



January 5, 2022

Cash Assistance Manual Transmittal Letter No. 177

TO: All Cash Assistance Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: **Rule Changes due to Common Sense Initiative Office Requirements.**

The Office of Family Assistance (OFA) has completed a review of the following rules due to the Common Sense Initiative (CSI) Office's evaluation of rules to identify key words using outdated terminology or in-person interaction in an effort to modernize rule language.

The Office of Family Assistance (OFA) has completed a review of the following rules and the rules have been subject to a review by the Joint Committee on Agency Rule Review (JCARR). The rules will become effective on 02/01/2022.

Chapter 1000

5101:1-1-03 "Disclosure of Recipient Information, Nondiscrimination, and Treatment of Information Received from the Internal Revenue Service and Social Security Administration."

The rule describes the requirements for disclosure of recipient information, nondiscrimination, and treatment of information received from the Internal Revenue Service and Social Security Administration. OFA has amended this rule. The changes to the rule include minor language updates to paragraph (C)(3) for clarity.

5101:1-2-30.3 "Benefit Eligibility: Family Members of Victims of Trafficking."

This rule sets forth the policy for determining benefit eligibility for family members of victims of trafficking. OFA has amended this rule. The changes to the rule include minor language updates to paragraph (B)(2) for clarity.

Chapter 2000

5101:1-3-14 "Ohio Works First: Penalties."

This rule describes the definition of a penalty and how they are imposed in the Ohio works first program. OFA has amended this rule. The changes to the rule include updating the language in paragraph (B)(2) and (B)(3) for clarity.

5101:1-23-01 "Ohio Works First: Time-Limited Receipt of Assistance."

This rule describes the Ohio Works First (OWF) time limit restrictions, as well as the good cause and hardship criteria for continuation of OWF beyond the time limit. OFA has amended this rule. The changes to the rule include updating the language in paragraph (B)(4) for clarity.

5101:1-23-40 "Ohio Works First: Payments."

This rule describes payments for the Ohio Works First program. OFA has amended this rule. The changes to the rule include updating the language in paragraph (C)(6) for clarity.

5101:1-1-03

Disclosure of recipient information, nondiscrimination, and treatment of information received from the internal revenue service and social security administration.**(A) What records are confidential?**

All information and records concerning a recipient of Ohio works first (OWF) pursuant to Chapter 5107. of the Revised Code, and prevention, retention and contingency (PRC) pursuant to Chapter 5108. of the Revised Code are confidential. No information or records regarding applicants, recipients, or former recipients of any of the programs listed in this paragraph is to be released to anyone except as provided in sections 5101.27 and 5101.28 of the Revised Code, including an entity administering a program assisting needy individuals with the costs of public utility services or as otherwise delineated in this rule pursuant to section 5101.30 of the Revised Code.

(B) When is information allowed to be disclosed?

In accordance with sections 5101.27, 5101.28 and 5101.30 of the Revised Code, recipient information and records for any of the programs identified in paragraph (A) of this rule may be released to the following entities identified in paragraphs (B)(1) to (B)(8) of this rule. However, only the minimum information or records necessary to fulfill the need for the sharing of information shall be released.

- (1) A provider of services or assistance connected with the programs identified in paragraph (A) of this rule. Access to information under this paragraph is limited to information that is essential for the provider to render or bill for services or assistance. Providers shall not use this information except for the purpose described in this paragraph and are subject to penalties established in section 5101.99 of the Revised Code for unauthorized use of the information.
- (2) Any private contractor, grantee, or other state or county entity, performing administrative or other duties on behalf of the Ohio department of job and family services (ODJFS) or a county agency when in compliance with paragraphs (B)(2)(a) to (B)(2)(c) of this rule. Access under this paragraph includes but is not limited to exchange of information pursuant to section 307.987 of the Revised Code. Information is limited only to information needed for completion of the administrative or other duties on behalf of ODJFS or the county agency:
 - (a) There shall be a signed, written agreement with the contractor, grantee, or entity, that establishes the purpose and scope of duties to be performed for ODJFS or the county agency.

- (b) The agreement shall contain language that the contractor, grantee, or entity shall not use the information received pursuant to the agreement for purposes other than those established in the written agreement.
 - (c) The agreement shall include language that establishes that the contractor, grantee, or entity is bound by relevant Ohio confidentiality laws and ODJFS rules; and, that disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the Revised Code or Administrative Code is a breach of the contract and subject to penalties set forth in section 5101.99 of the Revised Code.
- (3) Any state licensing or certification authority while performing its statutory duties of conducting or assisting with investigations, prosecution or civil or criminal proceedings against medicaid providers, provided that any such licensing or certification authority agrees to be bound by the same rules and regulations regarding recipient confidentiality that binds ODJFS. To ensure agreement of confidentiality, these information requests and responses will be conducted solely between the requesting authority and the appropriate office within ODJFS.
 - (4) A county child support enforcement agency when requesting relevant information needed to secure child support pursuant to rule 5101:1-3-10 of the Administrative Code.
 - (5) State and local offices of women, infants and children, child and family health services, and the children with medical handicaps program. The information shared is limited to eligibility information for specific individuals or assistance groups receiving these services.
 - (6) A public children services agency (PCSA) when the county agency is to report known or suspected instances of child abuse and neglect of a child receiving OWF, PRC or when the PCSA needs information in order to conduct an assessment or investigation of a report of alleged child abuse or neglect, as described in rule 5101:2-33-28 of the Administrative Code. Instances of abuse and neglect situations exist when a child experiences physical or mental injury, sexual abuse, or exploitation, or negligent treatment or maltreatment under circumstances that indicate the child's health or welfare is threatened.
 - (7) To the extent permitted by federal law, the ODJFS and county agencies shall provide information, except information directly related to the receipt of medical assistance or medical services, regarding recipients of public assistance under a program administered by the ODJFS or a county agency pursuant to Chapter 5107. or 5108. of the Revised Code to law enforcement agencies upon

request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

- (8) Information about a recipient shall be exchanged, obtained, or shared only when the ODJFS, the county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under section 5101.28 of the Revised Code, or any information considered appropriate by ODJFS or the county agency.

