician or a licensed or certified psychologist, and no other appropriate member of the household is available to provide the needed care;
 - (f) An individual who is the caretaker, in a single-parent household, of a child under one (1) year of age; provided, however, the Department may reduce the exemption to sixteen (16) weeks for persons who were exempt but chose to volunteer to fulfill the work and/or educational requirements;
 - (g) An individual who is one (1) of two (2) parents in a two-parent household caring for a child under age sixteen (16) weeks; and
 - (h) A non-parental caretaker who chooses not to be included in the assistance group.
- (2) Evaluation of Disabled Individuals and Individuals Alleging Incapacity for Participation in Work and/or Educational Activities.
- (a) The Department shall refer a Families First/TANF applicant/recipient, who alleges incapacity, to the Department's Medical Evaluation Unit (MEU) when:
 - 1. The Families First/TANF recipient alleges incapacity to work that is expected to last for a period of at least (30) days; or
 - 2. An incapacity evaluation is necessary to determine deprivation of parental support. MEU shall determine whether incapacity exists that would deprive a child of parental support.
 - (b) For purposes of the MEU determination, incapacity is deemed to exist when the defect, illness, or impairment is:
 - 1. Supported by competent medical evidence; and
 - 2. Expected to last for a period of at least thirty (30) days.
 - (c) Review of MEU Incapacity Status. For incapacity determinations made by the MEU, incapacity status shall also be reviewed and verified at the end of the MEU approval period if continued incapacity is claimed.
 - 1. Individuals who were recently terminated from Social Security Disability/SSI disability benefits who claim continued incapacity may continue to be exempt as incapacitated while the necessary information is being secured and submitted to the MEU.
 - 2. If the client fails to cooperate with the MEU without good cause or refuses to cooperate, the exemption on the basis of incapacity ends.
 - (d) Period of Incapacity for Families First/TANF recipients exempt from work and/or educational requirements.
 - 1. At any time, if there is any indication the Families First/TANF recipient is no longer incapacitated, the recipient's complete medical file shall be resubmitted to the MEU with current medical-social information, including the facts which indicate that incapacity no longer exists.
 - 2. For an active incapacity exemption denied by the MEU, the exemption will be terminated as soon as the recipient is notified.

(Rule 1240-01-49-.02, continued)

- (e) Effective July 1, 2014, the Department shall refer all Families First recipients/applicants, who are disabled or who are deemed incapacitated for longer than six (6) months, as determined by MEU, to the Division of Rehabilitative Services (DRS) to undergo an evaluation. The DRS shall determine, under Chapter 1240-08-04, whether the Families First/TANF recipient/applicant is eligible for DRS services that would provide the individual an opportunity to voluntarily fulfill the Families First/TANF work and/or educational activities requirement, consistent with his/her capabilities.
 - 1. Any Families First/TANF recipient who voluntarily participates in the DRS program shall have the opportunity to volunteer for the work and/or educational activities requirement for Families First/TANF.
 - 2. There is no requirement for financial participation in the DRS program by the individual for receiving any vocational rehabilitation services if the individual is determined eligible for Families First/TANF cash assistance.
- (3) Voluntary Participation in Families First/TANF Work and/or Educational Activities.
 - (a) Any individual who is exempt from the Families First/TANF work and/or educational requirements under this rule, except SSI recipients and Child Only caretakers, may choose to volunteer to participate in the work and/or educational activities.
 - (b) Any individual who voluntarily chooses to participate in the Families First/TANF work and/or educational requirements may retain exempt status if he/she chooses not to comply, except those individuals who are caretakers, in a single-parent household, of a child at least sixteen (16) weeks of age.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-3-102, 71-3-104, and 71-3-104(h)(3)(A)-(G), 71-3-108(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602; 42 U.S.C. § 607(c), (d), and (e); 42 U.S.C. § 608; 42 U.S.C. § 608(b); 42 U.S.C. § 609, 42 U.S.C. § 1315(a); Public Acts of 1996, Chapter 950, 45 C.F.R. 233.90(c)(iv), and 45 C.F.R. 250.30, § 1115 of the Social Security Act; 45 C.F.R. § 260.30; 45 C.F.R. § 260.31; 45 C.F.R. § 233.90, 45 C.F.R. § 261.2(b) through (m); 45 C.F.R. § 261.2(n); Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Public Acts of 2007, Chapter 31. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007. Repeal and new rule filed April 2, 2014; effective July 1, 2014.

