



October 3, 2022

Cash Assistance Manual Transmittal Letter No. 186

TO: All Cash Assistance Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: Five Year Rule Review: Ohio Works First: Time-Limited Receipt of Assistance and Ohio Works First: Calculation of the Twenty Per Cent Limits for State and Federal Hardship Extensions.

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 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 11/1/22.

Chapter 2000

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 the OWF beyond the time limit. OFA has amended this rule. Changes to the rule include:

- Removing form revision dates in paragraph (B)(4)(h) as a result of Senate Bill 221 of the 132nd General Assembly that amended incorporation by reference requirements contained in section 121.71 to 121.75 of the Ohio Revised Code;
- The effective date for 45 C.F.R. 260.31 in paragraphs (E)(2) and (E)(4) have been updated to align with federal rule; and
- Minor language changes were made to improve clarity.

5101:1-23-01.1 "Ohio Works First: Calculation of the Twenty Percent Limits for State and Federal Hardship Extensions."

The rule describes the twenty percent limitation on federal and state hardships, how the twenty percent is calculated, and exemptions from the limitation. OFA has amended this rule. Changes to the rule include:

- Paragraph (A) was put into question-and-answer format to improve clarity.

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) Medical statement from a mental health professional indicating the emotional health status of family members;
 - (f) 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 that~~ 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~~(10/01/04)~~(10/01/20) 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)~~(10/01/20). ~~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.

Effective: 11/1/2022
Five Year Review (FYR) Dates: 7/21/2022 and 11/01/2027

CERTIFIED ELECTRONICALLY

Certification

09/30/2022

Date

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5101:1-23-01.1 **Ohio works first: calculation of the twenty per cent limits for state and federal hardship extensions.**

(A) ~~What percentage of state and federal hardship extensions can a county agency exempt per month? A county agency may exempt not more than twenty per cent of the average monthly number of Ohio works first (OWF) assistance groups from either the state thirty-six month time limit or federal sixty month time limit as described in rule 5101:1-23-01 of the Administrative Code.~~

A county agency is not to exempt more than twenty per cent of the average monthly number of Ohio works first (OWF) assistance groups from either the state thirty-six month time limit or federal sixty month time limit as described in rule 5101:1-23-01 of the Administrative Code.

(B) How is the twenty per cent limit calculated for state and federal extensions?

Per federal fiscal year the twenty per cent limit for hardship extensions is calculated by the Ohio department of job and family services (ODJFS) for each county agency in the following manner:

- (1) The number of OWF assistance groups in receipt of cash assistance is totaled for each of the twelve months in the previous federal fiscal year.
- (2) The total from paragraph (B)(1) of this rule is divided by twelve. This number is the average monthly number of OWF assistance groups for the county agency.
- (3) Twenty per cent of the average monthly number assistance groups found in paragraph (B)(2) of this rule is calculated. When this calculation does not result in a whole number, the number shall be rounded down to the nearest whole number. This number of assistance groups is the twenty per cent limit for the county agency for the federal fiscal year.

(C) Are any assistance groups exempt from the twenty per cent calculation?

- (1) Any assistance group that receives a waiver of the thirty-six month state time limit due to domestic violence, as described in rules 5101:1-3-20 and 5101:1-23-01 of the Administrative Code, are excluded from the twenty per cent limit for the state thirty-six month time limit extensions.
- (2) No assistance groups are excluded from the federal sixty month time limit twenty per cent calculation.

(D) How often is the twenty per cent limit for hardship extensions calculated?

The twenty per cent limit for hardship extensions is calculated for each county agency by ODJFS for each federal fiscal year.

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