- (C) What are the requirements regarding protection of the recipient's right to control personal data?

The following requirements shall be explained at the time of application for assistance or services and are included to protect the recipient's right to control personal data.

- (1) Whenever a recipient of any of the programs identified in paragraph (A) of this rule is asked to supply personal data to the county agency or ODJFS, the legal requirements for providing or not providing such data shall be explained to the recipient.
- (2) Upon the request of any recipient of any of the programs identified in paragraph (A) of this rule, the county agency shall make all data collected about that individual available to the individual. Medical, psychiatric or psychological information may not be released to the individual or his or her legal guardian when the county agency has reason to believe that its release may have an adverse effect on the individual.

When the county agency has reason to believe that the release of medical, psychiatric or psychological information may have an adverse effect, the county agency shall release this information to a physician, psychiatrist or psychologist designated by the individual. Once the individual provides expressed and informed consent, the county agency will send this information to the designated medical provider. The medical provider will then determine whether the information should be disclosed to the recipient.

In addition, the county agency shall supply an interpretation of the data when it is not readily understandable. When the individual feels that the data is

incomplete or inaccurate, the individual has the right to include additional information in the individual's files.

- (3) Upon any request for individual data through compulsory legal process, the recipient of any program identified in paragraph (A) of this rule, shall be immediately informed of such request. In addition, the department shall inform the court of the statutory and regulatory provisions against disclosure of information, when state or federal law precludes the release of the information. When the court still seeks the information, and when the information is not protected by any other privilege recognized by law, the county agency will furnish the specified information to the court itself along with ODJFS policies for safeguarding that information. At the same time, the county agency shall notify the individual that the information has been furnished to the court and shall supply ~~duplicate~~exact copies of the information to the individual.
- (4) Pursuant to division (D) of section 5101.27 of the Revised Code, ODJFS and the county agency may release information about a recipient of any of the programs listed in paragraph (A) of this rule, when the recipient gives voluntary, written consent in compliance with section 5101.27 of the Revised Code.

(D) What are the county agency responsibilities concerning nondiscrimination?

The county agency is responsible for providing assistance without discrimination on account of race, color, religion, national origin, gender, sexual orientation, disability, age or political beliefs, in a manner consistent with the all federal and state laws relating to nondiscrimination.

(E) What forms are to be used to request a release of information?

A signed JFS 07341 "Applicant/Recipient Authorization for Release of Information" shall be obtained whenever the county agency requests information from a third party. The county agency shall use the ODM 03397 "Authorization for the Release or Use of Protected Health Information " when the information is medical in nature or the JFS 06907 "LEAP-Learning, Earning, and Parenting Program School Information Release Form" when requesting attendance and educational information for LEAP program participants. A copy of any signed release shall be included in the individual's file.

(F) What are the confidentiality requirements for obtaining information from the social security administration (SSA)?

- (1) The SSA sends information to the ODJFS about retirement, survivors and disability insurance (RSDI) and supplemental security income (SSI)

beneficiaries who are applicants for or recipients of any of the programs listed in paragraph (A) of this rule. The SSA limits use and disclosure of this SSA information.

- (2) The Privacy Act of 1974, PL 93-579, (12/1974), 88 Stat. 1896, 5 U.S.C. 522a, 20 C.F.R. 401 allows the SSA to release information to ODJFS and the county agency without a release of information from the beneficiary only as long as the information is for a "routine use" and for specified programs. Every use or disclosure of SSA information that is not routine or is not for an approved, specified program requires the prior written permission of the beneficiary or the SSA, respectively.
 - (a) The routine uses and approved programs for RSDI information obtained from SSA are: to determine eligibility for and administer OWF, supplemental nutrition assistance program (SNAP), Title XX social services, Title IV-E, child support and energy assistance.
 - (b) The routine uses and approved programs for SSI benefits obtained from SSA are: to determine eligibility for and administer OWF, SNAP, energy assistance, Title XX social services, Title IV-E, and child support.
- (G) What are the disclosure, confidentiality, and physical safeguarding requirements of SSA and internal revenue service (IRS) information?
- (1) Whenever ODJFS or the county agency discloses SSA information received from the SSA to someone who is not an employee of ODJFS or a county agency, it shall do so only for a routine use of an approved program and shall disclose only the information needed to accomplish the purpose of the routine use.
 - (2) ODJFS may disclose SSA information to another state agency, provided it is for routine use for an approved program and only the needed information is disclosed.
 - (3) ODJFS and/or the county agency shall keep a record every time they disclose information received from SSA to anyone who is not an employee of ODJFS or a county agency, even when the disclosure is for a routine use.
 - (a) The required record of disclosure of SSA information shall be kept in the individual case record and also in a central county agency file.
 - (b) The case record notation and the central file shall contain the date of disclosure, the information disclosed, the purpose of the disclosure, and the person to whom the information was disclosed. For the case record, the county agency shall enter the notation about the disclosure. For the

central file, the county agency shall maintain separate records, for each source of data disclosed.

- (c) The record of disclosure shall be retained for five years or the life of the application, whichever is longer. The disclosure records are subject to inspection by the SSA.
- (4) The IRS sends unearned income information received from 1099 forms filed with that agency to ODJFS regarding applicants and recipients of any of the programs listed in paragraph (A) of this rule.
- (5) 26 U.S.C. 6103 (3/2020), allows the disclosure of tax return information to federal, state and local agencies by the IRS for use in their temporary assistance for needy families and SNAP programs. The return information is disclosed solely for the purpose of, and to the extent necessary in, determining eligibility for, or the correct amount of benefits under the specified programs.
- (6) IRS return information may not be disclosed to, exchanged with, or utilized by any other state agency. ODJFS and county agency employees who are entitled to access tax return information generally shall not disclose this information to any party outside the agency other than the taxpayer to whom the information relates or the taxpayer's duly appointed representative who has the explicit authority to obtain tax return information.
- (7) To the extent that disclosure of IRS information is necessary to verify eligibility for and the correct amount of benefits, including past benefits, such disclosure may be made only when there is no other means of verifying the unearned income information, and only to the extent necessary to verify the unearned income information.
 - (a) All ODJFS and county agency employees with access to IRS return information shall have disclosure awareness training for safeguarding requirements and shall be advised on an annual basis of IRS penalty provisions.
 - (b) A permanent system of standardized record keeping shall be maintained by the county agency that documents requests for, and disclosure of return information. When redisclosure is authorized, the information disclosed outside the agency shall be recorded on a separate list that reflects to whom the disclosure was made, what was disclosed, why and when it was disclosed.