1240-01-49-.03 FAMILIES FIRST WORK REQUIREMENT PROVISIONS.

- (1) An individual, unless otherwise exempt, will be required to participate in work or work-related activities for thirty (30) hours per week as set forth in his/her Personal Responsibility Plan (PRP). At least twenty (20) hours must be spent working in core activities; the remaining ten (10) hours must be spent in core or non-core activities.
- (2) Activities that will be included as a part of the Families First work requirements include:
 - (a) Core Activities. Core Activities must be used to meet the first twenty (20) hours of the work requirement and can be used to meet the entire work requirement. The use of core activities to meet the Families First work requirement is subject to allowances or restrictions on these activities, as defined by federal law and regulation. Unless expanded through federal law or regulation, core activities are:
 - 1. Unsubsidized Employment.

(Rule 1240-01-49-.03, continued)

2. Job search and job readiness assistance.
 3. Work Experience.
 4. Community Service.
 5. Vocational Education.
 6. On-the-job training.
 7. Subsidized work. Families First participants can be placed in private or public sector subsidized work positions.
- (b) Non-core Activities. Non-core activities can be used to fulfill up to ten (10) hours of the Families First work requirement as long as the recipient is engaged in twenty (20) hours of core activities. The use of non-core activities to meet the Families First work requirement is subject to allowances or restrictions on these activities, as defined by federal law and regulation. Unless expanded through federal law or regulation, non-core activities are:
1. Job Skills Training Directly Related to Employment.
 2. Education Directly Related to Employment.
 3. Satisfactory attendance at secondary school or in a GED course, for those who do not yet have a high school diploma.
- (c) Reserved for future use.
- (d) Reserved for future use.
- (e) Reserved for future use.
- (f) Reserved for future use.
- (g) Reserved for future use.
- (h) Reserved for future use.
- (i) Reserved for future use.
- (j) Reserved for future use.
- (k) Reserved for future use.
- (3) Reserved for future use
- (4) The Families First work requirement can be met through satisfactory attendance at secondary school, in the case of a minor parent recipient who:
- (a) has not completed secondary school; and
 - (b) is a caretaker who is nineteen (19) years of age or younger.

(Rule 1240-01-49-.03, continued)

- (5) A minor parent who is eligible as a dependent child must attend school. Failure to comply with this requirement will result in the needs of the non-compliant individual being removed from the grant.
- (6) A caretaker who is in the residential program at Renewal House is in compliance with the Families First work requirement if she is in good standing with Renewal House program requirements.
- (7) Participation in Vocational Rehabilitation services will meet the Families First work requirement.

Authority: T.C.A. §§ 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. § 602, 42 U.S.C. § 607(c), (d)(1) through (12) and (e), 42 U.S.C. § 608, 42 U.S.C. § 609; Public Acts of 1996, Chapter 950, and 45 C.F.R. §§ 250.30 through 32; 45 C.F.R. 234.60, § 1115 of the Social Security Act; 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2(b) through (m), 45 C.F.R. § 261.2(n), 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31 and 45 C.F.R. § 261.32; 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. **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.

1240-01-49-.04 FAILURE TO COMPLY, CONCILIATION, GOOD CAUSE, AND SANCTIONS.

