



Rules of
Department of Social Services
Division 40—Family Support Division
Chapter 2—Income Maintenance

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

13 CSR 40-2.010 General Application Procedures

PURPOSE: This rule defines the application procedures for Income Maintenance cases.

(1) Any person shall have the right to file an application included herein for any type of assistance or service administered by the Family Support Division. The Family Support Division shall inform the applicant of the types of assistance and services which are available, the requirements of eligibility, and additional information necessary, if any, to determine eligibility.

(2) Applications must be approved or denied in accordance with the timeframes established by federal and state law except when—

(A) The application is incomplete or is missing information that is necessary to complete an eligibility determination; or

(B) The division cannot reach a decision because the applicant or an examining physician delays or fails to provide the information necessary to make an eligibility determination.

(3) Failure to make a decision within the timeframes established by federal and state law does not result in an automatic determination that the applicant is eligible for any type of assistance or service.

(4) Applications submitted by mail, telephone, or any commonly available electronic means shall be accepted and treated the same as an in-person filing of an application.

(5) An application is not considered complete without a signature. Signature shall include electronic, telephonically recorded, and handwritten signatures.

(6) All information provided to the Family Support Division, shall be true, accurate, and complete.



MISSOURI DEPARTMENT OF SOCIAL SERVICES
DIVISION OF FAMILY SERVICES

APPLICATION FOR BENEFITS

APPLICANT NAME (LAST, FIRST, MIDDLE)		COUNTY
ADDRESS (HOUSE NO., STREET OR RURAL ROUTE)		
(POST OFFICE/CITY, STATE, ZIP CODE)		
MAILING ADDRESS (IF DIFFERENT THAN ABOVE)		
DIRECTIONS TO HOME (IF DIFFICULT TO LOCATE)		HOME PHONE NO.
		OTHER PHONE NO.

I, the above named applicant, under the laws of the State of Missouri, hereby apply for:

- | | | |
|--|--|---|
| <input type="checkbox"/> AID TO FAMILIES WITH DEPENDENT CHILDREN | <input type="checkbox"/> MEDICAL ASSISTANCE FOR CHILDREN IN CARE | <input type="checkbox"/> QUALIFIED MEDICARE BENEFICIARY |
| <input type="checkbox"/> MEDICAID FOR CHILDREN UNDER THE POVERTY LEVEL | <input type="checkbox"/> MEDICAL ASSISTANCE | <input type="checkbox"/> FOOD STAMPS |
| <input type="checkbox"/> GENERAL RELIEF | <input type="checkbox"/> SUPPLEMENTAL NURSING CARE | <input type="checkbox"/> SUPPLEMENTAL AID TO THE BLIND |
| <input type="checkbox"/> GENERAL RELIEF/UNBORN CHILD | <input type="checkbox"/> QUALIFIED DISABLED WORKING INDIVIDUAL | <input type="checkbox"/> BLIND PENSION |
| <input type="checkbox"/> GENERAL RELIEF/REFUGEE | | <input type="checkbox"/> AFDC-FC |

Provided I am found to be eligible for any type of assistance (except Food Stamps and QDWI), I wish payments by the Division of Medical Services and/or the Title XVIII medical insurance program to be made directly to physicians and medical suppliers on any future covered unpaid bills for medical and other health services furnished me while eligible for public assistance.

SIGNATURE OF APPLICANT	▶	DATE
WITNESS	▶	DATE
WITNESS	▶	DATE

DO NOT WRITE BELOW THIS LINE (TO BE COMPLETED BY COUNTY OFFICE)

DCN	<input type="checkbox"/> APPLICANT NOT RECEIVING AFDC <input type="checkbox"/> AFDC-UP APPLICATION <input type="checkbox"/> CHANGE OF PAYEE <input type="checkbox"/> OPEN CASE (ADDING AFDC UP PARENT) <input type="checkbox"/> OPEN CASE (ADDING PERSON(S)) LIST NAME(S) AND TYPE(S) OF ASSISTANCE.		
DATE APPLIED			
SOC. SEC. NO. (VERIFIED)			
DATE OF BIRTH			
RACE/SEX			
NAME OF SPOUSE			
SOCIAL SECURITY NO. OF SPOUSE			
DATE OF BIRTH OF SPOUSE	CROSS REFERENCE		
NUMBER OF AFDC CHILDREN OR PERSONS FOOD STAMP PERSONS			
RECEIVED BY (NAME)	LOAD NO.	WKR NO.	SUPERVISOR NO.



AUTHORITY: section 207.020, RSMo 2000, and section 208.991, RSMo Supp. 2013. * This version filed March 24, 1976. Previous versions of this rule which were merged to form this rule: 1) Original rule filed Feb. 20, 1947, effective March 2, 1947; 2) Original rule filed Nov. 3, 1950, effective Nov. 13, 1950. Amended: June 20, 1951, effective June 30, 1951. Amended: Sept. 26, 1951, effective Oct. 6, 1951. Amended: June 13, 1974, effective June 23, 1974; 3) Original rule filed Nov. 3, 1950, effective Nov. 13, 1950. Amended: June 15, 1967, effective June 25, 1967. Amended: June 6, 1968, effective June 16, 1968. Amended: July 1, 1968, effective July 10, 1968. Amended: June 1, 1971, effective June 10, 1971. Amended: June 13, 1974, effective June 23, 1974; and 4) Original rule filed June 30, 1972, effective July 9, 1972. Amended: March 1, 1973, effective March 10, 1973. Amended: June 13, 1974, effective June 23, 1974. Emergency amendment filed Aug. 3, 1987, effective Aug. 13, 1987, expired Dec. 1, 1987. Amended: Filed Aug. 3, 1987, effective Jan. 14, 1988. Amended: Filed July 31, 2013, effective Feb. 28, 2014.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.991, RSMo 2013.

13 CSR 40-2.015 Authorized Representatives

PURPOSE: This rule defines the procedures for appointing authorized representatives for participants in MO HealthNet programs and the parameters of their powers and authority.

(1) Scope. This regulation defines the procedures for the appointment of an authorized representative for participants in MO HealthNet programs and specifies the parameters of the authorized representative's powers and authority. This regulation shall only apply to MO HealthNet programs.

(2) For purposes of this rule, the following terms shall mean:

(A) "Attorney-in-fact" shall mean an individual or corporation appointed to act as agent of a principal in a written power of attorney that may be durable or not durable. The written power of attorney shall comply with Chapter 404, RSMo;

(B) "Authorized representative" shall mean an individual person at least eighteen (18) years of age or an organization designated by the participant to act on behalf of the participant, the participant's children, or any members of the MO HealthNet household at any time for any MO HealthNet program;

(C) "Conservator" or "Guardian" shall mean one appointed by a Missouri court under the authority of Chapter 475, RSMo or if a

foreign guardian or conservator is in compliance with the authority of Chapter 475, RSMo to have the care and custody of the estate of a minor or a disabled person;

(D) "MO HealthNet programs" shall mean the MO HealthNet benefits provided to participants under the MO HealthNet programs including, but not limited to, MO HealthNet for the Aged, Blind, and Disabled (MHABD) program, MO HealthNet for Families (MHF) program, MO HealthNet for Kids (MHK) program, MO HealthNet for Pregnant Women (MPW) program, and Uninsured Woman's Health Services (UWHS) program. MO HealthNet programs also include presumptive eligibility for any of the above programs; and

(E) "Participant" shall mean any adult, or emancipated minor individual who has applied for, or is receiving, or has been denied benefits from the MO HealthNet programs administered by the division.

(3) The appointment of an authorized representative shall comply with the following requirements:

(A) A participant must knowingly designate the appointment of an authorized representative;

(B) A participant is permitted at the time of application and at any other time to appoint an authorized representative;

(C) The participant may at any time designate a person or organization to serve as authorized representative by a document that complies with subsection (3)(D) submitted by mail, in-person, facsimile, or electronically. The appointment of the authorized representative shall be signed by the participant. The appointment may, but is not required to be, on a form provided by the division. The participant's signature can be handwritten, stamped, electronic, telephonically recorded, or by any other method accepted by the division; and

(D) The designation of authorized representative under subsection (3)(C) shall include the following information:

1. The name of the person or organization designated to serve as the authorized representative;

2. The address of the authorized representative and the mailing address of the authorized representative (if different);

3. A phone number for the authorized representative; and

4. An attestation substantially in the following format: "In appointing my authorized representative, I understand that I will be legally bound and responsible for the actions of my appointed representative with respect to my application for or participation in the MO HealthNet program." The attestation shall also contain or be accompanied by a signed authorization compliant with the Health Insurance Portability and Accountability Act (HIPAA) for the Department of Social Ser-

vices to release protected health information to the authorized representative.

(4) The division shall not release participant information to an authorized representative until the division has received a HIPAA compliant authorization and designation of authorized representative. This section shall not apply to a request for release of participant information from the participant's attorney, participant's spouse, attorney-in-fact, guardian or conservator, or court appointed public administrator.

(5) The participant cannot designate an authorized representative if the participant is incompetent as determined by a court of competent jurisdiction or the participant's cognitive function is impaired to the extent the participant lacks the ability to make a willful, knowing decision.

(6) An authorized representative designation is void to the extent its creation was induced by fraud, duress, or undue influence or at the time of creation, the participant was incompetent or impaired.

(7) The participant may designate more than one (1) individual or organization to serve as the authorized representative at any given time to assist with MO HealthNet programs.

(8) If the division receives conflicting instructions or information from more than one (1) authorized representative, the division will consult with the authorized representatives to resolve the conflict. The division may also consult directly with and request instructions from the participant or the participant's court appointed legal guardian or conservator or attorney-in-fact. If the participant is represented by an attorney who has filed a written entry of appearance, the division will consult with the attorney first before consulting with the participant. The division may require the participant, the participant's guardian or conservator, attorney-in-fact, and/or the authorized representatives to provide documentation, additional information and written confirmation of instructions. The division shall make the final decision resolving the conflict between the authorized representatives where consensus cannot be reached. The division shall issue written findings resolving any factual dispute and issue a written decision. If the individual/applicant is aggrieved by the decision, he/she may request administrative review pursuant to section 208.080, RSMo.

(9) The participant's designation of an authorized representative by mail, telephone, or any commonly available electronic means, other than social media, shall be accepted and treated the same as an in-person designation as



long as the designation complies with subsection (3)(D).

(10) A participant shall be bound and liable for all actions taken or facts submitted by any of the participant's authorized representatives.

(11) The authorized representative shall not make a false statement or misrepresentation, willfully conceal information, or fail to report or disclose any fact or event required to be reported by any law, regulation, or rule of this state or the United States.

(12) If an organization is appointed as an authorized representative—

(A) The organization shall provide in writing the name, address, and phone number of an individual within the organization who shall serve as a contact person for the division within ten (10) days of appointment of the organization as the authorized representative, if not provided by the participant. The organization shall notify the division in writing of any change in the name and contact information for the contact person within ten (10) days of the change;

(B) An organization shall provide within ten (10) days upon request by the division written verification that an individual purporting to be a member or employee of the organization acting as an authorized representative is acting within the authority of the organization. The verification shall be provided by another member or employee of the organization and cannot be provided by the individual who is the subject of the request by the division; and

(C) As required by 42 CFR 435.923(e), the provider, staff member, or volunteer of the organization shall affirm and agree that, as a condition of serving as an authorized representative, he or she will adhere to section 208.155, RSMo, 42 CFR part 431, subpart F, and 45 CFR 155.260(f) (relating to confidentiality of information), 42 CFR 447.10 (relating to the prohibition against reassignment of provider claims as appropriate for a facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information.

(13) Department of Social Services employees may contact the participant to verify the appointment of an authorized representative, discuss with the participant information provided by the authorized representative, and for any other purposes and, notwithstanding the availability of the authorized representative, may communicate directly with the participant at any time the department deems appropriate.

(14) Subject to the requirements of section (3), the participant may revoke or modify the designation of an authorized representative and appoint another authorized representative to represent him or her at any time. The participant may modify the authority of the authorized representative to act at any time. To revoke or modify the authority of an authorized representative the participant shall submit a signed and dated statement revoking or modifying the designation of the authorized representative or the authority to act to the division and the authorized representative. The revocation shall be effective on the date that it is received by the division.

(15) No authorized representative shall make willfully false statements, coerce, threaten, or harass any participant who wishes to revoke or modify the authority of the authorized representative in order to prevent or dissuade the individual from revoking or modifying the authorized representative relationship. The division will no longer accept the authorized representative as acting on behalf of the participant should the division determine this has occurred.

(16) The death of the participant shall terminate the authority of the authorized representative to act as of the day of the participant's death. However, the death of the participant shall not stay the authority of the authorized representative to assist with an application filed with the family support division prior to the participant's death until the application is approved or rejected and any hearing rights have expired. The death of the participant shall also not stay the authority of the authorized representative to assist with payment of MO HealthNet benefits owed prior to the participant's death.

(17) An appointment as an authorized representative is non-transferrable and may not be delegated by the individual or the organization acting as an authorized representative to another individual or organization.

(18) A court-appointed legal guardian and/or conservator; a public administrator who has been appointed a participant's legal guardian; participant's spouse; an attorney-in-fact; and an attorney at law, authorized to practice in the state of Missouri, may represent a participant and receive information about the participant's application for a MO HealthNet program or hearing at any stage of the application process without having to submit an authorized representative form, but shall—

(A) Notify the division when the authority to represent the participant changes or terminates for any reason. The authority to act as the participant's representative shall terminate upon death of the participant;

(B) Provide the division in writing a current address, phone number, and e-mail or facsimile number. An attorney shall provide his or her Missouri bar number;

(C) A court-appointed legal guardian or public administrator who has been appointed a participant's legal guardian shall submit to the division a copy of his or her letters of appointment or a copy of the court order appointing him or her to act as the participant's legal guardian;

(D) A participant who has a court-appointed guardian and/or conservator cannot revoke or limit the authority of the guardian and/or conservator absent a court order; and

(E) An attorney-in-fact shall submit to the division the powers or authority of the attorney-in-fact to represent the participant or act as the authorized representative. An attorney-in-fact other than a durable power of attorney shall not represent the participant or serve as an authorized representative if the authority to so act is not included within the terms of his or her appointment.

AUTHORITY: section 208.991, RSMo Supp. 2013. Original rule filed June 30, 2015, effective Dec. 30, 2015.*

**Original authority: 208.991, RSMo 2013.*

13 CSR 40-2.020 General Reinvestigation Procedures

PURPOSE: This rule defines the reinvestigation procedures for Income Maintenance cases.

(1) The county family services office shall reinvestigate all Aid to Families with Dependent Children, General Relief, Supplemental Aid to the Blind, Blind Pension, Adult Supplementation, Medical Assistance and Nursing Care cases at least once every twelve (12) months. These reinvestigations shall be supplemented by more frequent reinvestigations whenever deemed advisable.

AUTHORITY: section 207.020, RSMo 1986. Original rule filed May 8, 1948, effective May 18, 1948. Amended: Filed July 20, 1949, effective July 30, 1949. Amended: Filed Nov. 3, 1950, effective Nov. 13, 1950. Amended: Filed Sept. 26, 1951, effective Oct. 6, 1951. Amended: Filed Nov. 4, 1954, effective Nov. 14, 1954. Amended: Filed Feb. 27, 1974, effective March 9, 1974. Amended: Filed Feb. 6, 1975, effective Feb. 16, 1975. Amended: Filed June 1, 1977, effective Sept. 11, 1977. Amended: Filed July 11, 1979, effective Oct. 11, 1979. Amended: Filed Feb. 9, 1987, effective May 11, 1987.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*



13 CSR 40-2.030 Definitions Relating to Real and Personal Property

PURPOSE: This rule defines the real and personal property considered in determining eligibility for assistance and how the value of that property is determined.

(1) In determining eligibility for public assistance, the Family Support Division (FSD) shall consider property of any kind or character which the claimant owns or possesses or has an interest in, of which s/he is the record or beneficial owner, less encumbrances of record.

(2) For programs applying the Old Age Assistance (OAA), Permanent and Total Disability (PTD) criteria, and General Relief (GR) applicants and recipients, the home, as referenced in section 208.010, RSMo, is defined as the principal place of residence of the claimant. For town or city property, lots on which there is no dwelling and which adjoin the residence are considered a part of the home (regardless of the number of lots so long as they are in the same city block). For rural property, the acreage on which the home is located plus any adjoining acreage will be considered part of the home. (Property will be considered as adjoining even though a road may separate two (2) tracts.)

(3) In determining eligibility for public assistance and blind pension, the value of real property will be its current market value if sold on the open market. (Original rule filed Nov. 4, 1954, effective Nov. 14, 1954.)

(4) The value of a life insurance policy at any time shall be the cash surrender value of the policy, minus the amount of any lien, loan, accrued interest payments or assigned portion of the policy. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

(5) Personal property is defined as household goods, jewelry, farm surpluses, livestock, farm or business machinery or equipment, automobiles and trucks, and similar items. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

(6) The total amount on deposit in a joint bank account of which the applicant is one of the owners is considered as available to the applicant unless there is verification that the money placed in the account or a definite portion of it belongs to the other joint owner, who is not applying for or receiving public assistance. When both or all the owners of a joint bank account are applying for or receiving assistance, each is considered as owning his/her proportionate share of the account. If the applicant states s/he has not deposited any portion of the money in the account and past

circumstances of the applicant indicate that this is reasonable, the total amount on deposit will not be considered as available to the applicant. (Original rule filed Feb. 6, 1975, effective Feb. 16, 1975.)

(7) In those programs applying the OAA, PTD criteria, in GR cases, and in Aid to Families with Dependent Children (AFDC) cases, in certain instances as defined in sections (8)—(12) of this rule, the property will be considered as a resource which the applicant or recipient can and should use in meeting his/her needs and will not be eligible for public assistance. (Original rule filed Feb. 6, 1975, effective Feb. 16, 1975.) The eligibility factor of property as an available resource applies under the OAA criteria to an applicant, recipient and spouse. In AFDC cases, the policy applies to a child and to a parent(s) or, as allowed by federal law or regulation, to stepparents or, if included in the grant, a needy nonparent caretaker relative or legal guardian with whom the child is living. In cases receiving GR, the policy applies to an applicant or recipient and spouse and children in the home under the age of twenty-one (21). If the GR applicant or recipient is under age twenty-one (21), it applies to his/her parent(s) in the home. In programs applying the PTD criteria, the policy applies to the applicant or recipient and spouse. (Original rule filed Nov. 3, 1950, effective Nov. 13, 1950. Amended: Oct. 20, 1967, effective Oct. 30, 1967. Amended: July 8, 1969, effective July 18, 1969. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(8) When an applicant or recipient of programs applying the OAA, PTD criteria or GR, or the spouse with whom s/he lives or, when the GR applicant or recipient is under age twenty-one (21), the parent(s) with whom s/he lives, owns real property which is not furnishing shelter for him/her and its current market value is one thousand dollars (\$1000) or more if owned by a single person or more than two thousand dollars (\$2000) if owned by a married person living with spouse, it shall be considered as a resource and the claimant will not be eligible for assistance on the basis of need; provided, all of the following criteria which apply are met (the value of an equity in a life estate and of burial lots shall be excluded from this computation). In GR cases involving two (2) or more persons eligible for GR, the limitation will be more than two thousand dollars (\$2000). For AFDC cases, the limitation will be one thousand dollars (\$1000), except that burial lots must be excluded from this computation. If the value of real property is less than the amounts stated previously, it shall be counted as a part of the combination of available resources in determining eligibility, as stated in section (12) of this rule.

(A) For real property in which the applicant or recipient has lived—

1. Twenty-four (24) months have elapsed since the last date on which either the claimant or spouse have occupied the dwelling except that the twenty-four (24)-month rule will not apply to real property owned by a claimant, spouse, or both, who is a patient in a domiciliary, practical or skilled nursing home, an intermediate care facility (ICF), state hospital or medical institution; the value of this property shall be excluded in determining eligibility on the basis of available resources during the period of time the applicant or recipient is a patient in a nursing home or institution;

2. In the AFDC program, real property in which the applicant/recipient has lived will be counted as a resource the month after the month in which it is vacated for other than a temporary purpose, unless the spouse from whom the claimant is separated and the claimant own the home jointly and the spouse continues to remain in the home. In this case, the home and forty (40) adjoining acres will not be included in determining equity in resources as long as the spouse remains in the home. In the event of divorce, the equity in the property immediately must be considered a resource;

3. If a claimant or couple owns two (2) pieces of property, they shall be required to designate one (1) as their homestead and the other immediately shall be considered as an available resource. Also, when two (2) claimants marry and each owns a home in which s/he has been living, they will be required to designate one (1) of the properties as their homestead, the other immediately shall be considered as an available resource;

4. For programs applying the OAA, PTD criteria and GR applicants and recipients for town or city property, lots on which there is no dwelling and which adjoin the residence are considered a part of the home (regardless of the number of lots so long as they are in the same city block). For AFDC applicants and recipients, the land on which the home is located, up to forty (40) acres, is considered a part of the home so long as the land is adjoining, in the same city block, and there is no other dwelling on the forty (40) acres; or

5. For programs applying the OAA, PTD criteria and GR applicants and recipients, for rural property, the acreage on which the home is located plus any adjoining acreage which is a part of that farming acreage which is a part of that farming unit will be considered as part of the home. For AFDC applicants and recipients, the land on which the home is located, up to forty (40) acres, which is part of that farming unit will be considered as part of the home so long as the land is adjoining and there is no other dwelling on the forty (40) acres. (Property



will be considered as adjoining even though a road may separate two (2) tracts, if the property is farmed as a single unit.)

