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TITLE 470 DIVISION OF FAMILY AND CHILDREN

Proposed Rule
LSA Document #03-33

DIGEST

Adds 470 IAC 10.2 concerning the determination of financial eligibility and the amount of assistance payments in the Temporary Assistance to Needy Families (TANF) program and sanctions for noncompliance with certain TANF program requirements. Repeals 470 IAC 10.1-3-4, 470 IAC 10.1-3-4.1, and 470 IAC 10.1-3-5. Effective 30 days after filing with the secretary of state.

470 IAC 10.1-3-4 **470 IAC 10.1-3-5**
470 IAC 10.1-3-4.1 **470 IAC 10.2**

SECTION 1. 470 IAC 10.2 IS ADDED TO READ AS FOLLOWS:

ARTICLE 10.2. TEMPORARY ASSISTANCE TO NEEDY FAMILIES

Rule 1. Definitions

470 IAC 10.2-1-1 Definitions

Authority: IC 12-13-2-3; IC 12-13-5-3

Affected: IC 12-14

Sec. 1. The definitions in 470 IAC 10.1-1-1 apply throughout this article. *(Division of Family and Children; 470 IAC 10.2-1-1)*

Rule 2. Determination of Income

470 IAC 10.2-2-1 Countable income determination

Authority: IC 12-13-2-3; IC 12-13-5-3

Affected: IC 12-14

Sec. 1. (a) In addition to the income sources specifically excluded under federal law, the following income is excluded from consideration in determining eligibility and the amount of the assistance payment:

- (1) Assistance provided by a township trustee or other agency that provides in-kind assistance based on need through vendor payments.**
- (2) Nonexempt educational income not received directly by, or made available to, a member of a TANF group.**
- (3) A loan for which there is a verified repayment schedule in effect.**
- (4) Tax refunds.**
- (5) Home energy assistance administered or funded by the division.**
- (6) Workforce Investment Act income.**
- (7) The value of the monthly food stamp allotment.**
- (8) Contributions from a supplemental security income recipient in the household.**
- (9) Earned income of a TANF dependent child who is a full-time student.**
- (10) Nonexempt educational income that is not received directly or made available to the student.**
- (11) The first thirty dollars (\$30) of all infrequent and inconsequential contributions received by an individual during a calendar quarter.**
- (12) The income of a nonparent caretaker who is not included as a member of the assistance group.**

(b) When determining eligibility and the amount of the assistance payment, the computations in this subsection shall be made to establish countable gross income for the payment month. Income received other than monthly shall be converted to a monthly amount as follows:

- (1) Income received weekly shall be multiplied by four and three-tenths (4.3).
- (2) Income received every two (2) weeks shall be multiplied by two and fifteen-hundredths (2.15).
- (3) Income received twice per month shall be multiplied by two (2).
- (4) Income that is not expected to continue throughout the payment month, shall count only to the extent it is anticipated to be received during the payment month.
- (5) Income resulting from a contractual agreement shall be prorated over the number of months covered under the contract, and the resultant amount shall be considered available monthly income during these months.
- (6) Income received on a quarterly, semiannual, or annual basis shall be divided by the appropriate number of months to establish the monthly amount.

(7) Income received to defray the cost of education shall be prorated over the period intended to be covered by the income.
(8) Fluctuating income may be averaged to determine a monthly amount.
(9) The countable self-employment income is determined by subtracting from the total income the deduction listed in clause (A) or (B) as follows, whichever is greater:

(A) Deduct forty percent (40%) of the gross income.

(B) Deduct actual business expenses as follows when there is proof of such expenses:

- (i) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.
- (ii) The cost of shelter in the form of rent, mortgage, or contract payments, including interest, taxes, and utilities.
- (iii) The cost of inventory, machinery, and equipment in the form of rent, loans, direct purchase, and contract payments, including the interest on the loans or contract payments.
- (iv) Insurance on the real and personal property of the business.
- (v) The cost of repairs on the business equipment or shelter.
- (vi) The cost of any travel required. If the actual cost cannot be determined, twenty-five cents (\$0.25) per mile shall be used to calculate the expense.