- (8) ODJFS and the county agency shall physically protect SSA and IRS information from unauthorized access. The physical record number of SSA and IRS information required to be safeguarded include, but are not limited to, the following:
- (a) Benefit earnings exchange record information that contains federal wage information obtained from the SSA master earnings file;
 - (b) IRS information return master file that contains returns filed by payers of income such as dividends, interest and retirement income.
- (9) ODJFS and the county agency shall:
- (a) Limit access to the data to only those employees and officials who need it to perform their official duties in connection with the approved programs.
 - (b) Store data in an area that is physically safe from access by unauthorized persons.
 - (c) Store, process and use magnetic tapes, screen prints and any electronic data in any computer system in such a way that information cannot be retrieved by unauthorized persons.
 - (d) Advise all personnel who will have access to the data of the confidential nature of the information, the safeguards required, and the criminal and civil sanctions for noncompliance contained in federal and state statutes.
 - (e) Permit the SSA and IRS to make onsite inspections to ensure that adequate safeguards are being maintained.
 - (f) Ensure that during interactive interviews confidential information is not exposed to any individual who is not the subject of the confidential information.

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Five Year Review (FYR) Dates: 6/1/2026

CERTIFIED ELECTRONICALLY

Certification

01/04/2022

Date

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5101:1-2-30.3

Benefit eligibility: family members of victims of trafficking.

According to 22 U.S.C. 7105 (12/2018) certain family members of a victim of a severe form of trafficking are eligible for benefits and services to the same extent as refugees.

(A) Who is considered a family member of a victim of trafficking?

A holder of a T-2, T-3, T-4, T-5 or T-6 visa (hereafter, "derivative T visa") is considered a family member of a victim of a severe form of trafficking.

(B) What are the county agency responsibilities in determining eligibility for family members of a victim of a severe form of trafficking?

The county agency shall:

(1) Accept the derivative T visa of a non-immigrant (i.e., an alien who is allowed to enter the United States (U.S.) for a specific purpose and for a limited period of time).

(a) For an individual who is already present in the U.S. on the date the derivative T visa is issued, the date of entry for benefits and services is the notice date on the I-797 form, "Notice of Action" on the individual's derivative T visa.

(b) For an individual who enters the U.S. on the basis of a derivative T visa, the date of entry for benefits and services is the date of entry stamped on that individual's passport or I-94 arrival record.

(2) Call the trafficking victim verification telephone line to notify the office of refugee resettlement of the benefits that the individual has applied for.

The health and human services systematic alien verification for entitlements (SAVE) system does not contain information about non-immigrant alien family members. The county agency shall not contact the SAVE system to confirm eligibility for benefits.

(3) Determine eligibility or redetermine eligibility in accordance with the appropriate program rules.

(4) When the applicant meets other program eligibility criteria (e.g. income levels), the county agency shall issue benefits and services to the same extent as a refugee.

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5101:1-3-14

Ohio works first: penalties.**(A) Which rules apply to penalties?**

- (1) Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan.
- (2) The county agency shall administer the work activity programs in accordance with the requirements contained in this rule and not in accordance with sections 5107.14, 5107.16, 5107.41 and 5107.70 of the Revised Code.

(B) What is a penalty?

A penalty is a negative action that occurs in certain situations that are not subject to the three tier sanction policy set forth in rule 5101:1-3-15 of the Administrative Code but continue to be subject to existing statutory and administrative rule penalties even if the requirement is included as part of the assistance group's self sufficiency contract. The individual who is under penalty remains a work eligible individual as defined in paragraph (B) of rule 5101:1-3-12 of the Administrative Code. The following list of penalties is not all inclusive.

(1) What penalties result in the denial or termination of Ohio works first (OWF)?

- (a) Failure or refusal to sign the self sufficiency contract or individual opportunity plan by a work eligible individual as set forth in rule 5101:1-3-11 of the Administrative Code.
- (b) Failure without good cause to attend an appraisal or assessment interview, or complete an appraisal or assessment, by a work eligible individual required to do so in accordance with paragraph (B)(2) of rule 5101:1-2-01 of the Administrative Code.
- (c) Failure or refusal to cooperate in the application and reapplication process (including failure to appear for scheduled appointments) and provide required verifications necessary to determine eligibility as described in rules 5101:1-2-01 and 5101:1-2-10 of the Administrative Code.
- (d) Failure or refusal to accept unconditionally available income as described in rule 5101:1-23-20 of the Administrative Code.

(2) What penalties result in a reduction of the OWF grant and/or the removal of an individual?

- (a) Failure to cooperate in the enumeration process as described in rule 5101:1-3-09 of the Administrative Code results in the removal of the individual(s) for whom enumeration verification has not been provided for the OWF benefits.
- (b) A teen parent who is not exempt from learning, earning and parenting (LEAP) participation as provided in rule 5101:1-23-50 of the Administrative Code, and who meets the following conditions is not eligible to participate in OWF:
 - (i) The teen is under the age of eighteen;
 - (ii) The teen has a child and his or her child is at least twelve weeks of age;
 - (iii) The teen has not successfully completed high school or its equivalent;
and
 - (iv) The teen is not attending school, or an alternate education or training program defined by the county agency.
- (c) A LEAP attendance failure as set forth in section 5107.30 of the Revised Code and rule 5101:1-23-50 of the Administrative Code results in a reduction of the OWF grant.
- (d) A learnfare failure as set forth in section 5107.28 of the Revised Code results in a reduction of the OWF grant.
- (e) An individual who is a fugitive felon as defined in section 5101.26 of the Revised Code is not eligible to be included in the OWF grant. An individual who is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or in the state of New Jersey, a high misdemeanor) as defined in section 5101.26 of the Revised Code is not eligible to be included in the OWF grant.
- (f) An individual who is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law for a felony is not eligible to be included in the OWF grant.