(B) For all other real property—For programs applying the OAA, PTD criteria and GR applicants and recipients, the property is not being used directly by the claimant in the course of his/her business or employment or, if in use, is not producing an annual return consistent with its fair market value. For AFDC applicants and recipients, all other real property will be included in determining the one thousand dollar (\$1000) limitation. (*Original rule filed Oct. 24, 1951, effective Nov. 3, 1951. Amended: Nov. 21, 1952, effective Dec. 1, 1952. Amended: July 29, 1959, effective Aug. 29, 1959. Amended: Oct. 19, 1959, effective Oct. 29, 1959. Amended: July 8, 1969, effective July 18, 1969. Amended: July 23, 1970, effective Aug. 2, 1970. Amended: Dec. 22, 1972, effective Jan. 1, 1973.*)

(9) A single individual applying for or receiving assistance in programs applying the OAA or PTD criteria who owns insurance (over and above the first one thousand five hundred dollars (\$1500) in face value) with a cash or loan value of one thousand dollars (\$1000) or more will not be considered eligible for assistance on the basis of available resources. A husband or wife living together may own insurance (over and above the first one thousand five hundred dollars (\$1500) each in face value) in any combination with a total cash or loan value up to and including two thousand dollars (\$2000). In GR cases, the one thousand five hundred dollar (\$1500) face value exemption will apply to each person included in the GR case. When the claimant has deposited money with an individual, firm or corporation as an advance payment for a funeral and the payment is safeguarded by burial insurance, trust fund or joint bank account, the amount of money over one thousand five hundred dollars (\$1500) deposited under such a plan will be considered a resource in the same manner as the cash or loan value of life insurance policies, if the contract is revocable. If the burial/funeral contract is irrevocable, the entire amount of money deposited will be excluded from available resources. If the claimant has both life insurance and prepaid burial (revocable or irrevocable), the one thousand five hundred dollar (\$1500) exemption will apply to either or to any combination. The face value of an irrevocable burial contract will always be counted toward the one thousand five hundred dollar (\$1500) exemption. If the cash or loan value of insurance is less than the amounts stated in this section, it shall be counted as part of the combination of available resources in determining eligibility as stated in section (12) of this rule. An individual applying for or

receiving assistance in programs applying the OAA or PTD criteria may designate separately identifiable funds as set aside for burial for the individual or spouse up to a maximum of one thousand five hundred dollars (\$1500). The amount of one thousand five hundred dollars (\$1500) shall be reduced by—1) the total face value of insurance policies on the life of the individual or spouse which are owned by him/her or his/her spouse, the cash surrender value of which has been excluded in determining eligibility on available resources as provided in this section and in section (12) of this rule and 2) the value of any burial/funeral contract on the life of the individual or spouse. When this fund has been designated and all or a portion is excluded in determining available resources eligibility as provided in this section and in section (12) of this rule, the interest or appreciation to the excluded portion of this fund (if left to accumulate) also shall be excluded in determining available resources eligibility, starting with interest or appreciation accrued on or after the beginning date of Medicaid eligibility. In AFDC cases, there shall be disregarded any prearranged funeral or burial contract, or any two (2) or more contracts, which provides for the payment of one thousand five hundred dollars (\$1500) or less per family member. The face value of an irrevocable burial contract will always be counted toward the one thousand five hundred dollar (\$1500) exemption. In AFDC cases, any family who owns revocable prepaid burials (over and above the first one thousand five hundred dollars (\$1500) in equity value) or insurance with cash surrender value over one thousand dollars (\$1000) will not be eligible for assistance. If the cash surrender value of revocable prepaid burials (over and above the first one thousand five hundred dollars (\$1500) in equity value) or insurance is one thousand dollars (\$1000) or less, it shall be counted as a part of the combination of available resources in determining eligibility as stated in section (12) of this rule. (*Original rule filed Jan. 1, 1952, effective Jan. 10, 1952. Amended: July 29, 1959, effective Aug. 29, 1959. Amended: Oct. 19, 1959, effective Oct. 29, 1959. Amended: July 8, 1969, effective July 18, 1969. Amended: July 23, 1970, effective Aug. 2, 1970. Amended: Dec. 22, 1972, effective Jan. 1, 1973.*)

(10) In programs applying the OAA, PTD criteria and GR cases, salable personal property, such as livestock, farm surplus, jewelry (except wedding and engagement rings owned by claimant or spouse), machinery, automobiles and trucks, and the like, shall be considered as an available resource when the following criteria are present:

(A) In programs applying the OAA, PTD criteria and GR cases, the equity based on current market value is one thousand dollars

(\$1000) or more, or more than two thousand dollars (\$2000) in the case of a married person living with spouse. In GR cases involving two (2) or more persons eligible for GR, the limitation is more than two thousand dollars (\$2000);

(B) If personal property is not being used by the claimant in the course of his/her business or employment or, if in use, is not producing an annual return consistent with its fair market value. An automobile or truck will not be considered as an available resource if it provides transportation for any of the following purposes: employment, marketing, school or church attendance, or obtaining medical care;

(C) Household furnishings shall not be considered as available resources unless they are not being used by the applicant, in which case the limits of one thousand dollar (\$1000) value will apply; and

(D) If the value of the personal property is less than the amounts stated in subsections (10)(A)—(C), it shall be counted as a part of the combination of available resources in determining eligibility as stated in section (12) of this rule. (*Original rule filed Jan. 11, 1952, effective Jan. 21, 1952. Amended: Dec. 3, 1952, effective Dec. 13, 1952. Amended: July 29, 1959, effective Aug. 29, 1959. Amended: Oct. 19, 1959, effective Oct. 29, 1959. Amended: July 8, 1969, effective July 18, 1969. Amended: July 23, 1970, effective Aug. 2, 1970. Amended: Dec. 22, 1972, effective Jan. 1, 1973.*)

(11) An AFDC applicant or recipient may not own personal property with equity greater than one thousand dollars (\$1000). However the following personal property will not be included in this determination:

(A) Tools, supplies, livestock, farm surplus and similar items being used by the claimant in the course of his/her business. This does not include business or farm machinery;

(B) Household furnishings, household goods and personal effects used by the claimant;

(C) The first fifteen hundred dollar (\$1500) equity in one (1) automobile; and

(D) Wedding and engagement rings and jewelry of limited value.

(12) In programs applying the OAA, PTD criteria and GR cases, any combination of available resources—real property, personal property, cash or securities, or cash surrender or loan value of life insurance (including money deposited in revocable prepaid burials), the combined value of which is one thousand dollars (\$1000) or more, will result in ineligibility for a single person. For a married person living with spouse, any combination of available resources which exceeds a value of two thousand dollars (\$2000) will



result in ineligibility for both persons. In GR cases, any combination of one thousand dollars (\$1000) or more for the applicant or recipient of GR would make that person ineligible (except that a husband and wife or two (2) or more persons in the household eligible for GR could have up to two thousand dollars (\$2000) together). In AFDC cases, any combination of more than one thousand dollars (\$1000) would make the family ineligible. (Original rule filed Jan. 11, 1952, effective Jan. 21, 1952. Amended: July 29, 1959, effective Aug. 29, 1959. Amended: Oct. 19, 1959, effective Oct. 29, 1959. Amended: July 8, 1969, effective July 18, 1969. Amended: July 23, 1970, effective Aug. 2, 1970.)

(13) Notwithstanding the previously mentioned eligibility requirements with respect to resources, the following will apply to individuals meeting the definition of institutionalized spouses who begin a period of continuous institutionalization on or after September 30, 1989:

(A) As used in this section, the definitions for the following terms shall apply:

1. Assessment shall mean a determination by the FSD of the total equity value of available resources (as stated in sections (6)–(12)) owned by the institutionalized spouse, the community spouse, or both, which may be requested at the beginning of a period of continuous institutionalization expected to last at least thirty (30) days or more;

2. Community spouse shall mean the husband or wife of an institutionalized spouse who does not reside in a medical hospital or a Medicaid-certified bed in a nursing facility (NF) and, if the institutionalized spouse is one who meets the definition in subparagraph (13)(A)3.C., the community spouse may not be one who meets those criteria;

3. Institutionalized spouse shall mean a claimant who resides in—

A. A medical hospital;

B. A Medicaid-certified bed in an NF, with an expected stay of at least thirty (30) days; or

C. His/her own home and is assessed by the Division of Disability and Senior Services as needing both an NF level-of-care as defined in 19 CSR 30-81.030 and home- and community-based waiver services and is assessed to need these services for at least thirty (30) days, and is married to a person who meets the definition of a community spouse in paragraph (13)(A)2.; and

4. Period of continuous institutionalization shall mean a stay in a medical hospital or Medicaid-certified bed in an NF or when the Division of Disability and Senior Services determines a need for home- and community-based waiver services which is expected to last thirty (30) days or more; and

(B) The following shall apply with regard to resource eligibility for institutionalized spouses who begin a period of continuous institutionalization on or after September 30, 1989:

1. When an individual meets the criteria in subparagraph (13)(A)3.C., his/her gross monthly income shall be compared to one thousand twelve dollars (\$1,012). If his/her gross monthly income is equal to or less than one thousand twelve dollars (\$1,012), the FSD shall complete an assessment of assets as defined in paragraph (13)(B)2. When his/her gross monthly income is greater than one thousand twelve dollars (\$1,012), s/he is not eligible for an assessment of assets as defined in paragraph (13)(B)2. The one thousand twelve dollar (\$1,012) income limit shall be increased each year effective January 1 in accordance with the Social Security cost-of-living adjustment (COLA), beginning in 2006;

2. At the beginning of the first period of continuous institutionalization, the institutionalized spouse, the community spouse or a representative acting on behalf of either may request an assessment by the FSD of total equity in available resources owned by either or both in the month in which the period of institutionalization began or, in the case of an institutionalized spouse who meets the definition in subparagraph (13)(A)3.C. and who met that definition prior to January 1, 1993, January 1993 shall be substituted for the month in which the period of institutionalization began;

3. From this total, the FSD shall compute the spousal share, which shall be the greater of—1) twelve thousand dollars (\$12,000) or 2) one-half (1/2) of the total, not to exceed sixty thousand dollars (\$60,000). The twelve thousand dollar (\$12,000) minimum and the sixty thousand dollar (\$60,000) maximum shall be increased each January in accordance with the increase in the Consumer Price Index, beginning in 1990;

4. In determining initial Medicaid eligibility for the institutionalized spouse in this continuous period of institutionalization, the FSD again shall determine the total equity in available resources owned by the institutionalized spouse, the community spouse, or both, at the time of Medicaid request. From this total, the FSD shall deduct the amount of the spousal share as computed in paragraphs (13)(B)2. and 3. If the remainder is equal to or less than the appropriate resource maximum for a single person, the institutionalized individual, to the extent the individual expresses intent to transfer any excess resources to the community spouse, shall be initially eligible for Medicaid on the factor of available resources. Eligibility for Medicaid

for individuals described in subparagraph (13)(A)3.C. who become resource eligible using the assessment described in paragraph (13)(B)2. cannot begin prior to the date the individual actually receives home- and community-based waiver services;

5. Any such individual who is determined initially eligible for Medicaid must transfer any resources above the appropriate resource maximum which are held in the individual's name to the community spouse within ninety (90) days of notification of initial eligibility, unless good cause exists;

6. If good cause does not exist, the FSD shall consider any resources held in the name of the institutionalized spouse, including any jointly-owned resources, in determining continued Medicaid eligibility, effective ninety (90) days after notification of initial eligibility;

7. After the determination of initial eligibility for the institutionalized spouse, no resources of the community spouse not jointly owned with the institutionalized spouse shall be considered available to the institutionalized spouse in Medicaid determinations in that continuous period of institutionalization;

8. If either spouse establishes in a fair hearing that the spousal share (in relation to the amount of income generated by that amount) is inadequate to raise the community spouse's own income to the amount determined in 13 CSR 40-2.200(5)(A), the spousal share may be adjusted to an amount adequate to provide the additional income. At the fair hearing the maximum amount of the institutionalized spouse's income that may be made available to the community spouse under 42 U.S.C.1396r-5(d), shall be considered the community spouse's own income; and

9. If a court has entered an order against an institutionalized spouse for the support of the community spouse, the amount of the order shall be substituted for the spousal share.

AUTHORITY: section 207.020, RSMo 2000. Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Amended: Filed Feb. 10, 1978, effective May 11, 1978. Emergency amendment filed Feb. 20, 1979, effective March 2, 1979, expired June 10, 1979. Amended: Filed March 9, 1979, effective June 11, 1979. Emergency amendment filed May 12, 1982, effective May 22, 1982, expired Aug. 11, 1982. Amended: Filed May 12, 1982, effective Aug. 12, 1982. Amended: Filed March 14, 1983, effective June 11, 1983. Emergency amendment filed Dec. 21, 1983, effective Dec. 30, 1983, expired April 11, 1984. Emergency amendment filed Jan. 13, 1984,*



effective Jan. 23, 1984, expired April 11, 1984. Amended: Filed Jan. 13, 1984, effective April 12, 1984. Emergency amendment filed Oct. 3, 1984, effective Oct. 13, 1984, expired Jan. 11, 1985. Amended: Filed Oct. 15, 1984, effective Jan. 12, 1985. Emergency amendment filed Sept. 24, 1985, effective Oct. 4, 1985, expired Jan. 23, 1986. Amended: Filed Sept. 24, 1985, effective Dec. 26, 1985. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Emergency amendment filed Sept. 19, 1989, effective Sept. 30, 1989, expired Jan. 27, 1990. Amended: Filed Nov. 2, 1989, effective Jan. 26, 1990. Emergency amendment filed Dec. 18, 1992, effective Jan. 1, 1993, expired April 30, 1993. Emergency amendment filed Feb. 26, 1993, effective May 1, 1993, expired Aug. 28, 1993. Amended: Filed Dec. 18, 1992, effective June 7, 1993. Emergency amendment filed Dec. 13, 1993, effective Jan. 1, 1994, expired April 30, 1994. Amended: Filed Dec. 13, 1993, effective July 10, 1994. Emergency amendment filed Dec. 29, 1994, effective Jan. 8, 1995, expired May 7, 1995. Amended: Filed Jan. 12, 1995, effective July 30, 1995. Amended: Filed Sept. 6, 2005, effective April 30, 2006.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993.

Estate of Pearl v. State Division of Welfare, 538 SW2d 922 (Mo. App. 1976). Old Age Assistance benefits were denied plaintiff based on finding of division that assets of recipient in the way of property not furnishing shelter to her were in excess of \$2000 limit set by rule of the division. The court held the comparable sales used to determine the value of the property did not provide competent and substantial evidence upon the whole record to support the denial of benefits.

13 CSR 40-2.035 Transfer of Property

Emergency rule filed April 10, 1981, effective April 20, 1981, expired June 30, 1981.

13 CSR 40-2.040 Definition of Abandonment of Residence

PURPOSE: This rule defines when a recipient of assistance becomes ineligible due to abandonment of Missouri residence.

(1) When it is known that a recipient of public assistance or Blind Pension has left the state, the county family services office shall determine the reason for the absence and if it is established that the recipient has abandoned his/her Missouri residence, assistance will be discontinued.

AUTHORITY: section 207.020, RSMo (1986). Original rule filed Nov. 4, 1954, effective Nov. 14, 1954.*

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.050 Definition of Earned Income

PURPOSE: This rule defines earned income in order to determine when earned income disregards apply in establishing the amount of payment for which the recipient is eligible.

(1) In applying the earned income exemptions, as stated in section 209.240, RSMo, to an applicant for, or a recipient of, Aid to the Blind and as stated in section 208.010, RSMo for an applicant for or recipient of Old Age Assistance or an applicant or recipient of Aid to Dependent Children, the following definition of earned income will be used:

(A) The term earned income encompasses income in cash or in kind earned by a needy individual through the receipt of wages, salary, commissions or profit from activities in which s/he is engaged as a self-employed individual or an employee. The earned income may be derived from his/her own employment, such as business enterprise or farming, or derived from wages or salary received as an employee. It includes earnings over a period of time for which settlement is made at one (1) given time, as in the instance of sale of farm crops, livestock or poultry. In considering income from farm operation, the option available for reporting under Old Age Supplemental Disability Income, namely the cash receipts and disbursements method, that is, a record of actual gross, of expenses and of net, is an individual determination and is acceptable also for public assistance. With reference to commissions, wages or salary, the term earned income means the total amount, irrespective of personal expenses, such as income tax deductions, lunches and transportation to and from work. With respect to self-employment, the term earned income means the total profit from business enterprise, farming, and the like, resulting from a comparison of the gross income received with the business expenses, that is, total cost of the production of the income. Personal expenses, such as income tax payments, lunches and transportation to and from work, are not classified as business expenses;

(B) The definition shall exclude the following from earned income: Returns from capital investment with respect to which the individual is not him/herself actively engaged, as

in a business (for example, under most circumstances, dividends and interest would be excluded from earned income); and benefits (not in the nature of wages, salary or profit) accruing as compensation or reward for service or as compensation for lack of employment (for example, pensions and benefits such as United Mine Worker's benefits or veterans benefits); and

(C) With regard to the degree of activity, earned income is income produced as a result of the performance of services by a recipient; in other words, income which the individual earns by his/her own efforts, including managerial responsibilities, would be properly classified as earned income, such as management of capital investment in real estate. Conversely, for example, in the instance of capital investment where the individual carries no specific responsibility, such as where rental properties are in the hands of rental agencies and the check is forwarded to the recipient, the income would not be classified as earned income. In households where an Aid to Blind or Old Age Assistance claimant is entitled to an income exemption and where other persons are receiving other types of assistance, the exempted income also shall be disregarded in determining the need of the other persons for public assistance.

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Sept. 26, 1951, effective Oct. 6, 1951. Amended: Filed Sept. 19, 1961, effective Oct. 13, 1961. Amended: Filed Oct. 1, 1965, effective Oct. 10, 1965. Amended: Filed Sept. 24, 1970, effective Oct. 4, 1970.*

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.060 Definitions Relating to AFDC

PURPOSE: This rule defines certain requirements in determining eligibility for Aid to Families with Dependent Children.

(1) Continued absence from the home is defined as absence resulting from any one (1) of the following reasons: divorce; desertion; separation; confinement in a penal, medical or custodial institution; physical restoration; or training program developed by vocational rehabilitation if the plan necessitates absence from the home of the parent.

(2) Home is interpreted to mean a family setting maintained or in the process of being established as evidenced by the assumption or continuance of responsibility for the child.



Usually the child shares the family household with the parent or relative. A home exists as long as the parent or relative takes responsibility for the care and control of the child, even though circumstances may require temporary absence of either the child or the parent (or relative) from the customary family setting. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

(3) The statement physical or mental defect, illness or disability exists which prevents the parent from performing any substantially gainful activity means that the incapacity is expected to last at least thirty (30) days and is of a debilitating nature as to substantially reduce or eliminate the parent's ability to support or to care for the child considering the limited employment opportunities of handicapped individuals. This will be met under the following circumstances:

(A) Incapacitated parent working for an employer—the family is eligible if it can be determined that, because of his/her incapacity, the parent is working substantially less time on the job than an able-bodied person would spend or that s/he is working for a substantially lower wage rate than the usual wage paid for the type of work being done;

(B) Incapacitated parent who is self-employed—the family is eligible if it can be determined that, because of his/her incapacity, s/he cannot perform the major activities which his/her job requires;

(C) Incapacitated parent who is unemployed—the family is eligible if it can be determined that, because of his/her incapacity, s/he is prevented from engaging in full-time employment on a regular basis at the normal wage rate for that employment; and

(D) The parent is receiving Old Age Supplemental Disability Income or Supplemental Security Income benefits on the basis of disability or blindness. (Original rule filed Oct. 24, 1949, effective Nov. 3, 1949. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(4) The relative with whom a dependent child shall be living in order to be eligible for Aid to Dependent Children (ADC) assistance as set forth in section 208.040, RSMo shall be construed to include, in addition to the relatives specifically named in the act: stepfather or stepmother (but not their parents); adoptive father or adoptive mother; grandfather-in-law or grandmother-in-law (meaning the spouse of a second marriage of one of the child's natural grandparents); great-grandfather or great-grandmother; brother or sister of half blood; adoptive brother or adoptive sister; brother-in-law or sister-in-law; uncle or aunt of the half blood; uncle-in-law or aunt-in-law; great-uncle or great-aunt (including great-great-uncle or great-great-aunt); and other relatives by adoption, in

addition to those specifically mentioned here, may be considered eligible payees within the same degree of relationship as apply to blood relatives. The natural relatives of an adopted child also continue to be eligible payees. As provided in section 208.043, RSMo, a legal guardian of a child also may serve as a payee for ADC and if the legal guardian is otherwise eligible may be eligible for a cash payment. (Original rule filed Sept. 19, 1973, effective Sept. 29, 1973.)

(5) An unemployed parent as used in section 208.041, RSMo is defined as a natural or adoptive parent who meets all of the following criteria:

(A) The parent must be the principal earner. This can be determined by whichever parent, in a home in which both parents of that child are living, earned the greater amount of income in the twenty-four (24)-month period, the last month of which immediately precedes the month in which assistance is requested due to the unemployment of a parent.

1. If primary evidence of earnings for this period cannot be secured, the division shall designate the principal earner, using the best evidence available.

2. The earnings of each parent are considered in determining the principal earner regardless of when their relationship began.

3. The principal earner so defined remains the principal earner for each consecutive month for which the family receives the aid on the basis of application.

4. If both parents earned an identical amount of income (or earned no income) in the twenty-four (24)-month period, the division shall designate which parent shall be the principal earner;

(B) The parent must be employed less than one hundred (100) hours a month; or s/he can exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that s/he was under the one hundred (100)-hour standard for the prior two (2) months and is expected to be under the standard during the next month; and

(C) The parent who is unemployed must not be unemployed as a result of participation in a strike.

AUTHORITY: section 207.020, RSMo 1986.* Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Amended: Filed June 1, 1977, effective Sept. 11, 1977. Emergency amendment filed June 1, 1977, effective July 1, 1977, expired Oct. 31, 1977. Amended: Filed June 29, 1977, effective Oct. 13, 1977. Emergency amendment filed Nov. 21, 1979, effective Dec. 1, 1979, expired March 12, 1980. Amended: Filed Nov. 21, 1979, effective March 13, 1980. Emergency amendment filed July 10, 1980, effective July 20, 1980,

expired Oct. 10, 1980. Amended: Filed July 10, 1980, effective Oct. 11, 1980. Amended: Filed Feb. 9, 1981, effective May 11, 1981. Emergency amendment filed July 12, 1982, effective July 22, 1982, expired Oct. 10, 1982. Amended: Filed July 12, 1982, effective Oct. 11, 1982. Amended: Filed June 17, 1983, effective Oct. 13, 1983. Amended: Filed Jan. 30, 1991, effective July 8, 1991. Amended: Filed July 15, 1991, effective Nov. 31, 1991.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

Rist v. Missouri State Division of Family Services, 595 SW2d (Mo. App. 1980). DFS Income Maintenance Manual required denial of benefits to recipient because she was attending school outside her district. Since this guideline was inconsistent with pertinent provisions of the Social Security Act, the guideline must fall.