(c) The following deductions may be applied against an individual's gross countable income to determine eligibility:

- (1) The first ninety dollars (\$90) of the earned income of an applicant, recipient, or financially responsible adult.
- (2) Thirty dollars (\$30) of an applicant's or recipient's earned income remaining after the deduction in subdivision (1) for a period not to exceed twelve (12) consecutive months.
- (3) One-third ($\frac{1}{3}$) of the applicant's or recipient's remaining earned income following the deductions in subdivisions (1) and (2) for a period not to exceed four (4) consecutive months.
- (4) Mandatory deductions withheld from the unearned income of an applicant, recipient, or financially responsible nonrecipient adult.
- (5) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3- 3.1, of the applicant's or recipient's spouse and their nonrecipient dependent children under eighteen (18) years of age living in the home.
- (6) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the financially responsible adult's nonrecipient dependent children under eighteen (18) years of age living in the home.
- (7) The actual costs of tuition, mandatory books, fees, and transportation directly associated with education from the nonexempt educational income of an undergraduate student when the individual's exempt educational income is insufficient to meet those expenses.
- (8) Child support payments for nonrecipient children living outside the home made by the spouse of an applicant or recipient.
- (9) Child support payments for nonrecipient children living outside the home made by the nonrecipient parent of a minor applicant or recipient parent or caretaker living in the home.

(d) The following deductions may be applied against an individual's gross countable income to determine the amount of TANF assistance:

- (1) Seventy-five percent (75%) of the earned income received by a recipient.
- (2) Mandatory deductions withheld from the unearned income of an applicant, recipient, or financially responsible nonrecipient adult.
- (3) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the applicant's or

recipient's spouse and their nonrecipient dependent children under eighteen (18) years of age living in the home.

(4) An amount equal to the unmet need, based on the standard of need in 470 IAC 10.1-3-3.1, of the financially responsible adult's nonrecipient dependent children under eighteen (18) years of age living in the home.

(5) The actual costs of tuition, mandatory books, fees, and transportation directly associated with education from the nonexempt educational income of an undergraduate student when the individual's exempt educational income is insufficient to meet those expenses.

(6) Child support payments for nonrecipient children living outside the home made by the spouse of an applicant or recipient.

(7) Child support payments for nonrecipient children living outside the home made by the nonrecipient parent of a minor applicant or recipient parent or caretaker living in the home.

(Division of Family and Children; 470 IAC 10.2-2-1)

Rule 3. Sanctions

470 IAC 10.2-3-1 Sanctions for noncompliance

Authority: IC 12-13-2-3; IC 12-13-5-3

Affected: IC 12-14

Sec. 1. (a) Termination of employment or noncompliance with the provisions of the IMPACT employment and training requirements and the IV-D Child Support program, without good cause, shall result in the following penalties:

(1) Reduction of TANF assistance by excluding the applicant's or recipient's needs from the determination of the amount of assistance until the noncompliance ceases.

(2) When the noncompliance continues for a period of two (2) consecutive payment months, the case shall be closed.

(b) An individual's failure to comply is considered to have ceased when the applicant or recipient performs either of the following:

(1) The previously assigned action or activity for which the noncompliance penalty was imposed.

(2) A comparable activity determined by the agency to meet the requirements of the program. When participation in the activity required for compliance extends for a period of two (2) weeks or more, compliance will be met when the individual has participated successfully in the activity for a period of two (2) weeks.

(c) An individual reapplying for assistance after their case was closed under subsection (a)(2) shall have thirty (30) days from the date of application to come into compliance with program requirements.

(d) Failure to comply within thirty (30) days of application as required in subsection (c) shall result in denial of assistance.

(e) An individual reapplying for assistance who was sanctioned or would have been sanctioned under subsection (a)(1) when the case was closed, shall have thirty (30) days from the date of application to come into compliance with program requirements.

(f) Failure to comply within thirty (30) days of application as required in subsection (e) shall result in the sanction under subsection (a)(1) being imposed for the initial payment month and subsequent months in accordance with subsection (a)(2) if noncompliance continues.

(g) Good cause for failure to comply with the requirements of this section shall be limited to the following:

(1) The required actions were beyond the capability of the individual to perform.

(2) The agency failed to provide the services needed by the individual to perform the required action.

(3) The required child support action would result in harm or threat of harm to the parent or dependent child.

(Division of Family and Children; 470 IAC 10.2-3-1)

SECTION 2. THE FOLLOWING ARE REPEALED: 470 IAC 10.1-3-4; 470 IAC 10.1-3-4.1; 470 IAC 10.1-3-5.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 28, 2003 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Auditorium, Indianapolis, Indiana the Division of Family and Children will hold a public hearing on proposed rules to establish countable income determination for TANF eligibility and assistance and the implementation of a new sanction for noncompliance with the requirements of the TANF program. Written comments may be directed to the Indiana Government Center-South, 402 West Washington Street, Room W451, MS-27 Office of General Counsel, Attention: Deniece Safewright, Indianapolis, Indiana 46204. Correspondence should be identified in the following manner: "COMMENTS RE: PROPOSED RULE FOR TANF LSA 03-33". Written comments received will be made available for public display at the above listed address of the Office of General Counsel. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

John Jay Boyce
Director
Division of Family and Children