- (1) The Department shall sanction a Families First/TANF recipient who is required to participate in a work and/or educational activities requirement and who fails without good cause, to participate in the required work and/or educational activities in his/her Personal Responsibility Plan.
 - (a) Failure to participate in required work and/or educational activities includes, but is not limited to, refusal to cooperate in the required activities, failure to make satisfactory progress in the required activities, failure to meet minimum attendance standards for the required activities, refusal to participate in the activities directed towards the recipient's employment goals, falsifying employment documentation, refusal to accept suitable employment, refusal to participate in Family Focused Solutions (FFS) if FFS hours are being used as job search/ job readiness hours, or voluntarily quitting employment without good cause.
 1. Following non-compliance with required work and/or educational activities, a sanction shall make the entire assistance unit (AU) ineligible during the mandatory period of case closure when the Families First/TANF recipient to be sanctioned is the caretaker or either parent in a two (2) parent AU.
 2. Following non-compliance with required work and/or educational activities, a sanction shall be applied to remove a Families First/TANF recipient from the AU when that individual is a minor parent who is also a dependent child in an AU.
 - (b) Failure to make satisfactory progress shall be determined by a Families First/TANF recipient's grades in educational activities, objective performance measurements of the recipient's employer, or other objective criteria for the measurement of a recipient's performance for each specific work and/or educational activity. The recipient is responsible for obtaining such written documentation as the Department determines may be necessary to verify satisfactory progress.
 - (c) Exempted Individuals Volunteering. If a Families First/TANF recipient chooses to volunteer to participate in the work and/or educational activities requirement, the recipient may retain exempt status if he/she choose not to comply, except those

(Rule 1240-01-49-.04, continued)

individuals who are caretakers, in a single-parent household, of a child at least sixteen (16) weeks of age.

- (2) Attendance Standards and Good Cause.
 - (a) All Families First/TANF work and/or educational activities requirements are mandatory, unless otherwise provided in this Chapter. Recipients shall be sanctioned for any unexcused absences from Families First/TANF work and/or educational activities requirements. A recipient's first unexcused absence is considered non-compliance and is grounds for a sanction.
 - (b) Good cause may excuse a Families First/TANF recipient's failure to comply with their work and/or educational activities requirement. Good cause reasons include, but are not limited to, the following:
 1. Recipient is determined through medical evidence to be physically or mentally unable to perform the work and/or educational activities requirement assigned;
 2. Recipient lacks child care;
 3. Recipient has a serious household emergency;
 4. Recipient meets a work and/or educational activities requirement exemption criterion;
 5. Recipient's health or safety is at risk;
 6. Recipient lacks transportation;
 7. Recipient voluntarily quits employment with good cause as set forth in Rule 1240-01-49-.06;
 8. Recipient is under threat of domestic violence; or
 9. Any other factor which exists that is beyond the control of the Families First/TANF recipient.
- (3) The Department shall impose sanctions on all Families First/TANF recipients who are determined non-compliant, without good cause, with the work and/or educational activities requirements included in his/her Personal Responsibility Plan as set forth below.
 - (a) Notification of non-compliant Families First/TANF recipients. The Department shall receive notification from the work and educational service providers for Families First/TANF recipients to determine whether the recipient is non-compliant with required work and/or educational activities.
 - (b) ADA Evaluation. Prior to issuing a notice of adverse action, the Department's eligibility counselor shall review the referred recipient's case to determine whether the recipient may have any disabilities, as defined by the Americans with Disabilities Act, or barriers to employment that prevent the recipient from complying with required work and/or educational activities.
 - (c) Conciliation and Adverse Action.
 1. Notice of Adverse Action. If the Department's eligibility counselor determines that a Families First/TANF recipient is non-compliant with assigned work and/or

(Rule 1240-01-49-.04, continued)

educational activities, the eligibility counselor shall close the recipient's Families First/TANF case and issue the non-compliant recipient a notice of adverse action. The notice of adverse action shall contain:

- (i) Notice to the Families First/TANF recipient that he/she must contact the Department's eligibility counselor within ten (10) calendar days of the date of the notice to provide verification of good cause for non-compliance with work and/or educational activities;
 - (ii) The effective date of closure; and
 - (iii) Notice of the Department's appeal procedures.
 2. Conciliation/Adverse Action Period. The Families First/TANF recipient must contact the Department during the ten (10) calendar day conciliation/adverse action period to provide verification of good cause. If the recipient contacts the Department during the ten (10) calendar day conciliation/adverse action period and provides adequate verification of good cause the Department shall reverse the closure of the recipient's Families First/TANF case.
 3. Sanction Period. If the non-compliant recipient fails to provide the Department adequate verification of good cause during the ten (10) calendar day conciliation/adverse action period, the recipient's case closure shall be effective on the date set forth in the notice of adverse action and a sanction shall be applied to the recipient's Families First/TANF case pursuant to paragraph (4) below.
- (4) Length of Sanction. The mandatory sanction shall be imposed for the following time periods:
 - (a) First violation. The first violation shall result in the imposition of a one (1) month case closure period of ineligibility for cash assistance.
 - (b) Second violation. The second violation shall result in the imposition of a three (3) month case closure period of ineligibility for cash assistance.
 - (c) Third violation. The third violation shall result in the imposition of a six (6) month case closure period of ineligibility for cash assistance.
 - (d) Fourth or Subsequent Violation. The fourth or subsequent violation shall result in a twelve (12) month case closure period of ineligibility for cash assistance.
 - (e) The sanction shall begin with the next recurring month following the expiration of the adverse action period, unless the participant timely appeals within ten (10) days of the date of the conciliation/adverse action notice.
- (5) Child Care. The Department shall provide at least three (3) months of transitional child care to any Families First/TANF recipient whose case is closed due to noncompliance with the work and/or educational activities requirements.
- (6) Early Re-entry during Case Closure. A Families First/TANF recipient whose case was closed due to noncompliance with the work and/or educational activities requirement may apply for early re-entry if he/she meets the following criteria:
 - (a) The early re-entry criteria during the mandatory sanction periods are:

(Rule 1240-01-49-.04, continued)

1. The receipt of cash assistance would prevent removal of a child from the home by the Department of Children's Services;
 2. The recipient has become disabled or incapacitated according to the Families First/TANF work activities exemption policy;
 3. The recipient is under a threat of domestic violence;
 4. The receipt of cash assistance would prevent the recipient's family or AU from becoming homeless; or
 5. The recipient has assumed the responsibility of caring for an in-home disabled relative.
- (b) Fourth or Subsequent Sanction Period. If a non-compliant recipient has been continuously employed for a period of three (3) months for at least thirty (30) hours per week, is still employed, and is able to verify the employment, then that recipient is eligible for early re-entry during a fourth or subsequent sanction period.
- (7) Families First/TANF Eligibility after Sanction.
- (a) Applications filed prior to the expiration of the mandatory sanction period shall be denied due to ineligibility for benefits during the sanction period unless the applicant is able to show early re-entry criteria, as set forth in paragraph (6) above.
 - (b) Participation in Families First/TANF after a sanction due to non-compliance with the work and/or educational activities requirement may resume when:
 1. The mandatory sanction period has expired;
 2. The former recipient timely files a new Families First/TANF application as required by subparagraph (a) of this paragraph (7) and meets all other eligibility criteria; and
 3. The former Families First/TANF recipient complies with required work and/or educational activities for ten (10) consecutive business days after re-application.
 - (c) The Department shall consider a former recipient's Families First/TANF application pending during the mandatory ten (10) consecutive business day compliance period and the recipient shall receive childcare, as needed.
- (8) Appeals. Any individual who receives notification of a case closure as a result of non-compliance with the work and/or educational activities requirement may timely appeal according to the appeal procedures outlined in Chapter 1240-05 and Title 4, Chapter 5, Part 3 of the Uniform Administrative Procedures Act.
- (a) To continue receiving benefits, without the imposition of a sanction, the Families First/TANF recipient must request a hearing during the ten (10) day period following the notice of adverse action. If the recipient appeals during the adverse action period, no sanctions shall be imposed until a final decision is entered.
 - (b) Overpayments. If a final decision upholding the sanction decision is entered, the cash assistance received during the sanction period pending the fair hearing will be considered an overpayment and DHS may collect the overpayment in accordance with the procedures set forth in Chapter 1240-01-52.