The county agency shall utilize the following procedure when it has information that an individual may be ineligible under paragraphs (B)(2)(e) and (B)(2)(f) of this rule:

- (i) The county agency shall contact the appropriate law enforcement agency to give the law enforcement agency thirty days to determine if the individual is fleeing and to arrest or extradite the individual.
- (ii) When the law enforcement agency arrests or extradites the individual within thirty days, the county agency shall take appropriate action to remove the individual from the assistance group if he or she is no longer a member of the household.
- (iii) When the law enforcement agency has not been able to arrest or extradite the individual by the end of the thirty days, the county agency shall take appropriate action to impose ineligibility under this rule for as long as the law enforcement agency continues to take appropriate action to arrest or extradite the individual and provides ~~written~~ documentation.
- (iv) When the law enforcement agency indicates it will not attempt to arrest or extradite the individual within thirty days or that the individual is not fleeing, the county agency shall not impose ineligibility under this rule.

(3) What time-limited penalties result in the denial or termination of OWF?

- (a) Termination of employment without just cause as described in section 5107.26 of the Revised Code results in the imposition of a six month period of ineligibility for OWF.
 - (i) For OWF participants, the six month period begins the month after the month in which employment is terminated.
 - (ii) For transitional child care participants, the six month period begins the month in which the employment is terminated. This penalty only applies to transitional child care assistance groups that were in receipt of OWF cash assistance on the day prior to the day that the assistance group began receiving the transitional child care benefits. There is no penalty if the individual who terminated employment without just cause is not an OWF transitional child care participant.
- (b) Receipt of fraudulent assistance as set forth in section 5101.83 of the Revised Code and rule 5101:1-23-75 of the Administrative Code results in ineligibility for the assistance group until the fraudulent assistance is repaid.

- (c) Refusal to cooperate with a quality assessment (QA) review results in termination of OWF for the assistance group. "Refusal to cooperate with a quality assessment review" means that the assistance group is able to cooperate but refused to take the actions that it can take to assist in verifying the assistance group's eligibility. The OWF assistance group is ineligible for OWF for a period of three calendar months or until the assistance group cooperates with the QA review, whichever is earlier.

When the QA reviewer determines that the QA review cannot be completed because the OWF assistance group member responsible for cooperating with the QA review refuses to cooperate as defined in this paragraph, the QA reviewer will notify the CDJFS ~~in writing~~ of the individual's refusal to cooperate. In accordance with the provisions set forth in rule 5101:6-2-04 of the Administrative Code, the CDJFS must send prior notice of adverse action to the assistance group prior to imposing the penalty. OWF assistance must be terminated as of the next recurring month following the expiration of the adverse action period, unless a hearing is timely requested pursuant to the provisions set forth in division 5101:6 of the Administrative Code.

- (4) What penalty is time-limited and results in the reduction of OWF and the removal of the individual?

Fraudulent misrepresentation of residence resulting in a federal or state court conviction results in a ten year period of ineligibility for OWF for the individual convicted.

- (a) The individual must have been convicted in federal or state court of having made a fraudulent statement or misrepresentation with respect to the place of residence in order to receive assistance simultaneously from two or more states.
- (b) The ten year period begins on the date the individual is convicted in federal or state court provided that the conviction date is on or after August 22, 1996.
- (c) The provision shall not apply with respect to a conviction of an individual for any month beginning after the president of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

- (C) What provisions apply to assistance group movement in penalty situations?

- (1) The following provisions apply to the penalties listed in paragraph (B)(3) of this rule:
- (a) An individual who causes the penalty carries the penalty into another assistance group which becomes ineligible due to the penalty until the period of ineligibility ends. The remaining members of the new assistance group are not affected by that penalty, unless they were members of the original assistance group at the time of the penalty. The individual who is under penalty remains a work eligible individual as defined in paragraph (B) of rule 5101:1-3-12 of the Administrative Code.
 - (b) A minor child who ceases to reside with the penalized assistance group is eligible for OWF provided all eligibility requirements are met.
 - (c) The period of ineligibility shall be served by all remaining assistance group members in situations where the individual who caused the period of ineligibility leaves the household. This provision is not applicable to the penalty set forth in paragraph (B)(3)(c) of this rule.
 - (d) Individuals in a two parent assistance group who separate carry the penalty with them into the next assistance group.
 - (e) All individuals in the OWF assistance group or those individuals who would have been required to be included in the OWF assistance group in accordance with rule 5101:1-23-10 of the Administrative Code at the time of the failure are not eligible to receive OWF until the penalty has been served.
 - (f) Individuals who enter the home after the date of ineligibility are not eligible to receive OWF regardless of whether they would otherwise meet the eligibility requirements.

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5101:1-23-01

Ohio works first: time-limited receipt of assistance.**(A) What is the state time limit for Ohio works first (OWF) benefits?**

In Ohio, an assistance group is ineligible to participate in OWF when the assistance group includes an individual, who meets one of the conditions described in paragraphs (C)(1) to (C)(5) of this rule, and who has received OWF assistance for thirty-six months. This time limit applies regardless of whether the thirty-six months are consecutive. Ohio law provides for extensions of OWF beyond the thirty-six month limit, with the provision that no assistance group shall receive assistance under the OWF program in violation of the federal sixty-month time limit for receipt of temporary assistance for needy families (TANF) assistance. When an assistance group is receiving OWF cash assistance benefits on the basis of state hardship, good cause or a domestic violence waiver, as described in paragraphs (A)(1) to (A)(3) of this rule, such benefits continue to count toward the federal sixty-month time limit provided in paragraph (B) of this rule. The county agency shall examine the assistance group's unique special circumstances that caused the need for an extension, and shall address these special needs, barriers and conditions in the self sufficiency contract. When an assistance group is receiving OWF cash assistance due to either a state hardship, good cause or domestic violence waiver extension (as provided in paragraphs (A)(1) to (A)(3) of this rule), the assistance group is in receipt of OWF and as such is subject to all OWF eligibility requirements. The three types of extensions beyond the thirty-six month time limit that count toward the federal sixty-month limit are:

(1) State hardship

A county agency may exempt not more than twenty per cent of the average monthly number of OWF assistance groups from the thirty-six month limit on the grounds that the county agency determines that the time limit is a hardship. The twenty per cent calculation is described in rule 5101:1-23-01.1 of the Administrative Code. The county agency may not provide a state hardship extension until the assistance group has exhausted its thirty-six months of OWF assistance, as described in division (A) of section 5107.18 of the Revised Code.

(2) Good cause

An assistance group that has ceased to participate in OWF due to the thirty-six month time limit (i.e., the assistance group lost eligibility for OWF due to the thirty-six month time limit), as described in division (A) of section 5107.18 of the Revised Code and paragraph (A) of this rule, may be approved to participate in the program in accordance with rule 5101:1-2-01 of the Administrative Code twenty-four months later when the county agency determines that good cause for a twenty-four month extension of OWF exists. There is no twenty per cent

limit for the extension of OWF assistance under the good cause provision. The good cause extension provides an assistance group additional time to overcome existing barriers to self sufficiency. Good cause may include losing employment and inability to find employment (reference section 5107.26 of the Revised Code); divorce; domestic violence considerations; unique personal circumstances; and any other reason the county agency determines to be good cause for participating in OWF beyond the thirty-six month limit. The assistance group must provide verification pursuant to rule 5101:1-2-20 of the Administrative Code of whether any members of the assistance group had employment during the period the assistance group was not participating in OWF and the amount and source of the assistance group's income during that period. When the county agency determines that good cause exists for the assistance group, the county agency shall determine when the assistance group meets all eligibility requirements for participation in OWF. The assistance group may not participate in OWF under paragraph (B)(2) of this rule for more than twenty-four additional months.

The twenty-four month time limit for participating in OWF under paragraph (A)(2) of this rule applies regardless of whether the twenty-four months of the good cause extension are consecutive. Once good cause is initially determined to exist, and an assistance group is determined eligible under the good cause provision, a subsequent determination of good cause is not required, unless the assistance group becomes otherwise ineligible for OWF. However, when the assistance group becomes ineligible for OWF due to the imposition of a sanction for failure to comply with the terms of the self sufficiency contract, the assistance group may resume participation in OWF without a new good cause determination.

(3) Domestic violence

An assistance group may receive a waiver of the state thirty-six month time limit due to domestic violence, as described in rule 5101:1-3-20 of the Administrative Code. Any assistance group that receives a waiver of the thirty-six month time limit is not counted toward the county agency twenty per cent limit described in rule 5101:1-23-01.1 of the Administrative Code and section 5107.18 of the Revised Code.

(B) What is the federal time limit for OWF benefits?

No state may use any of its federal temporary assistance for needy families funds (including commingled funds as described in rule 5101:1-1-01 of the Administrative Code) to provide assistance to an assistance group that includes an individual who meets one of the conditions described in paragraph (C) of this rule, who has received

assistance for a total of sixty cumulative months. The sixty months do not have to be consecutive months.

Federal law allows states to extend assistance paid for by federal TANF funds (including commingled funds as defined in rule 5101:1-1-01 of the Administrative Code) beyond the federal sixty-month limit for up to twenty per cent of the average monthly number of families receiving assistance. The federal regulations provide that a state may extend assistance beyond the sixty-month limit based on hardship, as determined by the state.

(1) Ohio is extending benefits beyond the federal sixty-month limit based on hardship.

Ohio defines hardship as the conditions described in paragraphs (B)(1)(a) to (B)(1)(b)(vii) of this rule. Therefore, counties may extend up to twenty per cent of the average monthly number of assistance groups receiving assistance in that county. The twenty per cent calculation is described in rule 5101:1-23-01.1 of the Administrative Code. The county agency should examine the assistance group's unique special circumstances that caused the need for an extension, and should address these special needs, barriers and conditions in the self sufficiency contract. The county agency may not provide this extension until the assistance group has exhausted its sixty months of OWF assistance. In Ohio, hardship is defined as follows:

- (a) Any circumstance that the county agency determines the time limit is a hardship. The county agency shall use the same grounds for determining federal hardship as it uses for determining state hardship under paragraph (A)(1) of this rule; or
- (b) Based on the fact that the family includes someone who is temporarily or permanently unable to work because the individual has been battered, or subjected to extreme cruelty based on the fact that the individual has been subjected to any of the following provisions described in paragraphs (B)(1)(b)(i) to (B)(1)(b)(vii) of this rule and rule 5101:1-3-20 of the Administrative Code:
 - (i) Physical acts that result in physical injury to the individual;
 - (ii) Sexual abuse;
 - (iii) Sexual activity involving a dependent child;
 - (iv) Being forced as the caretaker relative of a dependent child to engage in non consensual sexual acts or activities;
 - (v) Threats of, or attempts at physical or sexual abuse;

- (vi) Mental abuse (including emotional harm); or
 - (vii) Neglect or deprivation of medical care.
- (2) There is no federally prescribed limit for receipt of an extension beyond the federal sixty-month time limit. Each assistance group that requests an extension will have unique circumstances to be addressed in order for the assistance group to achieve self sufficiency and eliminate the need for assistance. In determining the length of each extension to be provided under paragraph (B) of this rule, the county agency shall consider both of the following:
- (a) That TANF was created to provide assistance that is temporary, and not as an entitlement; and
 - (b) That the county agency has a responsibility to assist the family in overcoming barriers and achieving self sufficiency.
- (3) An assistance group receiving OWF cash assistance benefits beyond the federal sixty-month limit is in receipt of OWF, and as such is subject to all OWF eligibility requirements.
- (4) In situations involving the provisions contained in paragraph (B)(1)(b) of this rule, acceptable verification, in accordance with rule 5101:1-2-20 of the Administrative Code, includes, but is not limited to the following:
- (a) Medical or law enforcement records;
 - (b) Court or other legal documents;
 - (c) Court, medical, criminal, child protective service, social service, psychological, or law enforcement records indicating the threat of physical or emotional harm;
 - (d) Medical records indicating the emotional health history and present emotional health of family members;
 - (e) ~~Written~~ Medical statement from a mental health professional indicating the emotional health status of family members;
 - (f) ~~Written statement~~ Verification from a public or private social agency; and
 - (g) Sworn statements from individuals, including friends, neighbors, clergymen, social workers, and medical professionals who might have knowledge of the family's circumstances.