13 CSR 40-2.070 Definitions Relating to General Relief

PURPOSE: This rule defines certain requirements in determining eligibility for General Relief.

(1) General Relief (GR) shall not be granted to any claimant who is employable. If certain specified relatives living in the household of the claimant are employed and have income sufficient to support themselves and their legal dependents, as determined by comparing their gross income against the poverty level (non-farm) established by the United States Department of Commerce, any income in excess of the poverty level shall be used in determining eligibility and amount of grant for the GR claimant. Specified relatives shall be defined as mother and father of children age twenty-one (21) or over, sister, brother, son, daughter and grandparents of the claimant, as well as the spouses of these relatives if living in the home. The spouse of the claimant and the parents of claimants under twenty-one (21), if living in the home will have their income, resources and property included in determining eligibility and amount of grant for a GR claimant.

(A) An employable person is defined as any person eighteen (18) years of age or older who is physically and mentally capable of employment or who is employed or who is not needed in the home to give care to a relative in the home.

(B) Individuals in the following classifications are considered incapacitated or unemployable:



1. Persons prevented by physical handicaps or illness from performing occupations for which they are qualified for a period of ninety (90) days or longer;

2. Diagnosed mental illness or mental defects which prevent them from performing occupations for which they are qualified;

3. Any person who is maintaining a home for children under the age of eighteen (18) and is prevented from accepting employment due to the necessity of remaining at home to care for the children; and

4. Any person who is needed at home to care for a related invalid member of the household for whom no satisfactory alternative plan of care is available. Consideration should be given to alternative plans and assistance should be given to the family in making any feasible plans.

(C) An unemployable person who is gainfully employed shall not be eligible for GR. Gainful employment is considered as employment resulting in a net earned income of more than eighty dollars (\$80) per month. (Original rule filed Dec. 2, 1971, effective Dec. 12, 1971. Amended: Nov. 22, 1972, effective Dec. 2, 1972. Amended: March 1, 1973, effective March 10, 1973. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(2) Application may be received for GR as a result of fire, flood, illness, eviction, quarantine, and the like in which needs of short duration may arise as a result of the inability of persons who normally are employable to either work or look for work until the emergency situation is over. If this condition is found to exist, the family may be considered unemployable for the actual period during which no member can work or seek work. Emergency aid of this type will be granted only after approval by the county director or supervisor. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

AUTHORITY: section 207.020, RSMo 1986.* Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Emergency amendment filed Feb. 20, 1979, effective March 2, 1979, expired June 10, 1979. Amended: Filed March 9, 1979, effective June 11, 1979. Emergency amendment filed June 22, 1981, effective July 2, 1981, expired Oct. 10, 1981. Amended: Filed June 22, 1981, effective Oct. 11, 1981. Amended: Filed Dec. 10, 1981, effective March 11, 1982. Amended: Filed Aug. 2, 1985, effective Oct. 26, 1985.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

Emily v. Missouri State Division of Family Services, 570 SW2d 783 (Mo. App. 1978). The transitory use by one relative (claimant) of the living quarters of another (her sister) does not itself render the claimant ineligible for general assistance, since no family support relationship is suggested and the sister cannot be viewed as a "resource" available to the claimant under section 208.010.1, RSMo.

13 CSR 40-2.080 Definitions Relating to Institutions

PURPOSE: This rule defines institutions for the purpose of establishing eligibility for Income Maintenance programs.

(1) For the purpose of the administration of public assistance and Blind Pension, a public institution is defined as an institution which provides shelter or care to persons and is managed or controlled, in whole or in part, by or through any public instrumentality, official or employee acting in an official capacity. This does not include controls a designated public official exerts over all institutions, including private or a similar character. Publicly-owned property under formal lease to a private individual or corporation which vests full control of the property in the lessee will not be considered a public institution nor will the fact that the public authority contracts for and makes payments from public funds to, or in support of, individuals in these institutions be considered as governmental participation in financial support of the institution or control of the institution. (Original rule filed May 13, 1948, effective May 23, 1948. Amended: Nov. 4, 1954, effective Nov. 14, 1954.)

(2) A person living in or planning to enter an institution under private management is eligible for public assistance or Blind Pension, provided s/he meets all eligibility requirements in the same manner as a person not living in an institution. However, s/he will not be eligible if one (1) or more of the following conditions are present:

(A) If s/he is entitled to care in the institution because of membership in the group operating the institution (fraternal organization, lodge, union, religious group, and the like);

(B) If s/he has made a lump sum payment or has transferred property or other resources in exchange for lifetime care;

(C) If the institution is meeting and will continue to meet the essential needs of the applicant or recipient; and

(D) If the recipient becomes a patient in a private institution for tuberculosis or mental

diseases or in a private medical institution as a result of a diagnosis of tuberculosis or psychosis. (Original rule filed May 13, 1948, effective May 23, 1948. Amended: Nov. 4, 1954, effective Nov. 14, 1954.)

(3) A patient is an individual who is one or a combination of the following:

(A) Admitted to a medical institution because of illness and for whom there is planned, continuing medical treatment, including nursing care, directed toward improvement in health or for whom palliative medical measures are required though improvement in health or recovery cannot be expected;

(B) Receiving professional medical treatment; or

(C) Free to leave at the conclusion of treatment or any other time upon his/her own decision. (Original rule filed Sept. 26, 1951, effective Oct. 6, 1951.)

(4) A public medical institution is one which meets the following criteria:

(A) It is organized to provide medical care, including nursing and convalescent care; has the necessary professional personnel, equipment and facilities to manage the medical and health needs of patients on a continuing basis and is authorized under state law to provide medical services; and

(B) It is staffed by professional medical or professional nursing personnel who have clear and definite responsibility to the institution in the provision of medical services to patients. The term staffed by means that the establishment or facility provides for the patients adequate continual medical care and supervision by a physician; has sufficient registered nurse or licensed practical nurse supervision and services and nurse's aid services to meet nursing care needs and has appropriate guidance by a physician(s) on the technical aspects of operating the establishment or facility. (Original rule filed Sept. 26, 1951, effective Oct. 6, 1951. Amended: July 24, 1953, effective Aug. 4, 1953. Amended: Nov. 20, 1967, effective Nov. 30, 1967.)

AUTHORITY: section 207.020, RSMo 1986.* Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.090 Definitions Relating to Money Payments

PURPOSE: This rule defines the methods of



payments in Income Maintenance cases.

(1) For the purpose of the administration of public assistance, money payments are defined as payment by check, made to the payee or his/her legally appointed guardian, at regular intervals with no restrictions on the use of funds by the individual. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

(2) A restricted payment is one in which an expressed or implied requirement is made for the recipient that delivery of the assistance checks is contingent upon agreement to make any certain or specified payments from the assistance granted. No restrictions by direct or indirect means which assumes actual or implied control of any portion of a monthly assistance check shall be imposed in any manner whatsoever by any officer and employee of the Division of Family Services, upon any recipient on the expenditure of any portion of his/her grant. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

AUTHORITY: section 207.020, RSMo 1986.* Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Amended: Filed Oct. 21, 1980, effective Feb. 12, 1981.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.100 Definitions Relating to PTD

PURPOSE: This rule defines permanently and totally disabled.

(1) Permanent and Total Disability (PTD) means that the individual has some physical or mental impairment, disease or loss from which recovery or substantial improvement cannot be expected and which substantially precludes him/her from engaging in any occupation within his/her competence, such as holding a job or homemaking.

AUTHORITY: section 207.020, RSMo 1986.* Original rule filed Nov. 1, 1950, effective Nov. 11, 1950.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

Crudup v. Missouri State Division of Family Services 600, SW2d 129 (Mo. App. 1980). In applying the definition of permanent and total disability found at 13 CSR 40-2.100, the agency must conform its decision to its own interpretation of a promulgated rule given

effect as a policy. Also, this agency policy may be used to assist the reviewing court.

13 CSR 40-2.110 Persons Whose Expenses and Income Are Included in Determining Cash Payments

PURPOSE: This rule outlines those persons whose income and expenses must be included in determining the amount of the cash payment.

(1) The requirements of the following persons who are members of the household shall be included in the Aid to Families with Dependent Children (AFDC) grant: eligible children under the age of eighteen (18) or age eighteen (18) and in secondary school or the equivalent vocational or technical school if expected to graduate before or in the month the child turns nineteen (19), natural or adoptive parents of one (1) or more of the eligible children and any needy nonparent caretaker relative or related or unrelated guardian. The nonparent caretaker relative or the guardian, if found to be eligible for inclusion, has the option to be excluded from the assistance group. (Original rule filed April 12, 1948, effective April 22, 1948. Amended: Oct. 20, 1967, effective Oct. 30, 1967. Amended: Oct. 17, 1969, effective Oct. 27, 1969. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(A) When a person in an AFDC household meets eligibility requirements for AFDC and Supplemental Aid to the Blind (SAB) or Blind Pension (BP), the person must receive AFDC and will be ineligible for SAB or BP.

1. No special Aid to the Blind (AB) or BP expenses nor AB or BP income exemptions will be allowed in determining eligibility for AFDC.

2. If the AFDC household is determined to be ineligible, that person may apply as a single SAB or BP applicant and, if eligible, that person may receive SAB or BP only.

(2) The requirements of the following members of the household shall be included in the General Relief grant: applicant or recipient and his/her spouse and any children living in the home under age twenty-one (21). If the applicant or recipient is under twenty-one (21), the requirements of his/her parent(s) living in the home also shall be included. (Original rule filed April 12, 1948, effective April 22, 1948. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(3) The requirements of the AB applicant or recipient only shall be included in the AB grant. (Original rule filed Sept. 26, 1951, effective Oct. 6, 1951. Amended: Oct. 20,

1967, effective Oct. 30, 1967. Amended: March 19, 1969, effective March 29, 1969.)

AUTHORITY: section 207.020, RSMo 1986.* Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Emergency amendment filed June 1, 1977, effective July 1, 1977, expired Oct. 31, 1977. Amended: Filed June 29, 1977, effective Oct. 13, 1977. Emergency amendment filed Feb. 20, 1979, effective March 2, 1979, expired June 10, 1979. Amended: Filed March 9, 1979, effective June 11, 1979. Emergency amendment filed Feb. 19, 1982, effective March 1, 1982, expired June 10, 1982. Amended: Filed Feb. 19, 1982, effective June 11, 1982.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.120 Methods Used to Determine the Amount of Cash Payments

PURPOSE: This rule outline the methods used to determine the correct amount of cash payments in the various assistance programs.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) The budgetary method is used in establishing eligibility for and the extent of need for public assistance. This requires the determination of the needs of the individual or groups of individuals who may be affected by the receipt of assistance, the determination of income and resources available to these persons and, if income and resources are not sufficient to provide a reasonable subsistence compatible with decency and health, the planning of assistance to meet the deficit. (Original rule filed April 12, 1948, effective April 22, 1948.)

(2) Consideration of Available Income.

(A) In Aid to Dependent Children (ADC) cases, all income of the following persons who are in the household shall be considered in determining whether the children (including stepchild and adopted child) are in need and, if so, the amount of the need-eligible children; natural or adoptive parents of one (1) or more of the eligible children; any



needy nonparent caretaker relative or related or unrelated guardian if they desire to be included in the assistance group and are eligible for inclusion; a stepparent, in accordance with Section 402(a)(31) of the Social Security Act; and any blood or adoptive brother or sister of an eligible child, if that brother or sister meets the conditions described in clauses (1) and (2) of Section 406(a) of the Social Security Act and is living in the home. This income shall be included notwithstanding Section 205(j) of the Social Security Act in the case of benefits provided under Title II. With respect to an eligible child who is living with a parent or legal guardian who is under age nineteen (19), the income of this minor's own parents or legal guardians who are living in the home shall be included to the same extent that the income of a stepparent is included in accordance with 402(a)(31) of the Social Security Act. Income of all other persons in the household will be considered in the amount made available to the household.

(B) In General Relief (GR) cases, a household budget including the total income and expenses of the applicant or recipient and his/her spouse and any children under age twenty-one (21) will be prepared. If the applicant or recipient is under twenty-one (21) the income and expenses of his/her parent(s) living in the home shall be included. When a GR applicant or recipient is living with an employed specified relative as defined in 13 CSR 40-2.070, the specified relative's income in excess of the poverty level will be budgeted.

(C) In Aid to the Blind (AB) cases, all income of the applicant or recipient shall be considered in determining whether the applicant or recipient is in need and, if so, the amount of that need. The income of any other person in the household will be considered only in the amount made available to the AB applicant or recipient.

(D) In computing the income of an applicant or recipient, or of the household of which s/he is a member, only that income which is available during the period under consideration shall be taken into account. To be considered as available, the income shall actually and presently exist (not to be a potential or remote income) and shall be sufficient to have some appreciable significance in meeting the immediate requirements of the applicant or recipient. The following will not be considered in determining eligibility: in Aid to Families with Dependent Children (AFDC) cases, the first fifty dollars (\$50) of monthly child support payments; home produce raised or used by the applicant or recipient for consumption by the family and loans

made under conditions which preclude their use for meeting current living costs. (Original rule filed April 12, 1948, effective April 22, 1948. Amended: Feb. 6, 1975, effective Feb. 16, 1975.)

(3) Each budget shall include provision in an amount per month as established by the Division of Family Services which represents the average of all individual need items formally budgeted (except day care expenses) for each size AFDC assistance group, each size GR assistance group and for the Supplemental Aid to the Blind (SAB) need eligibility budget and will be referred to as the AFDC, GR and SAB Consolidated Standard.

(A) The Consolidated Standard for each size AFDC assistance group, each size GR assistance group and for the SAB budget shall be as follows:

1. AFDC:

Assistance Group Size	Consolidated Standard
1	\$ 393.00
2	\$ 678.00
3	\$ 846.00
4	\$ 990.00
5	\$1123.00
6	\$1247.00
7	\$1372.00
8	\$1489.00
9	\$1606.00
10	\$1722.00
11	\$1839.00
12*	\$1956.00

*For any AFDC assistance group larger than twelve (12), add one hundred sixteen dollars (\$116) per individual.

2. GR:

Assistance Group Size	Consolidated Standard
1	\$181.00
2	\$256.00
3*	\$301.00

* For any GR assistance group larger than three (3), add forty-five dollars (\$45) per individual

3. When a GR assistance group includes ADC recipients, the ADC Consolidated Standard will be used; and

4. SAB: The Consolidated Standard of three hundred dollars (\$300) implemented February 16, 1976 will be used as a base amount. Beginning January 1, 1985, but including the Old Age Supplemental Disability Income (OASDI) increases of July 1982 and January 1984, whenever OASDI benefits under Title II of the Social Security Act are increased, the SAB Consolidated Standard also shall be increased. The amount of the

increase shall be determined by adding the same percentage increase to the last Consolidated Standard amount as was added to Title II benefits and rounding the result to the next highest dollar. When an SAB claimant is a member of an ADC or GR assistance group, there shall be added one hundred dollars (\$100) to the ADC or GR assistance group size Consolidated Standard. This amount represents the following special additional allowances: Food—twelve dollars (\$12); clothing—eight dollars (\$8); personal incidentals—eleven dollars (\$11); shopping and errand expense—fifteen dollars (\$15); laundry and dry cleaning expense—fifteen dollars (\$15); household incidentals—ten dollars (\$10); transportation—nine dollars (\$9); preparation of food—five dollars (\$5); and cost for a seeing eye dog or other guide—fifteen dollars (\$15). (Original rule filed April 12, 1948, effective April 22, 1948. Amended: May 18, 1966, effective May 28, 1966. Amended: Oct. 20, 1967, effective Oct. 30, 1967. Amended: Dec. 2, 1968, effective Dec. 12, 1968. Amended: Dec. 22, 1975, effective Jan. 1, 1976.)

(4) Assistance recipients sixty-five (65) years of age or over will be expected to use fully the medical care benefits that are available to them through Title XVIII B of the federal Social Security law; however, the deductibles and coinsurance costs will be paid by the Division of Family Services by means of vendor payments. Assistance recipients over age sixty-five (65) who have exhausted their Title XVIII benefits and eligible assistance recipients under age sixty-five (65) will be eligible for vendor payments in their behalf for the medical care benefits as specified in section 208.151, RSMo; this includes benefits for eligible recipients who are in a state mental institution or a state tuberculosis hospital. (Original rule filed April 12, 1948, effective April 22, 1948. Amended: May 18, 1966, effective May 28, 1966. Amended: Oct. 20, 1967, effective Oct. 30, 1967. Amended: Sept. 24, 1970, effective Oct. 4, 1970. Amended: May 7, 1971, effective May 17, 1971. Amended: June 18, 1971, effective June 28, 1971. Amended: Feb. 6, 1975, effective Feb. 16, 1975. Amended: Dec. 22, 1975, effective Jan. 1, 1976.)

(5) In the payment of public assistance benefits, the amount shall be rounded to the nearest dollar interval. For all benefits other than AFDC, payment amounts ending in less than fifty cents (50¢) shall be lowered to the nearest dollar and amounts ending in fifty cents (50¢) or over shall be increased to the nearest dollar. In AFDC cases, payment amounts will



always be lowered to the nearest dollar. If the determined need results in a grant of less than ten dollars (\$10) in AFDC cases, no cash payment will be made. (*Original rule filed April 12, 1948, effective April 22, 1948.*)

(6) Earned Income Exemption—AFDC.

(A) In determining need and amount of grant for applicants or recipients of AFDC, the following earned income exemptions will apply and these amounts will be disregarded in determining the amount of income available to meet the family's needs:

1. All of the earned income of any child receiving AFDC will be exempted if the child is a full-time student or is a part-time student who is not a full-time employee;

2. The first ninety dollars (\$90) of the gross earned income will be disregarded from employment;

3. An amount equal to thirty dollars (\$30) of the total of earned income not already disregarded in the preceding provisions of this subsection (6)(A), for an eight (8)-month period following the fourth consecutive month of the disregard provided for in this paragraph, but excluding, for purposes of this subsection, earned income derived from participation on a project maintained under the programs established by Section 432(b)(2) and (3) of the Social Security Act;

4. An amount equal to the first thirty dollars (\$30) of the total of earned income not already disregarded in the preceding provisions of paragraph (6)(A)3. plus one-third (1/3) of the remainder but excluding, for purposes of this subsection, earned income derived from participation on a project maintained under the programs established by Section 432(b)(2) and (3) of the Social Security Act; and

5. An amount equal to expenditures for care in that month shall be disregarded from earned income for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving AFDC and requiring care for that month, to the extent that the amount for each dependent child or incapacitated individual does not exceed one hundred seventy-five dollars (\$175) for children age two (2) and over or two hundred dollars (\$200) for children under two (2) years of age.

(B) The disregards applied against earned income outlined in subsection (6)(A) shall not be applied to the earned income of any person who—

1. Terminated his/her employment or reduced his/her earned income without good cause within the period (of not less than thirty (30) days) preceding that month as may be prescribed by the secretary of the United

States Department of Health and Human Services (HHS);

2. Refused without good cause, within the thirty (30)-day period or longer period prescribed by the secretary of the United States Department of HHS, to accept employment in which s/he is able to engage which is offered through the public employment offices of the state, or is otherwise offered by an employer if the offer of the employer is determined by the Division of Family Services or agency designated by the Division of Family Services, after notification by the employer, to be a bona fide offer of employment; and

3. Failed without good cause to make a timely report to the Division of Family Services of earned income received in that month.

(C) The disregard applied against earned income, as provided for—

1. In paragraph (6)(A)1., shall be applied when determining need for up to six (6) months within the calendar year of January through December and after that shall not be applied if the income without applying this disregard was in excess of the standard of need;

2. In paragraph (6)(A)3., shall not be applied if the income without applying this disregard was in excess of the standard of need unless the person received AFDC in one (1) or more of the four (4) months preceding that month and this disregard has not already been applied to his/her income for four (4) consecutive months while s/he was receiving AFDC. If this disregard provided for in paragraph (6)(A)3. has been applied for four (4) consecutive months, the disregard shall not be applied for as long as the person continues to receive AFDC and shall not apply until the expiration of a period of twelve (12) consecutive months during which the person is not a recipient of AFDC; and

3. In paragraph (6)(A)4., shall be available only for the eight (8)-month period following the fourth consecutive month of the disregard provided for in paragraph (6)(A)3. If the eight (8)-month period for the disregard provided for in paragraph (6)(A)4. has expired, the disregard shall not be applied for as long as the person continues to receive AFDC and shall not apply until the expiration of a period of twelve (12) consecutive months during which the person is not a recipient of AFDC.

(7) No family shall be eligible for AFDC if, for that month, the total income of the family (other than AFDC benefits) without application of the earned income disregards provided for in paragraphs (6)(A)2.-5. and for up to

six (6) months within the calendar year of January through December with application of the earned income disregard provided for in paragraph (6)(A)1. exceeds one hundred eighty-five percent (185%) of Missouri's standard of need for a family of the same composition.

(8) A standard amount for expenses of producing earned income will be budgeted for each member of the GR and SAB assistance group who has earned income to include allowances for all federal and state income tax and Retirement, Survivor's and Disability Insurance (RSDI) withholdings. An additional standard for costs of union dues, extra food, clothing, personal expense, transportation to and from work and other employment connected personal incidental costs will also be budgeted for each member of the GR and SAB assistance group who has earned income. The attached standard amounts, in direct relationship to varying increments of gross monthly earnings and number of dependents, will be budgeted. Only the standard amount for expense of producing earned income will be budgeted except that if a person who has earned income can verify that s/he had expenses that exceed the standard amount included for union dues, extra food, clothing, personal expense, transportation to and from work or other employment connected personal incidental costs, these expenses shall be allowed as an expense of producing income instead of the standard amount for these expenses.



