



November 19, 2020

Cash Assistance Manual Transmittal Letter No. 158

TO: All Cash Assistance Manual Holders
FROM: Kimberly Hall, Director
SUBJECT: Five-year review

In accordance with section 106.03 of the Ohio Revised Code (ORC), each state agency is required to review each of its rules in the Ohio Administrative Code a minimum of once every five years. The intent of the review is to ensure that Administrative Code rules are clearly written and that program requirements are accurate, up-to-date and clearly expressed. To the extent possible, unnecessary paperwork will be eliminated, local agencies will be given increased flexibility, and any adverse impact on businesses will be eliminated or reduced. As a result of the review, the agency may amend the rule; rescind the rule; or continue the rule without amendment.

The Office of Family Assistance (OFA) has completed a review of the following rule(s) and the rule has been subject to a review by the Joint Committee on Agency Rule Review (JCARR). The rule will become effective on 12/01/2020.

Chapter 2000

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

The rule describes the definition of a penalty and how they are imposed in the Ohio works first program. OFA amended this rule. Changes to the rule include:

- Minor language changes were made to improve clarity.
- Penalty for Medicaid was removed because it is no longer applicable.

5101:1-3-14

Ohio works first: penalties.**(A) ~~Conflict with Revised Code~~ Which rules apply to penalties?**

~~(1) Section (5) of Amended Substitute Senate Bill 238 of the 126th General Assembly (09/06) sets forth the following provision: Not later than September 30, 2006, the director of job and family services shall adopt rules as necessary for the state to comply with 42 U.S.C. 607(i)(2) (08/96). If necessary to bring the state into compliance with 42 U.S.C. 607(i)(2) (08/96), the rules may deviate from Chapter 5107. of the Revised Code. Rules adopted under this section that govern financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. All other rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.~~

(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.

~~(3) All applicable requirements contained in the Revised Code sections referenced in paragraph (A)(2) of this rule have been incorporated in this rule.~~

(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 ~~(C)~~(B)(2) of rule ~~5101:1-3-12~~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.

~~For OWF participants, the six month period begins the month after the month in which employment is terminated. For transitional medicaid or transitional child care participants, the six month period begins the month in which the employment is terminated. This penalty only applies to transitional medicaid or 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 medicaid or transitional child care benefits. There is no penalty if the individual who terminated employment without just cause is not an OWF, transitional medicaid or 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.

Effective: 12/1/2020

Five Year Review (FYR) Dates: 8/31/2020 and 12/01/2025

CERTIFIED ELECTRONICALLY

Certification

11/18/2020

Date

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Rule Amplifies: 5107.05

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