(Rule 1240-01-49-.04, continued)

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-1-105(12), 71-3-101 through 71-3-115, 71-3-104(a), (d)(1)(B) and (C), (g) and (h), 71-3-107(c)(1) and (f), and 71-3-108(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602, 42 U.S.C. § 607(c)(2)(C), 42 U.S.C. § 607(c), (d)(1) through (12) and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(a)(4) and 42 U.S.C. § 609; 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996; Acts of 1996, Chapter 950, and 45 C.F.R. §§ 250.34 through 250.36, §1115 of the Social Security Act, 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2(b) through (m), 45 C.F.R. § 261.2(n), 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31 and 45 C.F.R. § 261.32; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006), Public Acts of 2007, Chapter 31, and 42 U.S.C. § 9858c(c)(2)(N)(i-iii). **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed December 13, 2002; effective February 26, 2003. Amendment filed December 19, 2003; effective March 3, 2004. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007. Repeal and new rule filed April 2, 2014; effective July 1, 2014. Emergency rules filed September 30, 2016; effective through March 29, 2017. Amendments filed December 8, 2016; effective March 8, 2017.

1240-01-49-.05 APPEALS AND HEARINGS. The Department of Human Services is responsible for hearing appeals on any disputed matter relating to Families First eligibility and amount of grant and any Families First work requirement dispute including but not limited to a referral to Families First service providers, effective participation in Families First work requirements, whether good cause for failure to participate exists, and imposition of sanctions. These appeals will be conducted according to appeal procedures set forth in Chapter 1240-5 and Title 4, Chapter 5, Part 3 of the Administrative Procedures Act and which shall not be more narrow than those in existence on August 31, 1996.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 4-5-301 et seq., 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. § 602, 42 U.S.C. § 607(c)(2)(C), 42 U.S.C. § 607(c), (d)(1) through (12) and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(a)(4) and 42 U.S.C. § 609; Public Acts of 1996, Chapter 950, Title 4, Chapter 5, Part 3, and 45 C.F.R. §§ 205.10 and 250.36, 45 C.F.R. 205.10, 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2(b) through (m), 45 C.F.R. § 261.2(n), 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31 and 45 C.F.R. § 261.32; 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. **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.

1240-01-49-.06 VOLUNTARY QUIT.

- (1) Any member of an AU with a work and/or educational activities requirement, including either parent in a two-parent AU, shall not voluntarily quit employment, without good cause, within the two (2) months prior to the month of application, during the month of application, or during the application processing period for Families First/TANF cash assistance.
 - (a) If any member of an AU with a work activities requirement voluntarily quits employment as set forth in this section, the application will be pended.
 - (b) An AU is eligible for Families First/TANF cash assistance after a voluntary quit prior to or during the application processing period when:
 1. The Families First/TANF applicant meets all eligibility criteria; and
 2. The Families First/TANF applicant complies with required work and/or educational activities for ten (10) consecutive business days after application.
- (2) If, during receipt of Families First/TANF cash assistance, any member of an AU with a work activities requirement, including either parent in a two-parent AU, voluntarily quits

(Rule 1240-01-49-.06, continued)

employment without good cause, the individual and/or AU shall receive a sanction as set forth in Rule 1240-01-49-.04.

- (3) Good cause to avoid a voluntary quit sanction includes, but is not limited to:
- (a) Complications of pregnancy which render the mother incapacitated, as certified by a physician;
 - (b) The individual was required to return to work prior to the end of sixteen (16) weeks of leave following the birth of a child;
 - (c) Existing child care became unavailable and substitute child care could not be arranged, for reasons beyond the caretaker's control;
 - (d) Transportation was unavailable and the employee submits evidence that substitute transportation could not be arranged;
 - (e) The employee was needed in the home to care for an ill or disabled family member;
 - (f) The employer refused to allow time off for the employee to attend to a temporary family emergency;
 - (g) The job paid less than minimum wage based on the number of hours actually worked;
 - (h) There was discrimination by the employer based on age, race, sex, color, handicaps, religious beliefs, national origins, or political beliefs;
 - (i) Work demands or conditions rendered continued employment unreasonable;
 - (j) The employee accepted other employment with at least comparable gross wages;
 - (k) The employee left a job in connection with patterns of employment in which workers frequently move from one employer to another;
 - (l) The employer failed to provide reasonable accommodations for the employee pursuant to the Americans with Disabilities Act; or
 - (m) The employer violated any federal, state, or local employment law in the employer's treatment of the employee.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 71-1-105(12), 4-5-209, 71-3-101 through 71-3-115, 71-3-104(a), (d), (g) and (h), 71-1-105, 71-3-107(c)(1) and (f), and 71-3-108(d)(2)(D), 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602, (c), (d), 42 U.S.C. § 607 and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(b)(3), 42 U.S.C. § 609, 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996, 42 U.S.C. § 1315(a), Acts of 1996, Chapter 950, and § 1115 of the Social Security Act, 45 C.F.R. § 261.2, 45 C.F.R. § 261.10, 45 C.F.R. § 261.14, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31, and 45 C.F.R. § 261.32; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Public Acts of 2007, Chapter 31, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002. Amendment filed December 13, 2002; effective February 26, 2003. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007. Repeal and new rule filed April 2, 2014; effective July 1, 2014.