STANDARD EARNED INCOME EXEMPTION TABLE
Missouri State Tax—Federal Tax—OASDI Deductions

Gross Income	1	2	3	4	5	6	7	8	9	Pers. Exps. 10% of Gross Income
35-40	2.66	2.66	2.66	2.66	2.66	2.66	2.66	2.66	2.66	4.00
40.01-45	2.99	2.99	2.99	2.99	2.99	2.99	2.99	2.99	2.99	4.50
45.01-50	3.33	3.33	3.33	3.33	3.33	3.33	3.33	3.33	3.33	5.00
50.01-55	3.66	3.66	3.66	3.66	3.66	3.66	3.66	3.66	3.66	5.50
55.01-60	3.99	3.99	3.99	3.99	3.99	3.99	3.99	3.99	3.99	6.00
60.01-65	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32	4.32	6.50
65.01-70	4.66	4.66	4.66	4.66	4.66	4.66	4.66	4.66	4.66	7.00
70.01-75	4.99	4.99	4.99	4.99	4.99	4.99	4.99	4.99	4.99	7.50
75.01-80	5.32	5.32	5.32	5.32	5.32	5.32	5.32	5.32	5.32	8.00
80.01-85	5.65	5.65	5.65	5.65	5.65	5.65	5.65	5.65	5.65	8.50
85.01-90	5.99	5.99	5.99	5.99	5.99	5.99	5.99	5.99	5.99	9.00
90.01-95	6.32	6.32	6.32	6.32	6.32	6.32	6.32	6.32	6.32	9.50
95.01-100	6.65	6.65	6.65	6.65	6.65	6.65	6.65	6.65	6.65	10.00
100.01-105	6.98	6.98	6.98	6.98	6.98	6.98	6.98	6.98	6.98	10.50
105.01-110	7.32	7.32	7.32	7.32	7.32	7.32	7.32	7.32	7.32	11.00
110.01-115	7.65	7.65	7.65	7.65	7.65	7.65	7.65	7.65	7.65	11.50
115.01-120	7.98	7.98	7.98	7.98	7.98	7.98	7.98	7.98	7.98	12.00
120.01-125	8.31	8.31	8.31	8.31	8.31	8.31	8.31	8.31	8.31	12.50
125.01-130	8.65	8.65	8.65	8.65	8.65	8.65	8.65	8.65	8.65	13.00
130.01-135	8.98	8.98	8.98	8.98	8.98	8.98	8.98	8.98	8.98	13.50
135.01-140	9.31	9.31	9.31	9.31	9.31	9.31	9.31	9.31	9.31	14.00
140.01-145	9.64	9.64	9.64	9.64	9.64	9.64	9.64	9.64	9.64	14.50
145.01-150	9.98	9.98	9.98	9.98	9.98	9.98	9.98	9.98	9.98	15.00
150.01-155	10.31	10.31	10.31	10.31	10.31	10.31	10.31	10.31	10.31	15.50
155.01-160	10.64	10.64	10.64	10.64	10.64	10.64	10.64	10.64	10.64	16.00
160.01-165	10.97	10.97	10.97	10.97	10.97	10.97	10.97	10.97	10.97	16.50
165.01-170	11.31	11.31	11.31	11.31	11.31	11.31	11.31	11.31	11.31	17.00
170.01-175	11.64	11.64	11.64	11.64	11.64	11.64	11.64	11.64	11.64	17.50
175.01-180	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	18.00
180.01-185	12.30	12.30	12.30	12.30	12.30	12.30	12.30	12.30	12.30	18.50
185.01-190	12.64	12.64	12.64	12.64	12.64	12.64	12.64	12.64	12.64	19.00
190.01-195	12.97	12.97	12.97	12.97	12.97	12.97	12.97	12.97	12.97	19.50
195.01-200	13.40	13.30	13.30	13.30	13.30	13.30	13.30	13.30	13.30	20.00
200.01-205	14.34	13.64	13.64	13.64	13.64	13.64	13.64	13.64	13.64	20.50
205.01-210	15.26	13.96	13.96	13.96	13.96	13.96	13.96	13.96	13.96	21.00
210.01-215	16.20	14.30	14.30	14.30	14.30	14.30	14.30	14.30	14.30	21.50
215.01-220	17.73	14.63	14.63	14.63	14.63	14.63	14.63	14.63	14.63	22.00
220.01-225	18.66	14.96	14.96	14.96	14.96	14.96	14.96	14.96	14.96	22.50
225.01-230	19.60	15.30	15.30	15.30	15.30	15.30	15.30	15.30	15.30	23.00
230.01-235	20.53	15.63	15.63	15.63	15.63	15.63	15.63	15.63	15.63	23.50
235.01-240	22.36	15.96	15.96	15.96	15.96	15.96	15.96	15.96	15.96	24.00
240.01-245	22.69	16.29	16.29	16.29	16.29	16.29	16.29	16.29	16.29	24.50
245.01-250	24.23	16.63	16.63	16.63	16.63	16.63	16.63	16.63	16.63	25.00
250.01-255	24.56	16.96	16.96	16.96	16.96	16.96	16.96	16.96	16.96	25.50
255.01-260	26.09	17.29	17.29	17.29	17.29	17.29	17.29	17.29	17.29	26.00
260.01-265	27.62	17.62	17.62	17.62	17.62	17.62	17.62	17.62	17.62	26.50
265.01-270	27.95	17.95	17.95	17.95	17.95	17.95	17.95	17.95	17.95	27.00
270.01-275	29.49	18.29	18.29	18.29	18.29	18.29	18.29	18.29	18.29	27.50
275.01-280	31.02	18.62	18.62	18.62	18.62	18.62	18.62	18.62	18.62	28.00
280.01-285	31.35	18.95	18.95	18.95	18.95	18.95	18.95	18.95	18.95	28.50
285.01-290	32.89	20.39	19.29	19.29	19.29	19.29	19.29	19.29	19.29	29.00
290.01-295	33.21	20.71	19.61	19.61	19.61	19.61	19.61	19.61	19.61	29.50
295.01-300	34.75	22.25	19.95	19.95	19.95	19.95	19.95	19.95	19.95	30.00



STANDARD EARNED INCOME EXEMPTION TABLE
Missouri State Tax—Federal Tax—OASDI Deductions

Gross Income										Pers. Exps. 10% of Gross Income
	1	2	3	4	5	6	7	8	9	
300.01–305	36.29	23.79	20.29	20.29	20.29	20.29	20.29	20.29	20.29	30.50
305.01–310	36.61	24.11	20.61	20.61	20.61	20.61	20.61	20.61	20.61	31.00
310.01–315	38.15	25.65	20.95	20.95	20.95	20.95	20.95	20.95	20.95	31.50
315.01–320	40.08	27.18	21.28	21.28	21.28	21.28	21.28	21.28	21.28	32.00
320.01–325	40.41	27.51	21.61	21.61	21.61	21.61	21.61	21.61	21.61	32.50
325.01–330	41.95	29.05	21.95	21.95	21.95	21.95	21.95	21.95	21.95	33.00
330.01–335	42.28	29.38	22.28	22.28	22.28	22.28	22.28	22.28	22.28	33.50
335.01–340	43.81	30.91	22.61	22.61	22.61	22.61	22.61	22.61	22.61	34.00
340.01–345	45.65	32.81	22.94	22.94	22.94	22.94	22.94	22.94	22.94	34.50
345.01–350	45.99	33.15	23.28	23.28	23.28	23.28	23.28	23.28	23.28	35.00
350.01–355	47.52	34.68	23.61	23.61	23.61	23.61	23.61	23.61	23.61	35.50
355.01–360	49.15	36.21	23.94	23.94	23.94	23.94	23.94	23.94	23.94	36.00
360.01–365	49.48	36.54	24.27	24.27	24.27	24.27	24.27	24.27	24.27	36.50
365.01–370	51.31	38.07	25.20	24.60	24.60	24.60	24.60	24.60	24.60	37.00
370.01–375	51.99	38.74	25.89	24.94	24.94	24.94	24.94	24.94	24.94	37.50
375.01–380	53.72	40.27	27.42	25.27	25.27	25.27	25.27	25.27	25.27	38.00
380.01–385	55.45	41.80	28.95	25.60	25.60	25.60	25.60	25.60	25.60	38.50
385.01–390	55.79	42.14	29.29	25.94	25.94	25.94	25.94	25.94	25.94	39.00
390.01–395	57.61	43.66	30.81	26.26	26.26	26.26	26.26	26.26	26.26	39.50
395.01–400	60.80	46.43	33.57	26.92	26.60	26.60	26.60	26.60	26.60	40.00
400.01–405	61.14	46.77	33.91	27.26	26.94	26.94	26.94	26.94	26.94	40.50
405.01–410	61.46	47.09	34.23	27.58	27.26	27.26	27.26	27.26	27.26	41.00
410.01–415	61.80	47.43	34.57	27.92	27.60	27.60	27.60	27.60	27.60	41.50
415.01–420	65.73	50.76	37.90	28.25	27.93	27.93	27.93	27.93	27.93	42.00
420.01–425	66.48	51.43	38.56	28.91	28.52	28.26	28.26	28.26	28.26	42.50
425.01–430	66.82	51.77	38.90	29.25	28.86	28.60	28.60	28.60	28.60	43.00
430.01–435	67.15	52.10	39.23	29.58	29.19	28.93	28.93	28.93	28.93	43.50
435.01–440	71.08	55.63	42.56	29.91	29.52	29.26	29.26	29.26	29.26	44.00
440.01–445	71.41	55.96	42.89	30.24	29.85	29.59	29.59	29.59	29.59	44.50
445.01–450	72.17	56.74	43.58	30.90	30.56	29.93	29.93	29.93	29.93	45.00
450.01–455	72.50	57.07	43.91	31.23	30.89	30.26	30.26	30.26	30.26	45.50
455.01–460	76.43	61.00	47.24	34.36	31.22	30.59	30.59	30.59	30.59	46.00
460.01–465	76.76	61.33	47.57	34.69	31.55	30.92	30.92	30.92	30.92	46.50
465.01–470	77.09	61.66	47.90	35.02	31.88	31.25	31.25	31.25	31.25	47.00
470.01–475	77.86	62.42	48.67	35.71	32.54	32.13	31.59	31.59	31.59	47.50
475.01–480	81.79	66.35	52.00	39.04	32.87	32.46	31.92	31.92	31.92	48.00
480.01–485	82.12	66.68	52.33	39.37	33.20	32.79	32.25	32.25	32.25	48.50
485.01–490	82.46	67.02	52.67	39.71	33.54	33.13	32.59	32.59	32.59	49.00
490.01–495	82.78	67.34	52.99	40.03	33.86	33.45	32.91	32.91	32.91	49.50
495.01–500	86.72	71.28	56.33	43.37	34.20	33.79	33.25	33.25	33.25	50.00
500.01–505	87.55	72.05	57.10	44.14	34.87	34.51	34.02	33.59	33.59	50.50
505.01–510	87.87	72.37	57.42	44.46	35.19	34.83	34.34	33.91	33.91	51.00
510.01–515	88.21	72.71	57.76	44.80	35.53	35.17	34.68	34.25	34.25	51.50
515.01–520	92.14	76.64	61.19	48.13	35.86	35.50	35.01	34.58	34.58	52.00
520.01–525	92.47	76.97	61.52	48.46	36.19	35.83	35.34	34.91	34.91	52.50
525.01–530	93.34	77.78	62.29	49.24	36.97	36.53	36.06	35.57	35.25	53.00
530.01–535	93.67	78.11	62.62	49.57	37.30	36.86	36.39	35.90	35.58	53.50
535.01–540	97.60	82.04	66.55	52.90	39.93	37.19	36.72	36.23	35.91	54.00
540.01–545	97.93	82.37	66.88	53.23	40.26	37.52	37.05	36.56	36.24	54.50
545.01–550	98.27	82.71	67.22	53.57	40.60	37.86	37.39	36.90	36.58	55.00
550.01–555	99.13	83.58	68.03	54.32	41.37	38.60	38.11	37.60	37.12	55.50
555.01–560	103.06	87.51	71.96	57.65	44.70	38.93	38.44	37.93	37.45	56.00
560.01–565	103.39	87.84	72.29	57.98	45.03	39.26	38.77	38.26	37.78	56.50
565.01–570	103.72	88.17	72.62	58.31	45.36	39.59	39.10	38.59	38.11	57.00



STANDARD EARNED INCOME EXEMPTION TABLE
Missouri State Tax—Federal Tax—OASDI Deductions

Gross Income										Pers. Exps. 10% of Gross Income
	1	2	3	4	5	6	7	8	9	
570.01–575	104.06	88.51	72.96	58.65	45.70	39.93	39.44	38.93	38.45	57.50
575.01–580	108.52	92.97	77.41	62.47	49.46	40.69	40.23	39.67	39.16	58.00
580.01–585	108.85	93.30	77.74	62.80	49.79	41.02	40.56	40.00	39.49	58.50
585.01–590	109.19	93.64	78.08	63.14	50.13	41.36	40.90	40.34	39.83	59.00
590.01–595	109.51	93.96	78.40	63.46	50.45	41.68	41.22	40.66	40.15	59.50
595.01–600	115.25	99.70	84.14	68.60	55.29	42.32	41.56	41.00	40.49	60.00
600.01–605	116.18	100.57	85.02	69.47	56.12	43.10	42.34	41.80	41.23	60.50
605.01–610	116.50	100.89	85.34	69.79	56.44	43.42	42.66	42.12	41.55	61.00
610.01–615	116.84	101.23	85.68	70.13	56.78	43.76	43.00	42.46	41.89	61.50
615.01–620	117.16	101.55	86.00	70.45	57.10	44.08	43.32	42.78	42.21	62.00
620.01–625	117.50	101.89	86.34	70.79	57.44	44.42	43.66	43.12	42.55	62.50
625.01–630	117.84	102.23	86.68	71.13	57.78	44.76	44.00	43.46	42.89	63.00
630.01–635	118.81	103.15	87.55	71.99	58.63	45.56	44.75	44.29	43.64	63.50
635.01–640	126.64	110.68	95.08	79.52	64.96	51.89	45.08	44.62	43.97	64.00
640.01–645	126.97	111.01	95.41	79.85	65.29	52.22	45.41	44.95	44.30	64.50
645.01–650	127.31	111.35	95.75	80.19	65.63	52.56	45.75	45.29	44.64	65.00
650.01–655	127.64	111.68	96.08	80.52	65.96	52.89	46.08	45.62	44.97	65.50
655.01–660	128.62	112.65	97.00	81.38	66.92	53.77	46.88	46.39	45.82	66.00
660.01–665	128.95	112.98	97.33	81.71	67.15	54.10	47.21	46.72	46.15	66.50
665.01–670	129.28	113.31	97.66	82.04	67.48	54.43	47.54	47.05	46.48	67.00
670.01–675	129.62	113.65	98.00	82.38	67.82	54.77	47.88	47.39	46.82	67.50
675.01–680	138.35	121.18	105.53	89.91	74.35	61.10	48.21	47.72	47.15	68.00
680.01–685	139.29	122.14	106.48	90.82	75.23	61.96	49.09	48.50	47.99	68.50
685.01–690	139.63	122.48	106.82	91.16	75.57	62.30	49.43	48.84	48.33	69.00
690.01–695	139.95	122.80	107.14	91.48	75.89	62.62	49.75	49.16	48.65	69.50
695.01–700	140.29	123.14	107.48	91.82	76.23	62.96	50.09	49.50	48.99	70.00
700.01–705	140.63	123.48	107.82	92.16	76.57	63.30	50.43	49.84	49.33	70.50
705.01–710	141.63	124.44	108.78	93.12	77.46	64.17	51.28	50.71	50.14	71.00
710.01–715	141.97	124.78	109.12	93.46	77.80	64.51	51.62	51.05	50.48	71.50
715.01–720	150.70	132.51	116.65	100.99	85.33	70.84	57.75	51.38	50.81	72.00
720.01–725	151.03	132.84	116.98	101.32	85.66	71.17	58.08	51.71	51.14	72.50
725.01–730	151.37	133.18	117.32	101.66	86.00	71.51	58.42	52.05	51.48	73.00
730.01–735	152.39	134.20	118.28	102.62	86.96	72.40	59.31	52.93	52.34	73.50
735.01–740	152.72	134.53	118.61	102.95	87.29	72.73	59.64	53.26	52.67	74.00
740.01–745	153.05	134.86	118.94	103.28	87.62	73.06	59.97	53.59	53.00	74.50
745.01–750	153.39	135.20	119.28	103.62	87.96	73.40	60.31	53.93	53.34	75.00
750.01–755	153.72	135.53	119.61	103.95	88.29	73.73	60.64	54.26	53.67	75.50
755.01–760	162.45	144.26	127.14	111.48	95.82	80.16	66.97	54.59	54.00	76.00
760.01–765	163.50	145.31	128.19	112.45	96.79	81.12	67.87	55.45	54.87	76.50
765.01–770	163.83	145.64	128.52	112.78	97.12	81.45	68.20	55.78	55.20	77.00
770.01–775	164.17	145.98	128.86	113.12	97.46	81.79	68.54	56.12	55.54	77.50
775.01–780	164.50	146.31	129.19	113.45	97.79	82.12	68.87	56.45	55.87	78.00
780.01–785	164.83	146.64	129.52	113.78	98.12	82.45	69.20	56.78	56.20	78.50
785.01–790	165.86	147.70	130.58	114.81	99.11	83.45	70.17	57.71	57.09	79.00
790.01–795	166.18	148.02	130.90	115.13	99.43	83.77	70.49	58.03	57.41	79.50
795.01–800	174.92	156.76	138.54	122.67	106.97	91.31	76.83	63.67	57.75	80.00
800.01–805	175.26	157.10	138.88	123.01	107.31	91.65	77.17	64.01	58.09	80.50
805.01–810	175.58	157.42	139.20	123.33	107.63	91.97	77.49	64.33	58.41	81.00
810.01–815	176.68	158.46	140.26	124.43	108.66	92.95	78.49	65.32	59.32	81.50
815.01–820	177.01	158.79	140.59	124.76	108.99	93.28	78.82	65.65	59.65	82.00
820.01–825	177.34	159.12	140.92	125.09	109.32	93.61	79.15	65.98	59.98	82.50
825.01–830	177.68	159.46	141.26	125.43	109.66	93.95	79.49	66.32	60.32	83.00
830.01–835	178.01	159.79	141.59	125.76	109.99	94.28	79.82	66.65	60.65	83.50
835.01–840	187.55	169.28	151.04	134.02	118.25	102.48	86.78	73.62	61.63	84.00



STANDARD EARNED INCOME EXEMPTION TABLE
Missouri State Tax—Federal Tax—OASDI Deductions

Gross Income										Pers. Exps. 10% of Gross Income
	1	2	3	4	5	6	7	8	9	
840.01-845	187.88	169.61	151.37	134.35	118.58	102.81	87.11	73.95	61.96	84.50
845.01-850	188.22	169.95	151.71	134.69	118.92	103.15	87.45	74.29	62.30	85.00
850.01-855	188.55	170.28	152.04	135.02	119.25	103.48	87.78	74.62	62.63	85.50
855.01-860	188.88	170.61	152.37	135.35	119.58	103.81	88.21	74.95	62.96	86.00
860.01-865	190.00	171.74	153.46	136.41	120.67	104.90	89.12	75.92	63.94	86.50
865.01-870	190.33	172.07	153.79	136.74	121.00	105.23	89.45	76.25	64.27	87.00
870.01-875	190.67	172.41	154.13	137.08	121.34	105.57	89.79	76.59	64.61	87.50
875.01-880	199.40	181.14	162.86	144.61	128.87	113.10	97.32	82.92	69.74	88.00
880.01-885	199.73	181.47	163.19	144.94	129.20	113.43	97.65	83.25	70.07	88.50
885.01-890	200.07	181.81	163.53	145.28	129.54	113.77	97.99	83.59	70.41	89.00
890.01-895	201.19	182.96	164.66	146.37	130.59	114.82	99.03	84.58	71.37	89.50
895.01-900	201.53	183.30	165.00	146.71	130.93	115.16	99.37	84.92	71.71	90.00
900.01-905	201.87	183.64	165.34	147.05	131.27	115.50	99.71	85.26	72.05	90.50
905.01-910	202.19	183.96	165.66	147.37	131.59	115.82	100.03	85.58	72.37	91.00
910.01-915	202.53	184.30	166.00	147.71	131.93	116.16	100.37	85.92	73.71	91.50
915.01-920	212.37	193.80	175.54	157.25	140.26	124.45	108.68	93.00	79.72	92.00
920.01-925	212.70	194.13	175.87	157.58	140.59	124.78	109.01	93.33	80.05	92.50
925.01-930	213.04	194.47	176.21	157.92	140.93	125.12	109.35	93.67	80.39	93.00
930.01-935	213.37	194.80	176.54	158.25	141.26	125.45	109.68	94.00	80.72	93.50
935.01-940	213.70	195.13	176.87	158.58	141.59	125.78	110.01	94.33	81.05	94.00
940.01-945	214.92	196.31	178.00	159.71	142.73	126.89	111.06	95.39	82.12	94.50
945.01-950	215.26	196.65	178.34	160.05	143.07	127.23	111.40	95.73	82.46	95.00
950.01-955	215.59	196.98	178.67	160.38	143.40	127.56	111.73	96.06	82.79	95.50
955.01-960	226.32	205.71	187.40	169.11	150.93	135.09	119.26	103.49	89.12	96.00
960.01-965	226.65	206.04	187.73	169.44	151.26	135.42	119.59	103.82	89.45	96.50
965.01-970	227.88	207.24	188.92	170.59	152.41	136.60	120.72	104.92	90.54	97.00
970.01-975	228.22	207.58	189.26	170.93	152.75	136.94	121.06	105.26	90.88	97.50
975.01-980	228.55	207.91	189.59	171.26	153.08	137.27	121.39	105.59	91.21	98.00
980.01-985	228.88	208.24	189.92	171.59	153.41	137.60	121.72	105.92	91.54	98.50
985.01-990	229.22	208.58	190.26	171.93	153.75	137.94	122.06	106.26	91.88	99.00
990.01-995	230.41	209.81	191.47	173.10	154.88	139.10	123.24	107.35	92.93	99.50
995.01-1000	241.15	218.75	200.21	181.84	163.52	146.64	130.78	114.89	99.27	100.00
1000.01-1005	241.49	219.09	200.55	182.18	163.86	146.98	131.12	115.23	99.61	100.50
1005.01-1010	241.81	219.41	200.87	182.50	164.18	147.30	131.44	115.55	99.93	101.00
1010.01-1015	242.15	219.75	201.21	182.84	164.52	147.64	131.78	115.89	100.27	101.50
1015.01-1020	242.48	220.08	201.54	183.17	164.85	147.97	132.11	116.22	100.60	102.00
1020.01-1025	243.70	221.29	202.76	184.43	166.05	149.11	133.28	117.40	101.72	102.50
1025.01-1030	244.04	221.63	203.10	184.77	166.39	149.45	133.62	117.74	102.06	103.00
1030.01-1035	244.37	221.96	203.43	185.10	166.72	149.78	133.95	118.07	102.39	103.50
1035.01-1040	255.10	232.69	212.16	193.83	175.45	157.31	141.48	125.60	109.72	104.00
1040.01-1045	255.43	233.02	212.49	194.16	175.78	157.64	141.81	125.93	110.05	104.50
1045.01-1050	256.68	234.27	213.72	195.38	177.02	158.85	143.01	127.12	111.23	105.00
1050.01-1055	257.01	234.60	214.05	195.71	177.35	159.18	143.34	127.45	111.56	105.50
1055.01-1060	257.34	234.93	214.38	196.04	177.68	159.51	143.67	127.78	111.89	106.00
1060.01-1065	257.67	235.26	214.71	196.37	178.01	159.84	144.00	128.11	112.22	106.50
1065.01-1070	258.00	235.59	215.04	196.70	178.34	160.17	144.33	128.44	112.55	107.00
1070.01-1075	259.21	236.82	216.23	197.89	179.55	161.38	145.50	129.59	113.71	107.50
1075.01-1080	269.94	247.55	224.96	206.62	188.28	169.91	153.03	137.12	121.24	108.00
1080.01-1085	270.27	247.88	225.29	206.95	188.61	170.24	153.36	137.45	121.57	108.50
1085.01-1090	270.61	248.22	225.63	207.29	188.95	170.58	153.70	137.79	121.91	109.00
1090.01-1095	270.93	248.54	225.95	207.61	189.27	170.90	154.02	138.11	122.23	109.50
1095.01-1100	271.99	249.61	227.07	208.66	190.33	171.94	155.09	139.18	123.24	110.00
1100.01-1105	272.33	249.95	227.41	209.00	190.67	172.28	155.43	139.52	123.58	110.50
1105.01-1110	272.65	250.27	227.73	209.32	190.99	172.60	155.75	139.84	123.90	111.00