- (h) In accordance with rule 5101:1-3-20 of the Administrative Code, rely on the individual's allegation of domestic violence, as identified by the individual requesting the waiver on the JFS 03803 "Ohio Works First (OWF) & Food Stamps: Domestic Violence Waiver Request and Verification " (10/2016), unless the county agency has an independent, reasonable basis to find that the individual's allegation is not credible.

(C) Who is subject to the OWF benefits time limits?

An assistance group is ineligible to participate in OWF when the assistance group includes an individual who has been in receipt of assistance as defined in paragraph (E)(1) to (E)(4) of this rule for thirty-six months, which do not have to be consecutive, as any of the following:

- (1) An adult head-of-household. Adult is defined in section 5107.02 of the Revised Code;
- (2) A spouse of the adult head-of-household;
- (3) A pregnant minor head-of-household. Minor head-of-household is defined in section 5107.02 of the Revised Code.
- (4) A minor parent head-of-household. Minor head-of-household is defined in section 5107.02 of the Revised Code; or
- (5) A spouse of the minor parent head-of-household.

(D) How is the countable individual as head-of-household designated?

- (1) When the assistance group is a two-parent assistance group as defined in rule 5101:1-3-01 of the Administrative Code, and the parents are unmarried (and both parents are adults), the county agency shall explain to the two parents that one of them shall be determined to be the adult head-of-household for time limit purposes. The parents shall be given the choice as to who will be designated as the head-of-household for time limit purposes. In the event that the parents disagree and/or decline to designate the head-of-household, the county agency shall make the designation. Once the head-of-household designation is made for time limit purposes, that designation shall remain unchanged as long as the assistance group contains both parents and no other parent(s) is subsequently added to the assistance group.
- (2) When the assistance group is a two-parent assistance group as defined in rule 5101:1-3-01 of the Administrative Code, and another parent becomes a required member of the assistance group in accordance with rule 5101:1-23-10 of the

Administrative Code, a new head-of-household designation may need to be made. When a new head-of-household designation must be made, the county agency shall explain to the parents that one of them shall be determined to be the head-of-household for time limit purposes. The parents shall be given the choice as to who will be designated as the head-of-household for time limit purposes. In the event that the parents disagree and/or decline to designate the head-of-household, the county agency shall make the designation. Once the head-of-household designation is made for time limit purposes, that designation shall remain unchanged as long as the assistance group contains all of the parents.

(E) What is considered "receipt of assistance"?

An individual is considered to be in receipt of assistance for any month that they meet one of the requirements described in paragraph (C) of this rule and receive:

- (1) OWF cash assistance benefits issued in one of the following forms:
 - (a) Electronic funds transfer (EFT);
 - (b) Electronic benefits transfer (EBT); or
 - (c) Warrant, voucher or check when the assistance group cashes the warrant or check or utilizes the voucher.
- (2) Supportive services such as transportation and child care, unless such payments meet the definition of non recurrent, short-term benefits as defined in 45 C.F.R. 260.31(10/01/01) as payments that:
 - (a) Are designed to deal with a specific crisis situation or episode of need;
 - (b) Are not intended to meet recurrent or ongoing needs; and,
 - (c) Will not extend beyond four months.
- (3) TANF assistance (including commingled funds as defined in rule 5101:1-1-01 of the Administrative Code), was received in another state on or after October 1, 1997, except as provided in paragraph (E)(1) of this rule.
- (4) Welfare-to-work (WTW) cash assistance, as defined in 45 C.F.R. 260.32 (10/01/04). As described in 45 C.F.R. 260.32, WTW cash assistance only includes WTW benefits that meet the definition of assistance (as defined in rule 5101:1-1-01 of the Administrative Code) and are directed as basic needs, when they are provided in the form of cash payments, checks, reimbursements,

electronic funds transfers, or any other form that can legally be converted to currency.

(F) What months are not countable toward time limits?

Receipt of assistance for purposes of applying the time limit does not include any month that any of the following conditions exist:

- (1) An assistance group received TANF assistance in another state, and that state had a waiver of time limits in effect during the months that the assistance was received in that state.
- (2) An assistance group received OWF cash assistance in the form of a warrant, check, voucher, EFT or EBT for a month, but returned either the check, warrant or voucher to the county agency uncashed or unused, or returned the amount of the OWF check, warrant, voucher, EFT, or EBT to the county agency.
- (3) An assistance group is subject to the minimum payment provision described in rule 5101:1-23-40 of the Administrative Code.
- (4) An assistance group is not receiving OWF cash assistance benefits due to participation in the subsidized employment program (SEP).
- (5) An assistance group is not receiving OWF cash assistance benefits due to the imposition of a learning, earning and parenting (LEAP) sanction that reduces the OWF benefit to zero dollars, in accordance with the provisions described in rule 5101:1-23-50 of the Administrative Code.
- (6) An assistance group is not receiving OWF cash assistance benefits due to the imposition of a learnfare sanction that reduces the OWF benefit to zero dollars, in accordance with the provisions described in sections 5107.284 and 5107.285 of the Revised Code.
- (7) Supportive services such as transportation and child care are provided to assistance groups containing an employed member.
- (8) An assistance group is not receiving OWF cash assistance benefits as delineated in paragraph (E) of this rule, but prevention, retention and contingency (PRC) services under the PRC program as described in sections 5108.01 to 5108.10 of the Revised Code are provided to the assistance group.
- (9) Any month of receipt by an individual other than the individuals identified in paragraphs (C)(1) to (C)(5) of this rule shall not be counted toward the time-limited receipt of assistance.