1240-01-49-.07 STRIKERS.

- (1) Definitions.
 - (a) The term “strike” includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted shutdown or other concerted interruption of operation by employees.
 - (b) The term “participating in a strike” means an actual refusal in concert with others to provide services to one’s employers.
- (2) Eligibility Factors.
 - (a) If a parent with whom the children live is participating in a strike, the entire assistance group is ineligible for as long as the parent is on strike. The parent does not have to be a member of the assistance group to cause ineligibility.
 - (b) If an assistance group member other than a parent is participating in a strike, that individual is ineligible for assistance as long as she/he is on strike.
 - (c) If a payment of Families First benefits has already been made for any month(s) in which a parent or other assistance group member participated in a strike as of the last day of the month, the payment (or the individual’s share) for the entire month constitutes an overpayment subject to recovery.

Authority: T.C.A. §§ 4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 C.F.R. § 233.106. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-49-.08 DEFINITIONS.

For purposes of this Chapter:

- (1) “Adverse Action Notice” is a computer generated notice sent to a Families First/TANF recipient when a negative action is taken on a Families First/TANF case.
- (2) “Assistance Unit (AU)” means the “aid group (AG)” or group of people applying for or receiving Families First/TANF cash assistance benefits.
- (3) “Caretaker” is a relative within a specified degree of relationship to the child who:
 - (a) provides a home for the child; and
 - (b) exercises primary responsibility for care and control of child.
- (4) “Child Care” means the provision of supervision and protection, and at a minimum, meeting the basic needs of a child or children for less than twenty-four (24) hours a day. Child care is provided when necessary for the participant to take part in work or training activities while the AU is receiving Families First/TANF cash assistance.
- (5) “Child Only caretaker” is a caretaker who is either a non-parental relative who is not included in the AU or a caretaker receiving SSI benefits.
- (6) “Conciliation” means a ten (10) calendar day period of time given to a Families First/TANF recipient to establish good cause for failure to comply with their work activities requirements following the issuance of a notice of adverse action, unless the tenth (10th) day falls on a weekend or holiday.

(Rule 1240-01-49-.08, continued)

- (7) "Department" means the Department of Human Services.
- (8) "Employee" means the Families First/TANF recipient and/or caretaker, who works in the service of another person, private entity, or governmental entity.
- (9) "Employment" means the relationship between an employee and his/her employer consisting of the employee's work responsibilities for the employer.
- (10) "Families First" refers to the temporary public assistance program provided under Temporary Assistance for Needy Families ("TANF"), administered by the Department pursuant to Title IV-A of the Social Security Act and title 71, chapter 5, part 3 of the Tennessee Code Annotated.
- (11) "Family Focused Solutions ("FFS")" refers to a Families First/TANF support service whose purpose is to provide supportive assistance to Families First/TANF recipients who may have barriers to employment.
- (12) "Incapacity" is deemed to exist when one parent 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 be expected to last for a period of at least thirty (30) days. Incapacity may be a reason for deprivation or may be a reason for a temporary exemption from a work activities requirement.
- (13) "Sanction" means the period of time during which a Families First/TANF case is closed due to lack of adequate participation in required work and/or educational activities.
- (14) "Support Services" means the transportation, optical, dental, and other services which are provided by the Families First/TANF work activity contractor when necessary for participation in work and/or educational activities.
- (15) "Work activities" means the work and/or educational activities performed in return for cash assistance benefits that provide a Families First/TANF recipient with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-105, 71-1-105(12), 71-3-101 through 71-3-115, 71-3-104(a), (d)(1)(B) and (C), (g) and (h), 71-3-107(c)(1) and (f), and 71-3-108(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 602, 42 U.S.C. § 607(c)(2)(C), 42 U.S.C. § 607(c), (d)(1) through (12) and (e), 42 U.S.C. § 608, 42 U.S.C. § 608(a)(4) and 42 U.S.C. § 609; 42 U.S.C.A. § 1315; Federal Waiver of July 26, 1996; Acts of 1996, Chapter 950, and 45 C.F.R. §§ 250.34 through 250.36, § 1115 of the Social Security Act, 45 C.F.R. § 260.30, 45 C.F.R. § 260.31, 45 C.F.R. § 261.2(b) through (m), 45 C.F.R. § 261.2(n), 45 C.F.R. § 261.10, 45 C.F.R. § 261.30, 45 C.F.R. § 261.31 and 45 C.F.R. § 261.32; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006) and Public Acts of 2007, Chapter 31. **Administrative History:** Original rule filed December 13, 2002; effective February 26, 2003. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007. Repeal and new rule filed April 2, 2014; effective July 1, 2014.