STANDARD EARNED INCOME EXEMPTION TABLE
Missouri State Tax—Federal Tax—OASDI Deductions

Gross Income										Pers. Exps. 10% of Gross Income
	1	2	3	4	5	6	7	8	9	
1110.01-1115	272.99	250.61	228.07	209.66	191.33	172.94	156.09	140.18	124.24	111.50
1115.01-1120	283.72	261.34	238.80	218.39	200.06	181.67	163.62	147.71	131.77	112.00
1120.01-1125	284.77	262.39	239.89	219.47	201.05	182.71	164.63	148.77	132.81	112.50
1125.01-1130	285.11	262.73	240.23	219.81	201.39	183.05	164.97	149.11	133.15	113.00
1130.01-1135	285.44	263.06	240.56	220.14	201.72	183.38	165.30	149.44	133.48	113.50
1135.01-1140	285.77	263.39	240.89	220.47	202.05	183.71	165.63	149.77	133.81	114.00
1140.01-1145	286.10	263.72	241.22	220.80	202.38	184.04	165.96	150.10	134.14	114.50
1145.01-1150	286.44	264.06	241.56	221.14	202.72	184.38	166.30	150.44	134.48	115.00
1150.01-1155	287.49	265.11	242.63	222.24	203.83	185.43	173.33	151.49	135.55	115.50
1155.01-1160	298.22	275.84	253.36	230.97	212.56	194.16	175.76	159.02	143.08	116.00
1160.01-1165	298.55	276.17	253.69	231.30	212.89	194.49	176.09	159.35	143.41	116.50
1165.01-1170	298.88	276.50	255.02	231.63	213.22	194.82	176.42	159.68	143.74	117.00
1170.01-1175	299.22	276.84	255.36	231.97	213.56	195.16	176.76	160.02	144.08	117.50
1175.01-1180	300.32	277.89	255.38	233.07	214.64	196.23	177.81	161.04	145.17	118.00
1180.01-1185	300.65	278.22	255.71	233.40	214.97	196.56	178.14	161.37	145.50	118.50
1185.01-1190	300.99	278.56	256.05	233.74	215.31	196.90	178.48	161.71	145.84	119.00
1190.01-1195	301.31	278.88	256.37	234.06	215.63	197.22	178.80	162.03	146.16	119.50
1195.01-1200	312.05	289.62	267.11	244.60	224.37	205.96	187.54	169.57	153.70	120.00



(9) In determining the total income of Supplemental Nursing Care claimants, any income received from employment in a sheltered workshop and any income received from employment as a patient worker at sub-minimum wages in an institution, pursuant to the Fair Labor Standards Act, Section 14, Regulation 29 CFR part 259, shall be excluded. (Original rule filed April 25, 1974, effective May 5, 1974.)

(10) In AFDC cases, the initial assistance payment benefit must be prorated when the case is approved in the same month as the filing of the application. The payment will be determined by multiplying the amount payable for a whole month by the ratio of the days in the month from the date of application to the end of the month to the number of days in a standard thirty (30)-day month.

AUTHORITY: section 207.020, RSMo 1986.* Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Amended: Filed Dec. 23, 1976, effective April 11, 1977. Amended: Filed June 1, 1977, effective Sept. 11, 1977. Emergency amendment filed June 1, 1977, effective July 1, 1977, expired Oct. 31, 1977. Amended: Filed June 29, 1977, effective Oct. 13, 1977. Emergency amendment filed Feb. 20, 1979, effective March 2, 1979, expired June 10, 1979. Amended: Filed March 9, 1979, effective June 11, 1979. Emergency amendment filed Jan. 30, 1980, effective Feb. 9, 1980, expired April 10, 1980. Amended: Filed Jan. 30, 1980, effective May 11, 1980. Emergency amendment filed June 22, 1981, effective July 2, 1981, expired Oct. 10, 1981. Amended: Filed June 22, 1981, effective Oct. 11, 1981. Amended: Filed Aug. 12, 1981, effective Nov. 12, 1981. Emergency amendment filed Feb. 19, 1982, effective March 1, 1982, expired June 10, 1982. Amended: Filed Feb. 19, 1982, effective June 11, 1982. Emergency amendment filed Oct. 8, 1982, effective Oct. 18, 1982, expired Jan. 12, 1983. Amended: Filed Oct. 8, 1982, effective Jan. 13, 1983. Emergency amendment filed Oct. 1, 1984, effective Oct. 11, 1984, expired Jan. 11, 1985. Amended: Filed Oct. 15, 1984, effective Jan. 12, 1985. Emergency amendment filed March 20, 1985, effective March 31, 1985, expired July 11, 1985. Amended: Filed March 20, 1985, effective July 12, 1985. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Emergency amendment filed June 2, 1993, effective July 1, 1993, expired Oct. 28, 1993. Amended: Filed June 2, 1993, effective Jan. 31, 1994.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.130 Maximum Cash Payment Amounts

PURPOSE: This rule states the maximum payment amounts and exceptions to these amounts for the various assistance programs.

(1) When the appropriation for General Relief (GR) assistance payments is not sufficient to make full payments on the basis of maximum legal allowance, all GR payments (except for the types listed in this rule) will be subject to a percentage of reduction. An exception will be made for each GR person whose budget includes an allowance for intermediate or residential II nursing home care. This type of case will be known as a Full Grant Case. No reduction will be applied to the GR payment made to that person. (Original rule filed May 13, 1948, effective May 23, 1948. Amended Sept. 1, 1972, effective Sept. 10, 1972.)

(2) Maximum Supplemental Aid to the Blind (SAB) Payments.

(A) For those persons who apply for Aid to the Blind (AB) on or after January 1, 1974, the maximum amount of payment they may receive is authorized in 209.040, RSMo; provided, however, that if the person is a resident of a residential care facility or an intermediate care or skilled nursing facility (ICF/SNF) and not eligible for Medicaid nursing care benefits; the maximum payment will be as authorized in section (7) of this rule.

(B) Persons who are eligible for vendor payments in their behalf for skilled nursing home care or ICF care will not be eligible for SAB payments.

(C) The amount of the SAB payment will be determined by subtracting the amount of any Supplemental Security Income (SSI) benefit from the amount of the maximum SAB payment, as described here. The amount of the SAB payment will be the remainder, rounded to the nearest dollar, except that if the remainder is one cent through forty-nine cents (1¢–49¢), the claimant will be eligible for an AB supplemental payment of one dollar (\$1). (Original rule filed Nov. 29, 1973, effective Dec. 9, 1973. Amended Sept. 26, 1975, effective Oct. 6, 1975.)

(3) Persons who become ineligible for SSI due to an increase in other income may continue to be eligible for Missouri Supplemental Payment (SP). The amount of the Missouri SP, in these cases, will be determined by subtracting the current income from the December 1973 total income plus the Old Age Assistance (OAA), Permanent and Total Disability (PTD) or AB assistance grant that was legally received for the month of Decem-

ber 1973. The amount of the SP shall not be greater than an amount needed to provide total income at the December 1973 level; if the person's income equals or exceeds the total amount, no Missouri SP shall be made. These persons must continue to meet all eligibility requirements that were in effect for OAA, PTD or AB for the month of December 1973. (Original rule filed April 25, 1974, effective May 5, 1974.)

(4) Persons who are eligible for SSI (as a result of the conversion from OAA, PTD or AB in December 1973) but are not eligible for Missouri SP in January 1974, may become eligible for Missouri SP at a later time if their total income drops below the total income they received in December 1973. In those cases, the amount of the Missouri SP will be the difference between the present total income and the total income received in December 1973. (Original rule filed April 25, 1974, effective May 5, 1974.)

(5) The Division of Family Services will compute the Missouri SP in SSI-SP cases based on the amount of SSI for which the claimant is eligible and not the SSI payment which is actually received. (Original rule filed April 11, 1975, effective April 21, 1975.)

(6) No intermediate care or skilled nursing payment shall be made to a person residing in a licensed ICF or in a licensed SNF—unless the person has been determined by his/her own physician or doctor to medically need those services, subject to review and approval by the Department of Social Services, based upon the standards in 13 CSR 15-9.030(3) and (4). Residential care payments may be made to persons residing in a licensed intermediate care facility (ICF) or licensed skilled nursing facility (SNF), who do not meet this requirement and are otherwise eligible for supplemental nursing care.

(7) The maximum payment for eligible recipients of supplemental nursing care benefits will be one hundred forty-eight dollars (\$148) if residing in a licensed residential care facility I, two hundred seventy-six dollars (\$276) if residing in a licensed residential care facility II and three hundred sixty-eight dollars (\$368) if residing in an ICF or SNF and not eligible for Medicaid nursing care benefits.

(8) In accordance with state law, section 208.030.5, RSMo, any person eligible to receive a cash nursing home grant, will also receive twenty-three dollars (\$23) per month personal expense allowance. These funds are



to be used by the claimant for his/her personal needs and MUST be treated as the claimant's personal spending monies. These funds are not to be applied to the claimant's monthly expenses associated with—room and board/rent, any contracted services provided through the facility, or both. Individuals who are provided funds for personal use by the Department of Mental Health will not be eligible to receive the twenty-three dollars (\$23) personal needs funds through the Division of Family Services program.

AUTHORITY: section 207.020, RSMo 1986. Filing dates for original rules are shown in the text of the rule. This version of rule filed March 24, 1976. Amended: Filed June 1, 1977, effective Sept. 11, 1977. Amended: Filed April 5, 1983, effective July 11, 1983. Emergency amendment filed July 1, 1983, effective July 11, 1983, expired Oct. 12, 1983. Amended: Filed July 1, 1983, effective Oct. 13, 1983. Emergency amendment filed Oct. 9, 1986, effective Oct. 19, 1986, expired Feb. 6, 1987. Amended: Filed Oct. 9, 1986, effective Jan. 12, 1987. Amended: Filed March 22, 1988, effective July 11, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Oct. 16, 1989, effective Jan. 12, 1990. Emergency amendment filed June 27, 1990, expired Nov. 3, 1990, effective Jan. 12, 1990. Amended: Filed June 27, 1990, effective Nov. 30, 1990.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.140 Limitations on Amount of Cash Payments

PURPOSE: This rule outlines the restrictions or limitations placed on certain types of cash payments.

(1) Receipt of General Relief (GR) and Other Types of Assistance.

(A) Persons receiving Supplemental Payments (SPs), Supplemental Aid to the Blind (SAB) or Blind Pension (BP) will not be eligible for additional assistance from GR funds except that persons who were on the GR rolls in December 1973 may receive SPs if their total income was reduced because of the Supplemental Security Income (SSI) program. Persons eligible for Aid to Dependent Children (ADC) must be transferred from GR to ADC immediately. Persons receiving Aid to Families with Dependent Children (AFDC) Emergency Assistance will not be eligible for GR funds during the month in which they receive AFDC Emergency Assistance. (*Original rule filed Sept. 26, 1951, effective Oct.*

6, 1951. Amended: Nov. 29, 1973, effective Dec. 9, 1973.)

(2) To be eligible for GR, Aid to the Blind (AB) or BP, a GR, AB or BP claimant must apply for SSI benefits if it appears that s/he would be eligible for the benefits. Claimants for BP must be found ineligible for SSI benefits before they may be approved for BP. GR recipients who are subsequently approved or reinstated for SSI will have deducted from their initial SSI award, whether due to approval or reinstatement, an amount equal to the GR cash payments made pending the approval for or reinstatement of SSI in accordance with section 1631 of the Social Security Act. Refusal by a GR claimant to sign an agreement to have the amount deducted from his/her initial SSI award will create ineligibility for the GR claimant. (*Original rule filed Nov. 29, 1973, effective Dec. 9, 1973.*)

(3) Those persons who are eligible for state SPs, ADC, BP, GR or SAB payments will not be eligible for Supplemental Nursing Care (SNC) benefits. In addition, those persons who are eligible for vendor payments in their behalf for professional nursing home or intermediate care facility care under Title XIX will not be eligible for SNC benefits. (*Original rule filed Nov. 29, 1973, effective Dec. 9, 1973.*)

(4) Parents in the home or needy eligible caretaker relatives who are recipients of SSI shall not be eligible for AFDC or Title XIX. Children who are under the age of eighteen (18) and who are recipients of SSI shall not be eligible for AFDC but shall be eligible for Title XIX. The expenses, income and resources of these SSI recipients will not be counted in determining AFDC eligibility of other members of an AFDC family. If a recipient of SSI makes income available to the AFDC household or pays any of the expenses of the AFDC household, the income will not be included on the AFDC budget. The person may elect to receive AFDC rather than SSI if the person meets all AFDC eligibility requirements. (*Original rule filed Jan. 2, 1974, effective Jan. 12, 1974. Amended: Feb. 6, 1975, effective Feb. 16, 1975.*)

(5) Any person who is ineligible for SSI because his/her income exceeds the maximum allowable by the Social Security Administration (SSA) is ineligible for GR.

(A) Any person applying for SSI and GR will be eligible for GR, if otherwise eligible, pending certification of eligibility for SSI. If however, the applicant is obviously ineligible for SSI on the basis of income, the applica-

tion will be held and rejected upon denial by the SSA. If the GR application is approved and the SSI application is later denied on the basis of his/her income, his/her GR case must be closed.

(B) A determination of ineligibility for SSI on the basis of income must be made by the SSA district office. (*Original rule filed July 7, 1975, effective July 17, 1975. Amended: Nov. 4, 1975, effective Nov. 14, 1975.*)

(6) All persons who meet the definition of a Temporary Assistance household must have their eligibility explored under Temporary Assistance before having their eligibility for GR explored. Any person whose eligibility has been explored under Temporary Assistance and is found to be ineligible for Temporary Assistance because of the following reasons shall be ineligible for GR:

(A) The person refuses to cooperate in establishing his/her eligibility for Temporary Assistance (this would include persons who refuse to apply for a Social Security number, refuse to participate in work activities, refuse to make an assignment of support rights, refuse to cooperate in the identification or location of absent parents, refuse to participate in self-sufficiency pact or an assessment pursuant to 13 CSR 40-2.370, and the like);

(B) Relationship to the payee who is not a legal guardian cannot be established for children under eighteen (18);

(C) The budget shows no need;

(D) The available resources exceed the maximum allowed;

(E) The children are not deprived of parental support;

(F) The person meets the prohibition in 13 CSR 40-2.305, 13 CSR 40-2.340, 13 CSR 40-2.345, 13 CSR 40-2.355, 13 CSR 40-2.360, or 13 CSR 40-2.365; or

(G) The person is ineligible due to the lifetime limits outlined in 13 CSR 40-2.350.

(7) Persons wishing to withdraw or terminate their eligibility for SSI benefits may do so by contacting their nearest Social Security office. Persons voluntarily withdrawing from or terminating their SSI benefits will be ineligible for SP or any other category of public assistance administered by the Division of Family Services, except ADC. This ineligibility for public assistance benefits would be effective for the month in which the withdrawal or termination from SSI is effective. (*Original rule filed July 7, 1975, effective July 17, 1975.*)

AUTHORITY: section 207.020, RSMo 2000. Filing dates for original rules are shown in the text of the rule. This version filed March*



24, 1976. Amended: Filed June 1, 1977, effective Sept. 11, 1977. Emergency amendment filed June 1, 1977, effective July 1, 1977, expired Oct. 31, 1977. Amended: Filed June 29, 1977, effective Oct. 13, 1977. Amended: Filed June 28, 1978, effective Oct. 11, 1978. Amended: Filed June 19, 1980, effective Oct. 11, 1980. Emergency amendment filed June 22, 1981, effective July 2, 1981, expired Oct. 10, 1981. Amended: Filed June 22, 1981, effective Oct. 11, 1981. Amended: Filed Dec. 10, 1981, effective March 11, 1982. Amended: Filed Feb. 23, 1989, effective May 25, 1989. Emergency amendment filed June 20, 2002, effective July 1, 2002, expired Dec. 27, 2002. Amended: Filed June 20, 2002, effective Dec. 30, 2002.

*Original authority: 207.020 RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993.

13 CSR 40-2.150 Date Cash Payments Are Due and Payable

PURPOSE: This rule outlines when assistance payments are due and payable to eligible claimants.

(1) Income Maintenance benefits shall be paid monthly in advance as follows:

(A) Aid to Dependent Children (ADC), ADC—Unemployed Father, Nursing Care checks and the Medical Assistance Identification cards are for benefits due and payable on the first day of each month. These benefits will be mailed on the first of each month or on the first working day after the first if the first falls on a weekend or holiday. Aid to Families with Dependent Children and Aid to Families with Dependent Children—Unemployed Parent payments authorized by the Division of Family Services which are delivered by electronic benefits transfer shall be made available monthly in advance. The schedule for availability of benefits is as follows:

1. Benefits for cases in which the payee's birth month is January through March shall be available on the first day of the month;

2. Benefits for cases in which the payee's birth month is April through June shall be available on the second day of the month;

3. Benefits for cases in which the payee's birth month is July through September shall be available on the third day of the month; and

4. Benefits for cases in which the payee's birth month is October through December shall be available on the fourth day of the month;

(B) General Relief and ADC—Foster Care benefits are due and payable on the fifth day of each month and will be mailed on the fifth of the month or the first working day after the fifth if the fifth falls on a weekend or a holiday; and

(C) Blind Pension, Supplemental Payments and Supplemental Aid to the Blind benefits are due and payable on the tenth of each month and will be mailed on the tenth of the month or on the first working day after the tenth if the tenth falls on a weekend or a holiday.

(2) Claimants receiving payments by means of electronic benefits transfer shall be required to use an electronic benefits transfer card on which there is a photographic identification of the payee for the benefits in order to gain access to the benefits. Good cause exemptions for requiring photographic identification on the electronic benefits transfer card may be allowed in the following circumstances:

(A) The payee for the benefits belongs to a religion which prohibits members being photographed;

(B) The payee for the benefits is household;

(C) The payee for the benefits already possesses a valid electronic benefits transfer card issued by the Division of Family Services for use in the Food Stamp program;

(D) A direct deposit AFDC benefit has been returned by the receiving bank and a temporary electronic benefits transfer card is issued to allow the recipient access to the returned benefits;

(E) Lives in a remote area defined as more than a two (2)-hour round trip from home to the Department of Revenue office;

(F) Unavailability of transportation; and

(G) Circumstances beyond the members control such as, but not limited to illness, or illness of another household member requiring the presence of the head of household.

AUTHORITY: sections 207.020 and 208.182, RSMo 1994.* Original rule filed Nov. 3, 1950, effective Nov. 13, 1950. Amended: Filed Feb. 27, 1974, effective March 9, 1974. Amended: Filed Feb. 6, 1975, effective Feb. 16, 1975. Amended: Filed May 1, 1996, effective Nov. 30, 1996.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.182, RSMo 1992, amended 1993, 1994.

13 CSR 40-2.160 State Hearing Procedures

PURPOSE: This rule outlines the procedure for appeals from county decisions and subsequent action to be taken on those appeals.

(1) If an Old Age Assistance, Nursing Care, Aid to Dependent Children, General Relief, Permanent and Total Disability Assistance or Aid to the Blind application is not acted upon within a reasonable length of time after the filing of the application or is denied in whole or in part, or if any benefits are cancelled or modified and concurrently with each reinvestigation, the applicant or recipient shall be notified in writing by the county family services office of his/her right to appeal to the director of the Division of Family Services; however, those recipients receiving the maximum payment allowed by law will not be notified of their right to appeal on the basis of the amount of grant, following the completion of a reinvestigation of their case. (Original rule filed Sept. 26, 1951, effective Oct. 6, 1951.)