- (10) LEAP enrollment, attendance, grade completion and graduation bonuses provided to LEAP participants in accordance with the provisions contained in rule 5101:1-23-50 of the Administrative Code are not considered assistance for OWF time limit purposes.
- (11) An assistance group is not receiving assistance as described in paragraph (E) of this rule, but WTW non-cash assistance benefits (as defined in rule 5101:1-1-01 of the Administrative Code) are being provided to the assistance group.
- (12) An assistance group is not considered to be in receipt of assistance for any month that the assistance group's cash assistance OWF benefits are reduced to zero to repay an overpayment.
- (13) Any month of receipt of assistance by an adult while living in Indian country as defined in rule 5101:1-01-01 of the Administrative Code, or a native Alaskan village where at least fifty per cent of the adults were not employed.
- (14) When an erroneous payment occurs because the assistance group was not eligible to receive assistance for a month, and the assistance group repays that erroneous payment in full, the month that the overpayment occurred does not count toward the time limit.

(G) How are time limits tracked?

Receipt of assistance under the OWF program shall be tracked for each required member in the assistance group as described in paragraph (C) of this rule:

- (1) The tracking record for each required member follows the member even when they move into and out of different assistance groups. The receipt of assistance transfers from one assistance group to another via the movement of the required member.
- (2) Required members retain and accumulate actual months of receipt by each required member.
- (3) The assistance group's number of months is the highest number of months of receipt by each of the required members.
- (4) The movement of children from one assistance group to another has no effect on the time limits because receipt of assistance is not tracked separately for children.

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5101:1-23-40

Ohio works first: payments.

(A) What are Ohio works first (OWF) payments and how are they calculated?

- (1) OWF payments are payments made to an assistance group which represent the difference between the countable income and the appropriate OWF payment standard.
- (2) An assistance group's countable income is determined by the appropriate calculation as described in rules 5101:1-23-20, 5101:1-23-20.1 and 5101:1-23-20.2 of the Administrative Code.

(3) Payments are calculated based on a thirty-day month.

(a) When an assistance group is eligible for a certain level of assistance on the first day of the month, the assistance group remains eligible for at least that level of assistance for the entire month.

(b) A change in circumstances during the month does not reduce the level of assistance for which the assistance group is eligible for that month, with the exception of the following provisions:

(i) OWF cannot be provided for a minor child, parent or specified relative who, without good cause, has been, or is expected to be, absent from the home for a period of more than forty-five consecutive days. The period of ineligibility begins with the forty-sixth day from the date that the member left the household, unless the provision described in division (E)(1) of section 5107.10 of the Revised Code is met.

A parent(s) or specified relative who fails to report that the absence of a child will exceed or has exceeded forty-five consecutive days as described in rule 5101:1-3-04 of the Administrative Code is also ineligible for a specified period of time. The beginning date of ineligibility shall be the same day determined as the beginning day of ineligibility for the absent child. The ineligibility continues until the day that the absence was reported by the parent(s) or specified relative or was discovered by the county agency.

(ii) A child who was eligible for, and receiving OWF benefits on the first of the month, and who is removed from the assistance group during the month and placed in IV-E foster care, is not eligible to receive both OWF and IV-E foster care in that month, unless the provision described in division (E)(1) of section 5107.10 of the Revised Code is met.

(B) How is the beginning date of OWF eligibility determined?

- (1) OWF eligibility shall not begin prior to the date of application.
- (2) When all OWF eligibility factors have been verified and the verifications indicate that all OWF eligibility factors were met prior to the date of verification, OWF eligibility begins on the date all eligibility factors were met.
- (3) When all OWF eligibility factors have been verified and the verifications do not indicate the date on which all OWF eligibility factors were met, OWF eligibility begins on the date all eligibility factors were verified.
- (4) Certain verified eligibility factors have special considerations that apply when determining if the eligibility factor has been met. As an eligibility factor:
 - (a) Pregnancy is met:
 - (i) When it is medically verified that the woman is at least in her sixth month of pregnancy; and
 - (ii) If born, the child would otherwise be eligible for OWF.
 - (b) The social security number requirement is met when the applicant provides or applies for a social security number.
 - (c) For newborns, the social security number requirement is met on the child's date of birth when the social security number is applied for but no later than the first day of the second month following birth or following the mother's discharge from the hospital.
 - (d) For a teen parent who is required to enroll in school as a condition of OWF, the enrollment requirement is met on the date the individual enrolls in school.

(C) What happens when an individual is added to an existing OWF assistance group?

- (1) An individual is considered to be a part of the assistance group as of the date that individual becomes a required assistance group member as described in rule 5101:1-23-10 of the Administrative Code and meets all eligibility requirements as described in this rule.
- (2) When an individual is being added to the OWF case and all other eligibility factors are met, the beginning date of OWF is:

- (a) The date the individual enters the home, when the reporting responsibilities as described in rule 5101:1-2-20 of the Administrative Code are met; or
 - (b) The date the change was reported to the county agency or the date the county agency becomes aware of the change, if the reporting responsibilities as described in rule 5101:1-2-20 of the Administrative Code are not met.
 - (c) For newborns being added to the OWF case, the beginning date of OWF is the date of birth, provided the reporting responsibilities are met.
 - (d) For specified relatives in need to be added to the OWF case, the beginning date of OWF is the date that assistance is requested.
- (3) The county agency shall determine eligibility for the assistance group using the individual's needs and income from the date that the individual is a required assistance group member, or in the case of the specified relative in need, the date that the assistance is requested and all other eligibility factors are met.
- (4) OWF can only be authorized for the period of time in which all eligibility factors have been met. For purposes of determining the beginning date of OWF, enumeration and child support assignment may be deemed to be met retroactive to the date the individual was a required assistance group member. The deeming of these eligibility requirements are only allowed when:
- (a) The individual's presence in the home is reported to the county agency on a timely basis as described in rule 5101:1-2-20 of the Administrative Code; and
 - (b) The assistance group cooperates with the county agency in satisfying all required eligibility factors.
- (5) When the assistance group fails to meet these conditions, the county agency shall not deem that enumeration and child support assignment requirements have been met.
- (6) When the county agency receives ~~written notification~~ verification from a hospital indicating that a child has been born, the county agency shall follow the provisions described in paragraph (C)(2) of this rule.
- (D) What is concurrent receipt of assistance?
- (1) Concurrent receipt of assistance is the receipt of OWF assistance by an assistance group under more than one public assistance grant in the same month. The

receipt of public assistance, from two or more different states, for the same time period also constitutes concurrent receipt of assistance.

- (2) An assistance group member shall not be eligible to receive or have his or her needs covered by OWF in more than one assistance group or more than one county in any given month. The exception to this provision is the removal of a child by a public children services agency, as described in section 5107.10 of the Revised Code. In these situations, OWF could be authorized for up to six payment months for the following assistance groups:
 - (a) The OWF assistance group where the child(ren) was removed from and an OWF assistance group where the child(ren) is placed; or
 - (b) The OWF assistance group where the child(ren) was removed from and a Title IV-E foster care assistance group where the child(ren) is placed.
 - (3) An individual whose needs are met by the supplemental security income (SSI) program shall not be eligible to have his needs included in an OWF assistance group concurrently.
 - (4) An assistance group member is not ineligible for inclusion in a new assistance group solely because that member's needs are still included in a former assistance group. The county agency must determine at what point the assistance group member became ineligible for inclusion in the first assistance group. The county agency shall then determine eligibility and authorize assistance for the new assistance group. The fact that the assistance group member's needs have not been removed from the former assistance group shall not preclude eligibility or delay the beginning date of OWF for the new assistance group.
 - (5) When the assistance group is receiving or is believed to be receiving cash assistance from another state, the county agency shall determine at what point the assistance group became ineligible for cash assistance in the former state prior to approving OWF.
- (E) What happens when an assistance group is eligible to receive less than ten dollars?
- OWF shall not be authorized when the amount an assistance group is eligible to receive is at least one dollar but less than ten dollars per month.
- (F) When are payments prorated and do time limits apply to a prorated month of benefits?
- (1) The county agency shall prorate the OWF payment when an assistance group has eligibility for less than a full month's grant. Retroactive benefits may be

authorized as the result of a hearing decision or court order or if OWF was erroneously denied, terminated, or delayed and corrective action is being taken.

- (2) Support services (e.g., transportation) and learning, earning and parenting (LEAP) program's allowances are never prorated.
- (3) Time limits, as described in rule 5101:1-23-01 of the Administrative Code are applicable for any prorated or retroactive OWF payment. The assistance group has the option to decline a prorated month of benefits.

(G) How is the OWF payment delivered?

Subject to the limitations provided in 42 U.S.C. 608 (10/2012) OWF payments are delivered unconditionally to the parent, specified relative, legal custodian or legal guardian, except as described in paragraph (I) of this rule.

- (1) The benefit is delivered only to the assistance group or protective payee. When the child is living with a parent, specified relative, custodian or legal guardian, the benefit shall be paid to that individual, unless there is a protective payee designated to receive payment as described in paragraph (I) of this rule.
- (2) For two-parent assistance groups, the payee will be decided by the assistance group and should be paid to the parent who will act in the best interest of the family.
- (3) In an emergency situation which deprives an eligible dependent child of care from the parent, specified relative, custodian or legal guardian, that individual may designate another person to act as the protective payee during the emergency period, if that person is willing to be designated. If the individual is not capable of making a choice, the county agency shall designate a protective payee.
- (4) The emergency period must not exceed a maximum of two consecutive months following the month the emergency occurred. If the parent, specified relative, custodian or legal guardian will not resume care of the child within that period, or it appears doubtful, alternative plans for the child's care must be completed within that period of time.

(H) Who can be designated as a protective payee and why?

- (1) A protective payee is a representative of the assistance group who is responsible for receiving and managing the payment on behalf of the assistance group.
- (2) Situations in which it is appropriate to have a protective payee include:

- (a) An assistance group where a member is serving a permanent disqualification penalty due to an intentional program violation under the former aid to families with dependent children program.
- (b) The assistance group with a minor parent or pregnant minor, as described in section 5107.24 of the Revised Code. The protective payment continues until the minor marries, turns eighteen years of age, or the adult parent, specified relative, custodian or legal guardian cannot or will not continue as the protective payee. Protective payments are not required for a minor residing in an adult-supervised supportive living arrangement as described in section 5107.24 of the Revised Code.
- (c) The assistance group has a money mismanagement situation which means a demonstrated inability to manage funds. A determination of mismanagement shall not be made solely on the fact that bills are not paid in a timely manner. The following are examples of money mismanagement situations and are not all inclusive:
 - (i) Payments received by the parent, specified relative, custodian or legal guardian have not been or are not currently used in the best interest of the child.
 - (ii) The parent, specified relative, custodian or legal guardian has misused funds to the extent that allowing that individual to manage the OWF grant is a threat to the health and safety of the child(ren).
- (3) The selection of the protective payee shall be made by the assistance group or the county agency with participation and consent from the assistance group. The protective payee may be a relative or friend of the assistance group, an agency providing protective services or a member of the assistance group. If no protective payee can be located, the disqualified member or minor parent can continue to receive the benefits in their name.

The following individuals are excluded from serving as a protective payee:

- (a) A county agency director;
- (b) The eligibility determiner for the assistance group;
- (c) Any county agency employee responsible for any fiscal aspects of the assistance group;
- (d) A county agency special investigative or resource staff;

- (e) Landlords, grocers, or any other vendor of goods or services dealing directly with the assistance group.

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