1240-01-49-.09 DIVERSION PROGRAM AND ELIGIBILITY REQUIREMENTS.

- (1) General. The Families First Diversion Program is an alternative to the receipt of ongoing cash assistance under the Families First/Temporary Assistance for Needy Families (TANF). The purpose of the Diversion program is to provide an applicant with sufficient financial support to cover an immediate and compelling financial need that would divert the applicant's need to receive ongoing Families First/TANF cash assistance.

(Rule 1240-01-49-.09, continued)

- (2) Eligibility for diversion grant. The Department shall evaluate applications for cash assistance to determine whether a diversion grant may be appropriate to meet an applicant's immediate and compelling financial need.
 - (a) To receive a diversion grant, the Department must determine that the applicant is eligible to receive Families First/TANF.
 1. A "child only" applicant, an applicant who is either a non-parental relative who is not included in the Assistance Unit or a caretaker receiving SSI benefits, shall not be eligible for a diversion grant.
 2. If eligible for Families First/TANF, the applicant shall have the option to receive a diversion grant to cover an immediate and compelling financial need instead of receiving ongoing monthly cash assistance.
 - (b) The diversion grant shall:
 1. Meet an applicant's immediate and compelling needs, as determined by the Department, so that an applicant or recipient can avoid temporary cash assistance; and
 2. Not cover the same type of immediate need met by a previous diversion grant, unless the Department determines that the applicant has a new and verified emergency.
 - (c) Each applicant shall be required to submit appropriate documentation to verify immediate and compelling financial needs.
- (3) Calculation of the diversion grant.
 - (a) The Department shall calculate the amount of a diversion grant, on a case-by-case basis, based upon the aggregate amount of monthly temporary cash assistance an applicant is eligible to receive, not to exceed twelve (12) months.
 - (b) The applicant's temporary cash assistance lifelong eligibility period shall be reduced by the number of months equal to the total cash amount of the diversion grant that the applicant receives.
- (4) A diversion grant is an alternative to ongoing Families First/TANF benefits. A recipient of a diversion grant is ineligible to receive temporary cash assistance for the number of months of temporary cash assistance equal to the total cash amount of the diversion grant.
- (5) A recipient of a diversion grant may be eligible to receive at least twelve (12) months of subsidized child care, if the recipient is employed at least thirty (30) hours per week upon application.

Authority: T.C.A. §§ 4-5-201 et seq., 71-1-105, 71-3-102, 71-3-103 and 71-3-104; 42 U.S.C. §§ 601 et seq., 45 C.F.R. § 233.90; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454-01 (June 29, 2006); 42 U.S.C. § 9858c(c)(2)(N)(i-iii). **Administrative History:** Original public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007. Repeal and new rule filed April 2, 2015; effective July 1, 2015. Emergency rules filed September 30, 2016; effective through March 29, 2017. Amendments filed December 8, 2016; effective March 8, 2017.