(2) If an institutionalized spouse, a community spouse or a representative of either has requested an assessment of countable resources for the month in which institutionalization begins, in accordance with 13 CSR 40-2.030, upon the determination of the spousal share, the institutionalized spouse and the community spouse shall be notified in writing by the county family services office of their rights to appeal to the director of the Division of Family Services. This notice shall inform the institutionalized spouse and community spouse that appeal rights are effective upon application for Medicaid vendor benefits for the institutionalized spouse. Hearings assessment issues shall be held within thirty (30) days of the date of the request for the hearing.

(3) Upon the determination of the community spouse monthly income allowance described in 13 CSR 40-2.200, the county family services office shall notify, in writing, the institutionalized spouse and the community spouse, of their rights to appeal to the director of the Division of Family Services.

(4) Notice of hearing shall be mailed by registered United States mail to the appellant at least seven (7) days before the date of the hearing, specifying the time, date and place of hearing; provided, however, that a shorter notice period may be used if not prejudicial to the parties. A copy of the notice also will be mailed to the county family services office



and to any party of record representing the appellant. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

(5) Procedure with reference to the hearings shall be simple, informal and summary with respect to the conduct of the hearings, but the rules of evidence as applied to civil cases in Missouri shall be applied. Exceptions to adverse rulings are automatically saved to the party ruled against.

(A) Stipulations may be entered into prior to final disposition to—withdraw application for hearing; agree to a statement of facts or agree to any other pertinent matter or order.

(B) Hearings may be adjourned, postponed or continued from time-to-time or place-to-place at the discretion of the director or referee. Continuances of hearings will not be granted as a matter of course unless the request for continuance is received five (5) days prior to the date scheduled for the hearing. Continuances will be granted during the five (5)-day period prior to the hearing only when the hearing officer determines from the request that extraordinary circumstances exist.

(C) Subpoenas to compel the attendance of witnesses and the production of records may be issued by the director or referee upon a statement of the necessity therefore filed by the party requesting the issuance of the subpoena.

(D) Witness and mileage fees to any witness duly subpoenaed shall be paid as follows: Witnesses shall receive one dollar and fifty cents (\$1.50) for each day's attendance and in all cases five cents (5¢) per mile for each mile actually traveled. These witnesses and mileage fees may be claimed only at the time and place of hearing or the hearing adjournment and shall be certified by the witness and approved by the director or referee. Payment shall be made as other payments out of the Division of Family Services Administration Fund. Under no circumstances shall parties to the case or their relatives be granted witness fees.

(E) If any appellant fails to enter his/her appearance either in person or by duly authorized representative or show good cause for not appearing at any hearing, his/her appeal shall be dismissed for want of prosecution.

(F) Briefs setting forth written argument on the law and the facts may be filed in any case within a specified time designated by the director or referee.

(G) Within a reasonable time after the conclusion of a hearing, the director of the Division of Family Services will render a decision which shall include a statement of the Findings of Fact and Conclusions of Law. A copy

of the decision will be sent to the appellant by registered United States mail. A copy also will be mailed to the county family services office and to any duly authorized representative of the appellant. (Original rule filed Feb. 20, 1947, effective March 2, 1947.)

(6) There are established the positions of state hearing officer within the Division of Legal Services in order to comply with all pertinent federal and state law and regulations. The state hearing officers shall have authority to conduct state level hearings of a pretermination or appeal nature. They shall serve as direct representatives of the director of the Division of Family Services. All decisions issued as a result of the hearing so conducted by the hearing officers shall be in the name of the director of the Division of Family Services. Although the hearing officers may be assigned to a certain area, this authority to conduct hearings shall be statewide. The authority of the hearing officers to conduct hearings shall apply to all programs administered by the director of the Division of Family Services. (Original rule filed April 1, 1975, effective April 10, 1975.)

AUTHORITY: section 207.020, RSMo 1986. Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Emergency amendment filed Sept. 19, 1989, effective Oct. 1, 1989, expired Jan. 28, 1990. Amended: Filed Nov. 2, 1989, effective Jan. 26, 1990. Amended: Filed Jan. 10, 1990, effective April 12, 1990.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

Connors v. Missouri Division of Family Services, 576 SW2d 578 (Mo. App. 1979). Physician member of medical review team which denied claimant's application was not present for cross-examination at the hearing. Claimant's failure to subpoena physician under 13 CSR 40-2.160(3)(C) precludes her from complaining on appeal of a deprivation of her right to cross-examine the physician.

13 CSR 40-2.170 Special Requirements for the AFDC Program

PURPOSE: This rule outlines special provisions for determining eligibility for Aid to Families with Dependent Children.

(1) In verification of age for children obviously under eighteen (18) years, assistance may be granted without proof of age but ver-

ification of the birth date must be obtained by the time of the next reinvestigation. (Original rule filed Feb. 6, 1975, effective Feb. 16, 1975.)

(2) Effective January 2, 1974, aliens who have lawfully entered the United States and are considered a legal alien will be eligible for public assistance and aliens found to be in this country illegally will be ineligible. If an illegal alien is found to be on the Aid to Dependent Children (ADC) rolls, his/her case will be closed and if an applicant is found to be an illegal alien, this application will be rejected. (Original rule filed Jan. 2, 1974, effective Jan. 12, 1974.)

(3) Aid to Families with Dependent Children-Foster Care (AFDC-FC) payments may be granted to any child under the age of nineteen (19) who has been removed from the home of a parent or relative by court order and the child would have met AFDC eligibility standards in the home from which s/he was removed at the time of the court proceedings allowing the six (6) months previous to meet the living with a specified relative requirement and continues to be eligible for AFDC in his/her own right after the initial determination. Children under the age of twenty-one (21) whose placement in foster care is lawfully authorized who meet financial eligibility of the ADC program and for whom the Division of Family Services is financially responsible, in whole or in part, will be eligible for Title XIX. (Original rule filed Dec. 22, 1975, effective Jan. 1, 1976.)

AUTHORITY: section 207.020, RSMo 1986. Filing dates for original rules are shown in the text of the rule. This version filed March 24, 1976. Emergency amendment filed June 1, 1977, effective July 1, 1977, expired Oct. 31, 1977. Amended: Filed June 29, 1977, effective Oct. 13, 1977. Emergency amendment filed Feb. 19, 1982, effective March 1, 1982, expired June 10, 1982. Amended: Filed Feb. 19, 1982, effective June 11, 1982.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.180 Confidentiality of Case Records

PURPOSE: This rule outlines the confidential nature of information contained in case records.

(1) It shall be the duty of all officers and employees of the Division of Family Services



to protect from public disclosure any information concerning an applicant or recipient of public assistance or child welfare services and the file and record of an applicant or recipient shall be open to inspection only to those persons directly connected with the administration of this act in the performance of their official duties.

AUTHORITY: section 207.020, RSMo 1986.*
Original rule filed May 4, 1959, effective May 14, 1959.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.190 Procedure for Collection of Overpayments

PURPOSE: This rule outlines procedures for collection of payments made to claimants of assistance when claimants were ineligible for payments.

(1) Restitution and recovery may be required if at any time it is determined that a recipient has received benefits to which s/he was not entitled because of a state or federal statutory or regulatory requirement.

AUTHORITY: section 207.020, RSMo 1986.*
Original rule filed March 15, 1973, effective March 25, 1973. Emergency amendment filed Feb. 9, 1984, effective Feb. 19, 1984, expired May 10, 1984. Amended: Filed Feb. 9, 1984, effective May 11, 1984.

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.

13 CSR 40-2.200 Determining Eligibility for Medical Assistance

PURPOSE: This rule provides that the decision on the factor of disability shall be made by a qualified medical consultant employed by the division except in cases involving disability-based Social Security Income or Retirement, Survivor's and Disability Insurance and establishes the principles used by county staff in determining eligibility for Medical Assistance only on the basis of income.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this

material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The medical diagnosis and other medical information on Medical Assistance (MA), Supplemental Nursing Care (SNC), Aid to the Blind (AB) and Blind Pension (BP) cases shall be reviewed by a medical consultant employed by the Division of Family Services, who shall certify eligibility or ineligibility on the basis of permanent and total disability or vision, except that this review will not be required to certify permanent and total disability when the claimant receives Supplemental Security Income (SSI) or Retirement, Survivor's and Disability Insurance (RSDI) based on his/her disability. In these cases, the verification of the receipt of disability-based SSI or RSDI benefits will be sufficient to establish permanent and total disability.

(2) If a single individual has an adjusted gross income per month that does not exceed the income limit and meets the other eligibility requirements, s/he will be eligible for MA. If eligibility is based on AB provisions, the income limit is one hundred percent (100%) of the federal poverty level (FPL). If eligibility is based on Old Age Assistance (OAA) or Permanent and Total Disability (PTD) provisions, the income limit is eighty-five percent (85%) of the FPL. For a married couple living together, the adjusted gross income limitation will be one hundred percent (100%) of the FPL for two (2) persons if eligibility is based on AB provisions. For a married couple living together, the adjusted gross income limitation will be eighty-five percent (85%) of the FPL for two (2) persons if eligibility is based on OAA or PTD provisions. In determining adjusted gross income, the following exemptions will be applied to the gross income:

(A) If the income is earned or unearned, an amount of twenty dollars (\$20) may be excluded from the gross. Payments for premiums for medical insurance, including Supplemental Medical Insurance (SMI) premium, may be excluded;

(B) The full amount of any SSI payment will be excluded; and

(C) If the income is earned, the twenty-dollar (\$20) exclusion in subsection (2)(A) will be applied plus the first sixty-five dollars (\$65) and one-half (1/2) of the remainder of all earned income will be excluded. If a person is a student and is under the age of twen-

ty-two (22), the amount of the school expense will be excluded from any earned income. If eligibility is based on AB provisions, any work-related expenses also will be excluded from earned income.

(3) If an individual qualifies for institutional vendor payments under the MA program, thirty dollars (\$30) of the individual's personal income shall be retained as his/her personal needs allowance. Federal regulation 42 CFR, section 435.733 provides that there shall be a minimum amount available to meet the clothing and other personal needs of the individual. In order to meet other of the individual's basic personal needs, this amount shall not be exhausted to satisfy any guardianship fees, court costs, attorney's fees, or other related legal or court costs, or any combination of these, resulting from the administration of a guardianship or conservatorship, or both that has been sought on behalf of the Medicaid recipient. The claimant's personal needs allowance shall not be used for the provision of any medical or remedial services, or both that are covered through the Missouri Medical Exception Process. Institutionalized individuals who participate in sheltered workshops are allowed a personal needs allowance of thirty dollars (\$30) plus the sheltered workshop income.

(4) When an individual living in his/her home is assessed by the Division of Aging as needing both a nursing facility level-of-care as defined in 13 CSR 15-9.030 and home- and community-based waiver services, his/her gross monthly income shall be compared to eight hundred dollars (\$800). If his/her gross monthly income is equal to or less than eight hundred dollars (\$800), s/he shall be considered income eligible for Title XIX under the MA program. When his/her gross monthly income is greater than eight hundred dollars (\$800), s/he must qualify for Title XIX in accordance with section (2) of this rule.

(5) If an institutionalized spouse (as defined in 13 CSR 40-2.030) qualifies for institutional vendor payments under the MA program, in determining the amount the institutionalized spouse must pay to the medical institution or nursing facility for the cost of his/her care, there shall be disregarded the following amounts:

(A) A community spouse monthly income allowance which shall be determined as follows:

1. The amount by which—

A. The applicable percentage of the Federal Poverty Level for two (2) persons; plus



B. The amount by which the community spouse's shelter expenses exceed thirty percent (30%) of the applicable percentage of the Federal Poverty Level for two (2) persons; exceeds

C. The community spouse's own income;

2. The amount determined in subparagraphs (5)(A)1.A. and B. may not exceed one thousand five hundred dollars (\$1,500), subject to adjustment by the Consumer Price Index beginning January 1990;

3. The amount of court-ordered support, if higher, may be substituted for the amount determined in paragraph (5)(A)1.;

4. The applicable percentages of the Federal Poverty Level specified in paragraph (5)(A)1. shall be as follows:

A. Effective September 30, 1989, one hundred twenty-two percent (122%);

B. Effective July 1, 1991, one hundred thirty-three percent (133%); and

C. Effective July 1, 1992, one hundred fifty percent (150%);

5. Allowable shelter expenses for the community spouse shall include the following expenses incurred at the principal place of residence of the community spouse:

A. Mortgage payment or taxes, or both, and insurance;

B. Rent;

C. Maintenance fee for condominium or cooperative apartment; and

D. The utility standard of the Food Stamp program in accordance with the Food Stamp Act of 1977, if the utility expenses are actually incurred and are not a part of the maintenance fee or rent previously allowed. If the community spouse's only utility is telephone, the standard used shall be the telephone standard of the Food Stamp program. If the community spouse incurs any other type of utility, the standard used shall be the utility standard of the Food Stamp program;

6. If either spouse establishes in a fair hearing that the allowance as determined by the Division of Family Services is insufficient (resulting in significant financial duress), an adequate amount may be substituted; and

(B) An allowance for each family member equal to one-third (1/3) of the amount by which the amount described in subparagraph (5)(A)1.A. exceeds the monthly income of that family member. As used in this rule, the term family member shall mean minor or dependent children, dependent parents or dependent siblings of either spouse who are residing with the community spouse. Dependent as used here means an individual who could be claimed as a dependent for federal income tax purposes.

(6) Pursuant to the determination of the Health Care Financing Administration of the United States Department of Health and Human Services, no amounts charged as guardianship or conservatorship fees, court costs, attorney's fees or other related or similar legal or court costs are properly classified as necessary medical or remedial care. Therefore, no charges shall be recognized or allowed by this agency for the purpose of deducting those sums from an individual's total income, when that individual qualifies for institutional vendor payments under the MA program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396.

(7) Persons who are eligible for MA only must meet the eligibility requirements, other than income, for Old Age Assistance, Permanent and Total Disability or AB that was in effect in January 1972, except that the Homemaker provision will not be applied to the determination of disability in these cases.

(8) Persons who receive SSI may receive MA if they meet the eligibility requirements, other than income, for General Relief that were in effect January 1972. However, in determining eligibility for MA, the eligibility requirements described in section (6) must be applied first.

*AUTHORITY: section 207.020, RSMo 2000. * Original rule filed Sept. 26, 1951, effective Oct. 6, 1951. Amended: Filed Nov. 4, 1954, effective Nov. 14, 1954. Amended: Filed Feb. 27, 1974, effective March 9, 1974. Amended: Filed April 25, 1974, effective May 5, 1974. Amended: Filed June 3, 1974, effective June 13, 1974. Amended: Filed June 10, 1975, effective June 20, 1975. Amended: Filed July 8, 1977, effective Oct. 13, 1977. Amended: Filed March 13, 1978, effective June 11, 1978. Amended: Filed April 17, 1987, effective Sept. 11, 1987. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Emergency amendment filed Sept. 19, 1989, effective Oct. 1, 1989, expired Jan. 28, 1990. Amended: Filed Nov. 2, 1989, effective Jan. 26, 1990. Emergency amendment filed Dec. 18, 1992, effective Jan. 1, 1993, expired April 30, 1993. Emergency amendment filed Feb. 26, 1993, effective May 1, 1993, expired Aug. 28, 1993. Amended: Filed Dec. 18, 1992, effective June 7, 1993. Emergency amendment filed Dec. 13, 1993, effective Jan. 1, 1994, expired April 30, 1994. Amended: Filed Dec. 13, 1993, effective July 10, 1994. Emergency amendment filed Dec. 29, 1994, effective Jan. 8, 1995, expired May 7, 1995. Amended: Filed Jan. 12, 1995,*

effective July 30, 1995. Amended: Filed June 27, 2005, effective Jan. 30, 2006.

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993.*

Bell v. Missouri State Division of Family Services, 597 SW2d 699 (Mo. App. 1980). 13 CSR 40-2.200, insofar as it makes the Medical Review Team report controlling upon the director upon appeal, is inconsistent with section 208.075, RSMo and to that extent is invalid.

13 CSR 40-2.210 State Emergency Assistance Program

PURPOSE: This rule establishes the basis upon which emergency payments will be made to vendors for the purchase of food, clothing, utility and shelter expenses incurred by eligible Missouri residents of needy families with children under the age of twenty-one, limited to a one-time payment in a twelve-month period, in crisis situations.

(1) Eligibility for Emergency Assistance is based on the fact that a crisis situation exists at the time the family requests Emergency Assistance. The definition of crisis is—

(A) A sudden unexpected, natural or human occurrence or set of circumstances;

(B) Immediate action required on behalf of the family regarding emergent needs; and

(C) Shelter, utilities, food or clothing expenses which may be required to prevent personal suffering.

(2) A claimant shall be expected to cooperate in completing the eligibility study within the required time frame of three (3) work days.

(3) An applicant or recipient of the Emergency Assistance program currently must be residing in Missouri with the intent to remain a Missouri resident.

(4) Only citizens of the United States will be eligible for receipt of Emergency Assistance.

(5) For the purpose of the Emergency Assistance program, Income Limitations shall mean—a family to be eligible for Emergency Assistance shall not have an adjusted net income in excess of one hundred fifty percent (150%) of the maximum assistance grant available to that family size, based on Income Maintenance standards.

(6) In those cases where one (1) or both parent(s) of the child in whose behalf Emergency Assistance is granted is (are) absent from the



home, a referral shall be made to the Support Enforcement Unit.

(7) All payments will be made through a voucher payment system and will be payments to vendors. No payments will be made directly to the recipient. The following criteria governing maximum payments shall apply:

(A) If the claimant is ineligible for food stamps, the maximum emergency food payment shall be equivalent to the maximum allowable food-stamp bonus for the total number of persons in the household based on monthly net income;

(B) Emergency shelter may be provided up to a maximum payment of two hundred seventy dollars (\$270) in the event of potential eviction or in emergency situations limited to natural disaster;

(C) Emergency clothing may be provided up to a maximum of twenty-five dollars (\$25) per person, unless an extreme emergency exists;

(D) Emergency utilities payments may be provided up to the maximum payment of one hundred fifty dollars (\$150) to assist with the costs associated with the turn on (or to prevent discontinuation) of utilities or fuel.

1. The claimant's household has received notification from the utility or fuel company that services will be discontinued.

2. The services have already been discontinued by the utility or fuel company.

3. The claimant's household has been forced to move due to a crisis situation and the funds are not available for utilities or fuel at the new location.

4. The utilities or fuel shall mean expenses associated with continuing services related to heat, light and water only;

(E) The maximum amount of Emergency Assistance for any costs resulting from a combination of food, clothing and housing expenses incurred as the result of a natural disaster shall not exceed the monthly maximum Aid to Families with Dependent Children grant for the number of eligible persons in the family;

(F) In case of natural disaster, if otherwise not available through community resources a combination of needs may be met as well as the total replacement of the family's clothing; and

(G) When funds for the operation of this program appear to be inadequate for an entire fiscal year, rather than provide a prorated benefit which may not meet the needs of families in crisis situations, the Division of Family Services shall provide the maximum allowable benefits to eligible families until all program funds are exhausted. The program

will be discontinued until additional funds are appropriated.

AUTHORITY: section 207.020, RSMo 1986. Emergency rule filed Dec. 17, 1979, effective Dec. 27, 1979, expired April 10, 1980. Original rule filed Dec. 17, 1979, effective April 11, 1980. Emergency amendment filed May 22, 1980, effective May 29, 1980, expired Sept. 11, 1980. Amended: Filed May 22, 1980, effective Sept. 12, 1980. Emergency amendment filed June 19, 1980, effective June 29, 1980, expired Oct. 10, 1980. Amended: Filed June 19, 1980, effective Oct. 11, 1980. Emergency amendment filed Sept. 10, 1980, effective Sept. 20, 1980, expired Dec. 10, 1980. Amended: Filed Sept. 10, 1980, effective Dec. 11, 1980.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.220 Families Deemed to be Receiving AFDC for Purposes of Title XIX

PURPOSE: This rule establishes which families will be deemed to be receiving Aid to Families with Dependent Children for purposes of Title XIX.

(1) In any case where a family has ceased to receive Aid to Families with Dependent Children (AFDC) benefits before April 1, 1990, solely because the earned income disregards provided for in 13 CSR 40-2.120(6)(A)4. or 5. no longer apply due to the four (4)- and eight (8)-month time limitations specified in 13 CSR 40-2.120(6)(C), the family shall be considered, for purposes of Title XIX, to be deemed to be receiving AFDC for a period of nine (9) months after the last month for which the family eligibly received this aid.

(2) With respect to families which ceased to receive AFDC before October 1, 1984, solely because the earned income disregard provided for in 13 CSR 40-2.120(6)(A)4. no longer applied due to the four (4)-month time limitation specified in 13 CSR 40-2.120(6)(C), the family, for purposes of Title XIX, shall be deemed to be receiving AFDC for a period of nine (9) months starting with the month the family applies for this treatment, if the following provisions are met:

(A) The family must make application for treatment no later than March 31, 1985;

(B) The family would have been continuously eligible for AFDC from the time it ceased to receive the aid to the time of its application, as provided for in subsection (2)(A) of this rule, if the earned income dis-

regard provided for in 13 CSR 40-2.120(6)(A)4. were applied; and

(C) The family must fully disclose in its application, as provided for in subsection (2)(A) of this rule, any health insurance coverage which its members may have in effect.

(3) In any case where a family has ceased to receive AFDC benefits solely because the income of a minor parent's own parent(s)/legal guardian(s) provided for in 13 CSR 40-2.120(2)(A) is included, then Title XIX eligibility for the children shall be determined. This determination will deem the minor parent's own parents/legal guardian(s) income only to the minor parent. The minor parent's children found eligible will be deemed to be receiving AFDC for purposes of Title XIX.

(4) When a family has ceased to receive AFDC benefits as a result of the collection or increased collection of child or spousal support and has received AFDC for at least three (3) of the six (6) months immediately preceding the month in which ineligibility begins, that family shall be deemed to be recipients of AFDC for purposes of Title XIX for an additional four (4) calendar months beginning with the month in which the ineligibility begins, if the family remains eligible on all other factors.

AUTHORITY: section 207.020, RSMo 1986. Emergency rule filed Oct. 3, 1984, effective Oct. 13, 1984, expired Jan. 11, 1985. Original rule filed Oct. 15, 1984, effective Jan. 12, 1985. Amended: Filed Feb. 17, 1988, effective June 11, 1988. Emergency amendment filed Dec. 30, 1988, effective Jan. 10, 1989, expired May 10, 1989. Amended: Filed Dec. 30, 1988, effective March 25, 1989. Amended: Filed Jan. 17, 1990, effective April 12, 1990.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.230 Disposal of Excess Real Property

PURPOSE: This rule defines the requirements for disposal of excess real property in the Aid to Families with Dependent Children program as provided for in section 208.010, RSMo.

(1) In determining eligibility for Aid to Families with Dependent Children (AFDC) cash benefits, real property which the family is making a good faith effort to sell shall be excluded for a period not to exceed six (6)



months, if the family agrees in writing with the Division of Family Services to sell this property and repay the amount of assistance received during that period from the net proceeds of the sale.

(2) If the property has not been sold within six (6) months from the effective date of the agreement, or if eligibility terminates for any other reason, the entire amount of assistance paid during that period shall be a debt due the state.

(3) The agreement shall specify—

(A) Which property will be excluded and the market value;

(B) The disposal period of six (6) months;

(C) What good faith effort requires; and

(D) The requirement to repay the assistance received during the disposal period.

(4) All owners of the property in the AFDC assistance group must sign the agreement. A spouse who is an owner and living in the home, but not in the AFDC assistance group, must also sign the agreement.

(5) A claimant must provide proof of good faith effort as requested by the Division of Family Services. Good faith effort to sell includes the following:

(A) Listing the real property with a reputable real estate agent and cooperating in marketing the property. Cooperation in marketing the property includes things such as showing the property and setting a realistic sales price;

(B) Publicly advertising the property for sale on no less than a weekly basis in a general newspaper, instead of listing the property with a reputable real estate agent;

(C) Accepting reasonable purchase offers, for example, reflecting a reasonable market value; and

(D) Initiating any legal action necessary to force a sale when other owners, outside the AFDC assistance group, do not wish to sell.

AUTHORITY: section 207.020, RSMo 1986. Emergency rule filed Nov. 14, 1985, effective Nov. 24, 1985, expired March 24, 1986. Original rule filed Nov. 14, 1985, effective Feb. 13, 1986.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.240 Medicaid Eligibility in General Relief Prior to Application

(Rescinded December 30, 2005)

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Aug. 3, 1987, effective

Oct. 25, 1987. Rescinded: Filed June 8, 2005, effective Dec. 30, 2005.

13 CSR 40-2.250 Resource Eligibility Standards for Title XIX Under the Poverty Level

PURPOSE: This rule establishes resource eligibility standards for Title XIX for pregnant women and children whose family income is less than one hundred percent of the federal poverty level per House Bill 518 which enacted section 208.151.1(12), RSMo.

(1) For children, the resource requirements are the same as those established for the Aid to Families with Dependent Children (AFDC) program. Those requirements are outlined in section 208.010, RSMo and defined in 13 CSR 40-2.030.

(2) For pregnant women, the resource eligibility maximum is the same as the Supplemental Security Income maximum for a single person. The resource requirements are similar to those established for the AFDC except for the following:

(A) Exempt the homestead and all adjoining acreage in which the claimant resides;

(B) Exempt one (1) vehicle as an available resource if it is the only vehicle owned. Recreational vehicles are counted as an available resource unless used mainly for a purpose other than recreation;

(C) Allow each assistance group member an exemption of one thousand five hundred dollars (\$1,500) for the face value of life insurance or burial contract, or a combination of both; and

(D) Do not apply 13 CSR 40-2.230 Disposal of Excess Real Property.

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Jan. 5, 1988, effective June 11, 1988.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.260 Newborns Deemed to be Eligible for Title XIX

PURPOSE: This rule establishes that newborns will be deemed to be eligible for Title XIX when they are born to a woman eligible for and receiving Title XIX on the date the child is born.

(1) A child born to a woman eligible for and receiving Title XIX on the date her child is born is deemed to have filed an application and been found eligible for Title XIX on the

date of the birth and to remain eligible for one (1) year; provided—

(A) The mother remains continuously eligible under Missouri's Title XIX plan, or for children born January 1, 1991 or later, the mother would remain eligible for Title XIX if she was still pregnant; and

(B) The child remains in the mother's household.

AUTHORITY: section 207.020, RSMo 1986. Emergency rule filed Dec. 19, 1988, effective Jan. 1, 1989, expired May 1, 1989. Original rule filed Dec. 19, 1988, effective March 25, 1989. Emergency amendment filed March 6, 1991, effective March 16, 1991, expired July 13, 1991. Amended: Filed March 7, 1991, effective Aug. 30, 1991.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.270 Determining Eligibility for Qualified Medicare Beneficiaries

PURPOSE: This rule establishes the principles used in determining eligibility for Qualified Medicare Beneficiary coverage on the basis of income, resources and Part A Medicare entitlement.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) An eligible Qualified Medicare Beneficiary shall—

(A) Be entitled to and enrolled in Hospital Insurance under Part A of Medicare, as described in Section 1811 of the Social Security Act;

(B) Not possess available resources, as defined in 13 CSR 40-2.030, in excess of twice the individual resource maximum of the federal Supplemental Security Income (SSI) program for a single person or, if married and actually living with the spouse, the available resources of either the Qualified Medicare Beneficiary or the spouse, or both,



shall not exceed twice the couple resource maximum of the federal SSI program, as cited at Section 1611(a)(3) of the Social Security Act;

(C) Not have adjusted gross income in excess of one hundred percent (100%) of the federal poverty level beginning January 1, 1991. For a single person, the adjusted gross income limitation shall be the applicable percentage of the poverty level for one (1) person. For a married couple living together, the adjusted gross income limitation shall be the applicable percentage of the poverty level for two (2) persons. For a married couple living together with an eligible dependent child, when one (1) of the parents is also eligible, the adjusted gross income limitation shall be the applicable percentage of the poverty level for three (3) persons. When an eligible dependent child lives with an ineligible parent(s), a portion of the income of the parent(s) shall be deemed to be the child's and, in combination with the child's own income, be compared to the adjusted gross income limitation for a single person. In determining adjusted gross income, the following exemptions will be applied to gross income:

1. If the income is earned or unearned, an amount of twenty dollars (\$20) may be excluded from the gross;

2. The full amount of any SSI payment will be excluded; and

3. If the income is earned, the twenty dollar (\$20) exclusion in paragraph (1)(C)1. will be applied, plus the first sixty-five dollars (\$65) and one-half (1/2) of the remainder of all earned income will be excluded. If a person is a student and is under the age of twenty-two (22), the amount of the school expense will be excluded from any earned income;

(D) Not have transferred property without receiving fair and valuable consideration. Transfers which occur prior to July 1, 1989 shall cause periods of ineligibility for assistance in accordance with section 208.010.2(1), RSMo. Transfers which occur after June 30, 1989 shall cause periods of ineligibility in accordance with section 208.010.6., RSMo; and

(E) Not possess, prior to October 1, 1989, equity in total property in excess of the maximum set out in section 208.010.2(5), RSMo.

(2) Eligibility for Qualified Medicare Beneficiary assistance may not begin until the month following the month the Division of Family Services completes the determination of eligibility.

AUTHORITY: section 207.020, RSMo 1986. Emergency rule filed July 5, 1989, effective*

July 15, 1989, expired Nov. 12, 1989. Original rule filed July 5, 1989, effective Oct. 12, 1989. Emergency amendment filed Dec. 20, 1989, effective Dec. 30, 1989, expired April 29, 1990. Amended: Filed Feb. 15, 1990, effective May 11, 1990. Emergency amendment filed Dec. 18, 1990, effective Jan. 1, 1991, expired April 30, 1991. Amended: Filed Jan. 25, 1991, effective July 8, 1991.

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.280 FUTURES Program

PURPOSE: This rule identifies the optional components of the employment and training program mandated by sections 208.044, 208.151 and 402.340–402.347, RSMo. The Missouri program will be known as FUTURES. This rule also identifies the referral process of clients to the program and the conciliation and sanction process.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The Division of Family Services shall provide a conciliation procedure as required by 45 CFR section 250.36.

(A) The following describes the state's conciliation process:

1. When a dispute arises which involves an individual's participation in the FUTURES Program, that individual shall be provided a conciliation period to resolve the dispute. Conciliation will include an attempt by the participant and his/her case manager or designee to resolve the dispute;

2. The conciliation period will not exceed thirty (30) days unless extended by the division. After the conciliation period and a notice of adverse action has been issued, the individual shall be provided a fair hearing. The existing hearings process at 13 CSR 40-2.160 shall apply to hearings and appeals related to this program;

3. Assistance will not be suspended, discontinued or terminated until a decision is

issued after the fair hearing, if a hearing is requested;

4. Sanctions shall be imposed for failure to comply as required by 45 CFR section 250.34. Failure to comply includes failure, without good cause, to participate in any program component or refusal to accept employment, termination of employment or reduction of earnings:

A. For the first failure to comply, the sanction shall apply until the failure to comply ceases;

B. For the second failure to comply, the sanction shall apply until failure to comply ceases or for three (3) months, whichever is longer;

C. For any subsequent failure to comply, the sanction shall apply until failure to comply ceases or for six (6) months, whichever is longer; and

5. Good cause for failure to comply shall be as defined in 45 CFR section 250.35, and shall include circumstances beyond the household's control, such as unavailability of transportation or child care, or other failure in the delivery of a supportive service.

(2) The Family Support Act of 1988 requires the operation of four (4) mandatory components and two (2) optional components. The mandatory components include LEARN-FARE, the educational component and the three (3) employment-related components (job skills training, job readiness and job development and placement). The two (2) optional components will be on-the-job training (OJT) and group and individual job search. Decisions regarding which component would be most appropriate will be based upon, but not limited to, the following criteria:

(A) If job ready, refer to job search;

(B) If not job ready due to educational deficiencies, refer to local or area educational facilities;

(C) If not job ready due to lack of work history or marketable skills, refer to training;

(D) If the client has a temporary condition or situation which would prevent him/her from actively participating, or if the desired service is temporarily unavailable, the client may not be referred at once, but referred later when the situation changes. Follow-up on a client's condition will occur at designated intervals or as requested by the client;

(E) If the client needs supportive services, appropriate referrals will be made or assistance will be given in arranging the services; and

(F) If further testing is required to determine the appropriate service plan, a referral



for education and skills assessment will be made.

(3) The Family Support Act of 1988 allows the state to require that one (1) or both parents in the case of families eligible for Aid to Families with Dependent Children (AFDC) by reason of unemployment of the parent who is the principal wage earner attend a community work experience activity, unsubsidized employment, other work experience, work supplementation, or OJT component. The state has elected to require participation by both parents, thereby eliminating the rule requiring participation by only one (1) parent. The exemption for having a child under age three (3) as specified in 208.410(3), RSMo applies only to the parent who is not designated as the principal wage earner and is only applicable when child care is unavailable.

AUTHORITY: section 207.020, RSMo 1994. Original rule filed May 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 11, 1994, effective Feb. 26, 1995. Emergency amendment filed June 15, 1995, effective June 25, 1995, expired Oct. 22, 1995. Amended: Filed June 15, 1995, effective Nov. 30, 1995.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993.*

13 CSR 40-2.290 Compensation for Legal Representation of General Relief Recipient in Successful Supplemental Security Income Appeal

PURPOSE: This rule defines the required procedures and limitations for an attorney claiming payment from the Department of Social Services for representing a General Relief recipient in a successful Supplemental Security Income appeal before an administrative law judge.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This

note refers only to the incorporated by reference material.

(1) Definition. The following term is defined for the purpose of this rule: General Relief (GR) recipient shall mean an individual who received GR benefits in accordance with section 208.015, RSMo for any month in which the Supplemental Security Income (SSI) claim was pending.

(2) An attorney who has represented a GR recipient in a successful appeal of a claim for SSI benefits before an administrative law judge, in accordance with the *Code of Federal Regulations* at 20 CFR 416.1429-61, may make a claim to the Department of Social Services for compensation for representation for decisions rendered August 28, 1990 or later. Claims for compensation for representation must—

(A) Be submitted to the Department of Social Services at the following address within sixty (60) days of the date of the administrative law judge's favorable decision setting the amount of fees or the date of the notice from the secretary of Health and Human Services (HHS) setting the amount of fees:

Missouri Division of Family Services
Income Maintenance Section
P.O. Box 88
Jefferson City, MO 65103; and

(B) Include the following documentation:

1. A copy of—
 - A. The attorney's petition to the administrative law judge requesting fee approval; and
 - B. The fee agreement between the claimant and attorney submitted to the secretary of HHS;
2. A copy of the favorable decision of the SSI appeal dated August 28, 1990 or later;
3. A copy of the document setting the amount of the fee approved by the administrative law judge or the secretary of HHS; and
4. A letter requesting compensation, including the amount of compensation already received from or on behalf of the GR recipient; the name, address, birth date and Social Security number of the GR recipient the attorney represented; and the address to which compensation should be mailed.

(3) Upon receipt of requests for compensation, the Department of Social Services shall—

(A) Determine if the claim for compensation meets the criteria described in section (2);

(B) For claims which meet the criteria of section (2), make a disbursement to the attorney within thirty (30) days of receipt of the claim, including all items listed in paragraphs (2)(B)1.-4. of this rule; or within thirty (30) days of funds being appropriated for such claims, whichever is greater. The amount of the disbursement shall be the least of—

1. The fee approved by the administrative law judge, reduced by the amount of any compensation the attorney has already collected from or on behalf of the GR recipient;

2. Twenty-five percent (25%) of the maximum SSI payment for an individual for one (1) year; or

3. The amount of GR paid to the claimant for the period during which the SSI claim was pending through the month of the administrative law judge's favorable decision of SSI appeal; and

(C) Notify the attorney and the claimant of the amount of that disbursement or the reason no disbursement is made.

AUTHORITY: section 207.020, RSMo 1986. Emergency rule filed Nov. 1, 1990, effective Nov. 11, 1990, expired March 11, 1991. Original rule: Filed Nov. 1, 1990, effective April 29, 1991.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986.*

13 CSR 40-2.300 Definitions Which Are Applicable for Benefit Programs Funded by the Temporary Assistance for Needy Families (TANF) Block Grant

PURPOSE: This rule provides the definition of terms which are applicable to the Temporary Assistance program funded by the Temporary Assistance for Needy Families (TANF) Block Grant.

(1) Agent. Any entity acting on behalf of the division under a contract or memorandum of understanding.

(2) Assistance. Every form of support provided to participants and their families under the Temporary Assistance (TA) program, including child care, work subsidies, and allowances to meet living expenses. Assistance does not include the cash diversion program in 13 CSR 40-2.480; services that have no direct monetary value to an individual family and that do not involve implicit or explicit income support, such as counseling, case management, peer support, and employment services that do not involve subsidies or other forms of income support; or one- (1-) time, short-term assistance authorized by a



representative of the Family Support Division as part of an Individual Employment Plan (IEP) under 13 CSR 40-2.370(2), including assistance to pay for automobile repairs to retain employment and avoid welfare receipt, and appliance repair to maintain living arrangements.

(3) Community service programs. Structured programs and embedded activities in which TA recipients perform work for the direct benefit of the community under the auspices of public or nonprofit organizations. Community service programs must be limited to projects that serve a useful community purpose in fields such as health, social service, environmental protection, education, urban and rural redevelopment, welfare, recreation, public facilities, public safety, and child care.

(4) Division. The Family Support Division of the Department of Social Services of the State of Missouri, or its agent.

(5) Household. A family that includes:

(A) Eligible children under the age of eighteen (18); or

(B) Eligible children who are age eighteen (18) and in secondary school or the equivalent vocational or technical school, if they are expected to graduate before turning age nineteen (19); and

(C) The natural or adoptive parents of one (1) or more of the eligible children; or

(D) Any needy non-parent caretaker relative or unrelated guardian of one (1) or more of the eligible children, if there are no natural or adoptive parents in the home. The non-parent caretaker relative or the guardian, if found to be eligible for inclusion, may exclude themselves from the assistance group.

(6) Investigation. A review conducted by the division to determine that a participant is not cooperating with a work participation activity requirement. The investigation may include a telephone or personal contact with the participant at the discretion of the division.

(7) Participant. Any individual who has applied for, or is receiving, or has been denied, TA benefits or services administered by the Family Support Division.

(8) Temporary Assistance (TA). The division's program for the provision of any public assistance funded in whole or part directly through the Temporary Assistance for Needy Families (TANF) Block Grant, section 603 of Title 42, *United States Code* and Parts 260–284 of Title 45, *Code of Federal Regulations*.

(9) Satisfactory attendance at a secondary school, provided that the participant has not already completed secondary school. Regular attendance, in accordance with the requirements of the secondary school or course of study, at a secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate. This activity must be supervised on an ongoing basis no less frequently than daily.

(10) Work activities that any participant seeking TA shall engage in unless exempt include:

(A) Unsubsidized employment;

(B) Subsidized private sector employment;

(C) Subsidized public sector employment;

(D) Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

(E) On-the-job training;

(F) Job search and job readiness assistance;

(G) Community service programs;

(H) Vocational educational training (not to exceed twelve (12) months with respect to any participant);

(I) Job skills training directly related to employment;

(J) Education directly related to employment for participants who have not received a high school diploma or a certificate of high school equivalency;

(K) Satisfactory attendance at a secondary school provided that the participant has not already completed secondary school; and

(L) Providing child care services to a participant who is involved in a community service program.

(11) Subsidized Public Sector Employment. Employment in the public sector for which the employer receives a subsidy from TA or other public funds to offset some, or all, of the wages and costs of employing a recipient.

(12) Subsidized Private Sector Employment. Employment in the private sector for which the employer receives a subsidy from TA or other public funds to offset some, or all, of the wages and costs of employing a recipient.

(13) Vocational educational training. Organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree. Vocational educational training must be supervised on an ongoing basis no less frequently than daily.

(14) Work Experience. A work activity, performed in return for TA, that provides an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment.

(15) Unsubsidized employment. Full- or part-time employment in the public or private sector that is not subsidized by TA or any other public program.

AUTHORITY: section 207.022, RSMo Supp. 2014, and section 208.026, RSMo Supp. 2015. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Emergency amendment filed Aug. 18, 2015, effective Aug. 28, 2015, expired Feb. 23, 2016. Amended: Filed Aug. 28, 2015, effective April 30, 2016.*

**Original authority: 207.022, RSMo 2014 and 208.026, RSMo 2015.*

13 CSR 40-2.305 Prohibition Against the Payment of Temporary Assistance to a Person Who Has Been Convicted of Certain Felony Drug Offenses

PURPOSE: This rule prohibits the payment of Temporary Assistance to a person who has been convicted of certain felony drug offenses.

(1) For the purpose of the administration of the Temporary Assistance Program the Division of Family Services shall not provide assistance to or on behalf of an individual who has been convicted (under federal or state law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in section 802(6) of Title 21, *United States Code*).

(2) The amount of assistance that would otherwise be required to be provided under the Temporary Assistance Program to the family members of an individual to whom section (1) applies shall be reduced by the amount which would have otherwise been made available to the individual who has been convicted of such an offense.

(3) For purposes of the administration of this rule, the prohibition contained within this rule shall not apply to convictions arising out of offenses occurring prior to the effective date of United States Public Law 104-193 on August 22, 1996.



(4) For purposes of the administration of this rule, each individual applying for benefits under the Temporary Assistance Program shall be required in the application process to state, in writing, whether the individual, or any member of the household of the individual, has been convicted of a crime described in section (1) of this rule.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority:* 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.

13 CSR 40-2.310 Requirements as to Eligibility for Temporary Assistance

PURPOSE: This rule establishes the requirements for eligibility for Temporary Assistance (TA).

(1) All participants shall meet the eligibility requirements set forth in this rule to qualify for receipt of Temporary Assistance (TA):

(A) Each participant and each dependent child shall be a resident of the state of Missouri; and

(B) A United States citizen; or

(C) A qualified alien as defined in section 1641 of Title 8, *United States Code*, except as otherwise provided herein. Except as provided in section 1622(b) of Title 8, *United States Code*, a qualified alien who enters the United States on or after August 22, 1996, is not eligible for TA benefits for a period of five (5) years beginning on the date of the alien's entry into the United States. Qualified aliens who have entered the United States on or after August 22, 1996, and who do not meet the time limit exception, may be eligible for TA after a period of five (5) years beginning on the date of the qualified alien's entry into the United States. An alien who is not a qualified alien under sections 1641 or 1622(b) of Title 8, *United States Code* shall be ineligible to receive TA benefits. If an alien who is not eligible to receive TA benefits is found to be on the TA rolls, then his or her benefits will be terminated and his or her case will be closed. If a participant in the TA program is not a qualified alien or does not otherwise fall within the exception set forth in section 1622(b) of Title 8, *United States Code*, then the participant's application for TA will be denied;

(D) A participant shall provide all Social Security numbers for each parent, caretaker,

and child for whom benefits are being requested, and shall be required to cooperate with the division to obtain Social Security numbers;

(E) The participant shall use the assistance provided under the Temporary Assistance program for the benefit of the child or children;

(F) Any household member receiving Supplemental Security Income (SSI) shall not be eligible for TA for themselves. The income, expenses, and resources of the SSI recipient are excluded when determining the eligibility of the household. The individual shall be excluded for purposes of determining household size;

(G) The participant shall meet all other eligibility requirements contained in 13 CSR 40-2.300 through 13 CSR 40-2.370 and 13 CSR 40-2.400 through 13 CSR 40-2.450;

(H) Beginning August 28, 2015, any parent or caretaker who applies for TA under these regulations shall first complete a standardized orientation which informs participants of the program's rules and requirements, available resources for work activities, and consequences if the program's requirements are not satisfied. Any parent or caretaker who is applying for TA benefits for himself or herself shall sign a Personal Responsibility Plan in which he or she commits to participate in the program and specifies the work activities in which he or she will participate;

(I) Beginning August 28, 2015, any parent or caretaker whose TA case is closed due to work activity sanctions under these regulations shall first perform work activities for an average of thirty (30) hours per week in a one- (1-) month period before qualifying for TA again, unless such individual is otherwise exempt from work activities as provided for in these regulations; and

(J) Beginning January 1, 2016, any parent or caretaker who applies for TA benefits under these regulations shall complete an online job registration before receiving any payment of TA.

(2) Application for benefits and timely determination of eligibility for benefits will comply with sections 208.060 and 208.070, RSMo, and 13 CSR 40-2.010. In TA cases where an eligible individual does not receive his or her first payment for the month in which the thirtieth day after application falls, a delayed payment will be made for that month and any later months that passed before the application was approved.

(3) A participant is not eligible for Temporary Assistance if his/her total countable resources exceeds one thousand dollars

(\$1,000). If the participant is participating in an Individual Employment Plan as defined in 13 CSR 40-2.370, the resource limit is five thousand dollars (\$5,000). This policy applies to a child and to a parent(s), or to step-parents, or if included in the grant, a needy non-parent caretaker relative or legal guardian with whom the child is living. Resources considered in determining eligibility for TA, and how the value of those resources is determined, shall be as follows, unless otherwise defined in subparagraph (8)(B)1.D.:

(A) Property of any kind or character which the participant owns or possesses, or has an interest in, of which s/he is the record or beneficial owner, less encumbrances of record:

1. The value of a life insurance policy at any time shall be the cash surrender value of the policy, minus the amount of any lien, loan, accrued interest payments, or assigned portion of the policy;

2. The value of a qualified tuition program (as defined at section 529 of Title 26, *United States Code*) and Individual Development Account (as defined at section 604(h) of Title 42, *United States Code*) does not count toward a person's eligibility for Temporary Assistance; and

3. The total amount on deposit in a joint bank account of which the participant is one (1) of the owners is considered as available to the participant, unless there is verification that the money placed in the account, or a definite portion of it, belongs to the other joint owner, who is not applying for or receiving TA. When both or all the owners of a joint bank account are applying for or receiving assistance, each is considered as owning his/her proportionate share of the account. If the participant states s/he has not deposited any portion of the money in the account, and past circumstances of the participant indicate that this is reasonable, the total amount on deposit will not be considered as available to the participant;

(B) For purposes of the Temporary Assistance program, personal property is defined as household goods, jewelry, farm surpluses, livestock, farm or business machinery or equipment, automobiles, trucks, and similar items;

(C) Real Property:

1. When a participant owns real property that is not furnishing shelter for him/her, the property shall be considered a resource, subject to the exceptions in paragraph 2. of this subsection. The countable value of the property is its current market value less encumbrances of record. The value of countable real property shall be counted as part of the combination of available resources in determining



eligibility for TA;

2. Real property in which the participant has lived will be counted as a resource the month after the month in which it is vacated for other than a temporary purpose, unless the spouse from whom the participant is separated and the participant own the home jointly and the spouse continues to remain in the home. In this case, the home and forty (40) acres adjoining will not be included in determining equity in resources as long as the spouse remains in the home. In the event of divorce, the equity in the property must be considered as a resource immediately;

3. If a participant or legally married couple owns more than one (1) piece of property, they shall be required to designate one (1) as their homestead, and the other real property shall be considered an available resource. Also, when two (2) participants marry and each owns a home in which s/he has been living, they will be required to designate one (1) of the properties as their homestead, and the other shall be considered as an available resource;

4. The land on which the home is located, up to forty (40) acres, is considered a part of the home as long as the land is adjoining, in the same city block, and there is no other dwelling on the forty (40) acres; or

5. The land on which the home is located up to forty (40) acres, which is part of a farming unit, will be considered as part of the home so long as the land is adjoining and there is no other dwelling on the forty (40) acres. Property will be considered as adjoining even though a road may separate two (2) tracts, if the property is farmed as a single unit; and

6. All other real property will be included in determining the one thousand dollar (\$1,000) limitation for participants, or the five thousand dollar (\$5,000) limitation for participants in Individual Employment Plans;

(D) There shall be disregarded any prearranged funeral or burial contract, or any two (2) or more contracts, which provide for the payment of one thousand, five hundred dollars (\$1,500) or less per family member. The face value of an irrevocable burial contract is not a countable resource; however, it will always be counted toward the one thousand, five hundred dollar (\$1,500) exemption. The face value of a revocable funeral or burial contract is a countable resource, minus the one thousand, five hundred dollar (\$1,500) exemption. If the same household member is the beneficiary of both an irrevocable prearranged contract and one (1) or more revocable prearranged contracts, the one thousand, five hundred dollar (\$1,500) exemption must be applied to the irrevocable contract first. If

the irrevocable contract's cash value is less than one thousand, five hundred dollars (\$1,500), the remainder of the exemption can be applied to the revocable contracts;

(E) A participant may not own resources with equity greater than one thousand dollars (\$1,000), and a participant in an Individual Employment Plan may not own resources with equity greater than five thousand dollars (\$5,000); however, the following types of personal property will not be counted as a resource:

1. Tools, supplies, livestock, farm surplus, and similar items being used by the participant in the course of his/her business. This does not include business or farm machinery;

2. Household furnishings, household goods, and personal effects used by the participant;

3. The first automobile shall be excluded, plus one thousand, five hundred dollars (\$1,500) equity in a second automobile; and

4. For participants only, earned income retained in an individual development account (as defined at section 604(h) of Title 42, *United States Code*);

(F) Any combination of more than one thousand dollars (\$1,000) for a household, and five thousand dollars (\$5,000) for households in which participants have signed Individual Employment Plans, would make the family ineligible.

(4) In applying earned income exemptions the following definition of "earned income" will be used:

(A) The term "earned income" encompasses income in cash or in kind earned by a needy individual through the receipt of wages, salary, commissions, or profit from activities in which s/he is engaged as a self-employed individual or an employee. Such earned income may be derived from his/her own employment, such as a business enterprise or farming, or derived from wages or salary received as an employee. It includes earnings over a period of time for which settlement is made at one given time, as in the instance of sale of farm crops, livestock, or poultry. In considering income from a farm operation, the option available for reporting under Old Age Survivor's and Disability Insurance (OASDI), namely the "cash receipts and disbursements" method, (i.e., a record of actual gross expenses and of net) is an individual determination and is acceptable also for Temporary Assistance. With reference to commissions, wages, or salary, the term "earned income" means the total amount, irrespective of personal expenses, such as income tax deductions, lunches, and transportation to and from work. With

respect to self-employment, the term "earned income" means the total profit from business enterprise, farming, etc., resulting from a comparison of the gross income received with the "business expenses" (i.e., total cost of the production of the income). Personal expenses, such as income tax payments, lunches, and transportation to and from work, are not classified as business expenses;

(B) The definition shall exclude the following from "earned income":

1. Returns from capital investment with respect to which the individual is not him/herself actively engaged, as in a business (for example, under most circumstances, dividends and interest would be excluded from "earned income"); and

2. Benefits (not in the nature of wages, salary, or profit) accruing as compensation, or reward for service, or as compensation for lack of employment (for example, pensions and benefits, such as United Mine Workers' benefits or Veterans benefits); and

(C) With regard to the degree of activity, earned income is income produced as a result of the performance of services by a participant; in other words, income which the individual earns by his/her own efforts, including managerial responsibilities, would be properly classified as earned income, such as management of capital investment in real estate. Conversely, for example, in the instance of capital investment wherein the individual carries no specific responsibility, such as where rental properties are in the hands of rental agencies and the check is forwarded to the participant, the income would not be classified as earned income.

(5) Temporary Assistance shall be granted on behalf of eligible child(ren) in otherwise eligible families. TA may be granted to the parents or other needy relatives caring for a child or children meeting all eligibility criteria, and who—

(A) Are deprived of parental support or care for the following reasons:

1. Death;

2. Continued absence from, or never living in, the home;

3. Physical or mental incapacity of a parent when the incapacity is expected to last at least thirty (30) days and is of such a debilitating nature as to substantially reduce or eliminate the parent's ability to support or to care for the child. Physical or mental incapacity shall be certified by a competent medical or other appropriate authority designated by the division. Such certification is declared to be competent evidence in any proceedings concerning the eligibility of the participant to receive TA. Physical or mental incapacity can



also be verified by the parent's receipt of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI);

4. Divorce/separation;
5. Desertion;
6. Confinement in a penal, medical, or custodial institution;

7. A physical restoration or training program developed by vocational rehabilitation, if the plan necessitates absence of a parent from the home; or

8. Financial need due to a lack of adequate income to properly provide for the needs of the child(ren), as determined in subsection (8)(B) of this rule;

(B) Are not deprived of parental support due to the parent's participation in a strike; and

(C) Are living with a relative limited to the following: the child's father, mother, grandfather, grandmother, brother, sister, stepfather, or stepmother (but not their parents), stepbrother, stepsister, uncle, aunt, first cousin, first cousin of a parent, nephew, niece, adoptive father, or adoptive mother, grandfather-in-law, or grandmother-in-law (meaning the spouse of a second marriage of one (1) of the child's biological grandparents), great-grandfather, or great-grandmother (including great-great grandfather or great-great grandmother), brother or sister of half-blood; adoptive brother or adoptive sister, brother-in-law or sister-in-law, uncle or aunt of the half blood; uncle-in-law or aunt-in-law, great-uncle or great-aunt (including great-great uncle or great-great aunt). Relatives by adoption, in addition to those specifically mentioned here, may be considered eligible payees within the same degree of relationship as applies to blood relatives. The biological relatives of an adopted child also continue to be eligible payees. A legal guardian may also serve as a payee for TA, and if the legal guardian is otherwise eligible, may be eligible for a cash payment.

(6) Unless it is being used to refer to the physical dwelling owned by a participant, "home" shall be a family setting maintained or in the process of being established as evidenced by the assumption or continuance of responsibility for the child. A home exists as long as the parent or relative takes responsibility for the care and control of the child, even though circumstances may require temporary absence of either the child or the parent (or relative) from the customary family setting, subject to 13 CSR 40-2.365.

(7) For the purpose of the administration of Temporary Assistance, payments shall be defined as payments by electronic or other

means made to the payee, at regular monthly intervals. TA benefits will be made available on the same schedule as indicated in 13 CSR 40-2.150.

(8) Determining the Amount of Cash Payments.

(A) The size and composition of the TA household is determined under the definition in 13 CSR 40-2.300.

(B) Consideration of available income to determine whether a need for TA exists—

1. In TA cases, all income of the following persons who are in the household, irrespective of subsection (8)(A), shall be considered in determining whether the children (including stepchild) are in need, and if so, the amount of that need:

- A. Eligible children;
- B. Parents of one (1) or more of the eligible children;
- C. Any needy non-parent caretaker relative or related or unrelated guardian if they desire to be included in the assistance group and are eligible for inclusion;

D. New spouse and stepparent income:

(I) Upon the marriage of a TA recipient, the division will disregard the income and resources of the TA recipient's new spouse for six (6) consecutive TA months. Only months in which a TA benefit is paid to the recipient will be counted toward the six (6) consecutive months. The disregard begins the first day of the first month following the marriage date, in which benefits could possibly, but not necessarily, have been affected without application of this disregard. The TA recipient cannot receive this disregard again if he or she remarries. The TA recipient shall provide proof of a valid marriage to the division;

(II) Except as otherwise excluded in part D.(I) of this subparagraph, the income of a stepparent living in the same home as an eligible child counts toward the TA household's eligibility, insofar as it exceeds the sum of—

(a) The first ninety dollars (\$90) of the stepparent's earned income, for such month;

(b) The Standard of Need for a family of the same composition as the stepparent and those other individuals living in the same household as the dependent child, and claimed, or who could be claimed, by such stepparent as dependents for purposes of determining the stepparent's federal personal income tax liability, but whose needs are not taken into account;

(c) Amounts paid by the stepparent to individuals not living in such household and claimed by him/her as dependents for purposes of determining the stepparent's

federal personal income tax liability; and

(d) Payments by such stepparent of court-ordered alimony or child support with respect to individuals not living in such household;

(III) Dissolution of a marriage severs the legal relationship of the stepparent to the stepchild unless legal guardianship is established by the court;

E. The income of any biological or adoptive brother or sister of an eligible child, if such brother or sister meets the conditions described in 13 CSR 40-2.310(4) and 13 CSR 40-2.325(1)(A)1. and 2., and is living in the home;

F. With respect to a parent or legal guardian who is under age eighteen (18) with an eligible child, the income of such minor parent's own parents who are living in the home shall be included to the same extent that the income of a stepparent is included (see part (8)(B)1.D.(II) above). The minor parent's earned income shall be disregarded up to one hundred percent (100%) of the federal poverty level; and

G. Income of all other persons in the household will be considered in the amount made available to the household;

2. In computing the income of a participant, or of the household of which s/he is a member, only that income which is available during the period under consideration shall be taken into account. To be considered as available, the income shall actually and presently exist (not to be a potential or remote income) and shall be sufficient to have some appreciable significance in meeting the immediate requirements of the participant.

(9) Earned Income Exemption.

(A) In determining need and amount of grant for participants of Temporary Assistance, the following earned income exemptions will apply, and these amounts will be disregarded in determining the amount of income available to meet the family's needs:

1. All of the earned income of any child receiving Temporary Assistance will be exempted if the child is a full-time student or is a part-time student who is not a full-time employee;

2. The first ninety dollars (\$90) of each participant's gross earned income will be disregarded;

3. An amount equal to the first thirty dollars (\$30) of the actual total of each participant's earned income not already disregarded in the preceding provisions of this subsection (9)(A) plus one-third (1/3) of the remainder thereof for four (4) consecutive months;

4. An amount equal to thirty dollars



(\$30) of the total of each participant's earned income not already disregarded in the preceding provisions of this subsection (10)(A), for an eight- (8-) month period following the fourth consecutive month of the disregard provided for in paragraph (10)(A)3.;

5. An amount equal to expenditures for care in such month shall be disregarded from earned income for an eligible child, or an incapacitated individual living in the same home as the child, receiving Temporary Assistance and requiring such care for such month, to the extent that such amount for each such child or incapacitated individual does not exceed one hundred seventy-five dollars (\$175) for children age two (2) and over, or two hundred dollars (\$200) for children under two (2) years of age; and

6. All of the earned income of a parent who is under the age of nineteen (19) and is a full-time student in a secondary school or equivalent program of education or training.

(B) The disregards applied against the earned income outlined in subsection (9)(A) shall not be applied to the earned income of any person who—

1. Terminated his/her employment or reduced his/her earned income without good cause within such period of not less than thirty (30) days preceding such month;

2. Refused without good cause, within such thirty- (30-) day period, to accept employment in which s/he is able to engage, which is offered through the public employment offices of the state or is otherwise offered by an employer, if the offer of the employer is determined by the division or agency designated by the division, after notification by the employer, to be a *bona fide* offer of employment; and

3. Failed without good cause to make a timely report to the division of earned income received in such month.

(C) The disregards applied against earned income as provided for in subsection (9)(A) are subject to the following requirements:

1. The exclusion of a child's earned income in paragraph (9)(A)1. shall be applied when determining need for up to six (6) months within the calendar year of January through December, and thereafter shall not be applied if the income without applying this disregard was in excess of the standard of need;

2. The thirty dollar (\$30) plus one-third (1/3) disregard in paragraph (9)(A)3. shall not be applied if the income without applying this disregard was in excess of the standard of need, unless the person received TA in one (1) or more of the four (4) preceding such months, and this disregard has not already been applied to his/her income for four (4)

consecutive months while s/he was receiving TA. If this disregard provided for in paragraph (9)(A)3. has been applied for four (4) consecutive months, the disregard shall not be applied for as long as the person continues to receive TA, and shall not apply until the expiration of a period of twelve (12) consecutive months during which the person is not a recipient of TA; and

3. The thirty dollar (\$30) disregard in paragraph (9)(A)4. shall be available only for the eight- (8-) month period following the fourth consecutive month of the disregard provided for in paragraph (9)(A)3. If the eight- (8-) month period for the disregard provided for in paragraph (9)(A)4. has expired, the disregard shall not be applied for as long as the person continues to receive TA, and shall not apply until the expiration of a period of twelve (12) consecutive months during which the person is not a recipient of TA.

(D) The division shall apply the two-thirds (2/3) earned income disregard, consistent with section 208.040.5(1), RSMo. The two-thirds (2/3) disregard shall apply for no more than twelve (12) consecutive months. Once the two-thirds (2/3) disregard is applied for twelve (12) consecutive months, the individual is not eligible for the two-thirds (2/3) disregard until the individual does not receive TA for twelve (12) consecutive months. The two-thirds (2/3) disregard is applied prior to allowing the thirty dollars (\$30) plus one-third (1/3) disregard as defined in paragraph (9)(A)3.

(10) 185% Test. No family shall be eligible for TA if for that month, the total income of the family (other than Temporary Assistance benefits), without application of the earned income disregards provided for in paragraphs (9)(A)2.-5. and for up to six (6) months within the calendar year of January through December with application of the earned income disregard provided for in paragraph (9)(A)1., equals or exceeds one hundred eighty-five percent (185%) of the Standard of Need for a family of the same composition.

(11) Standard of Need Test. No family shall be eligible for TA if, for that month, the total income of the family (other than TA benefits), without application of the earned income disregards provided for in paragraphs (9)(A)2.-5., except paragraphs (9)(C)1. and 2. would have application, and for up to six (6) months within the calendar year of January through December with application of the earned income disregard provided for in paragraph (9)(A)1. equals or exceeds the Standard of Need for a family of the same composition.

(12) Percentage of Need Test. No family shall be eligible for TA if, for that month, the total income of the family (other than TA benefits), after application of the earned income disregards provided for in section (9), equals or exceeds 34.526% of the Standard of Need.

(13) When considering an application for TA, the income tests in sections (10), (11), and (12) must each indicate income below the respective standard. To be eligible, income shall be less than—

(A) 185% of the Standard of Need when applying the 185% Test;

(B) The Standard of Need for the Standard of Need Test; and

(C) 34.526% of the Standard of Need for the Percentage of Need Test.

If the household is determined eligible after application of the tests in sections (10), (11), and (12), the grant amount will be the deficit determined in the Percentage of Need Test. The table below indicates the maximum grant amount by application of the Percentage of Need (34.526%) to the Standard of Need, according to household size.



No. of Persons:	1	2	3	4	5	6	7	8	9	10	11
Standard of Need:	393	678	846	990	1123	1247	1372	1489	1606	1722	1839
34.526% of Need:	136	234	292	342	388	431	474	514	554	595	635

No. of Persons:	12	13	14	15	16	17	18	19	20	21	22
Standard of Need:	1956	2072	2188	2304	2420	2536	2652	2768	2884	3000	3116
34.526% of Need:	675	715	755	795	835	875	915	955	995	1035	1075

(14) In the payment of TA benefits, the amount shall always be lowered to the nearest dollar interval. If the determined amount results in a grant of less than ten dollars (\$10), no cash payment will be made.

(15) In TA cases, the initial assistance payment must be prorated when the case is approved in the same month as the filing of the application. The payment will be determined by multiplying the amount payable for a whole month by the ratio of the days in the month from the date of application to the end of the month to the number of days in a standard thirty- (30-) day month.

(16) Legal immigrants meeting the eligibility criteria for TA, who would be eligible for food stamps but for the passage of P.L. 104-193, effective August 22, 1996, may be eligible for nutrition assistance calculated by use of the Food Stamp budgeting process set forth in section 2014 of Title 7, *United States Code*.

(17) Participants who meet the definition of a TA household must have their eligibility explored under TA (except under emergency situations when General Relief orders may be utilized) before having their eligibility for General Relief explored, if funds have been appropriated to the General Relief program. Any participant whose eligibility has been explored under TA and is found to be ineligible for TA cash payments because of the following reasons shall be ineligible for General Relief:

(A) The person refuses to cooperate in establishing his/her eligibility for TA, including persons who refuse to apply for a Social Security number, refuse to participate in work activities, refuse to enter into an individual employment plan, refuse to make an assignment of support rights, refuse to cooperate in the identification of absent parents, and refusal to cooperate for any other reason;

(B) Relationship to the payee who is not a legal guardian cannot be established for children under eighteen (18);

(C) The budget shows no need;

(D) The available resources exceed the maximum allowed; or

(E) The children are not deprived of parental support.

(18) A participant who is aggrieved by a decision of the division under this regulation may appeal the division's decision pursuant to section 208.080, RSMo.

(19) The confidentiality provisions of 13 CSR 40-2.180 apply to the TA program.

(20) The provisions of 13 CSR 40-2.190, regarding the collection of overpayments, apply to the TA program.

(21) The provisions of 13 CSR 40-2.230, regarding the disposal of excess real property, apply to the TA program.

(22) By submitting information to the division, a participant is certifying that the information is true, accurate, and complete.

*AUTHORITY: section 207.022, RSMo Supp. 2014. * Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Emergency amendment filed July 22, 2003, effective Aug. 1, 2003, expired Jan. 27, 2004. Amended: Filed Jan. 23, 2004, effective July 30, 2004. Emergency amendment filed Aug. 18, 2015, effective Aug. 28, 2015, expired Feb. 23, 2016. Amended: Filed Aug. 28, 2015, effective April 30, 2016.*

**Original authority: 207.022, RSMo 2014.*

13 CSR 40-2.315 Work Activity and Work Requirements for Recipients of Temporary Assistance

PURPOSE: This rule establishes the work activities and participation requirements for receipt of Temporary Assistance (TA) benefits.

(1) A participant in a single parent family engages in work activities if he or she participates in the work activities described in 13 CSR 40-2.300(11)(A) through (I) for at least thirty (30) hours per week, unless otherwise required by section 261.31(d) of Title 45, *Code of Federal Regulations*. After the first twenty (20) hours, the participant can also earn additional hours by participating in the work activities described in 13 CSR 40-2.300(11)(J) through (L).

(2) A participant in a two- (2-) parent family with work eligible parents engages in work activities if he or she participates in a combined minimum of thirty-five (35) hours of work activities as described in 13 CSR 40-2.300(10)(A) through (I), unless otherwise required by section 261.31(d) of Title 45, *Code of Federal Regulations*. After the first thirty (30) hours, the participant can earn additional hours by participating in work activities described in 13 CSR 40-2.300(10)(J) through (L).

(3) A work eligible, two- (2-) parent family that receives federally-funded child care assistance, and which includes an adult who is neither disabled nor caring for a severely disabled child, must engage in at least fifty-five (55) hours of work activities per week, unless otherwise required by section 261.31(d) of Title 45, *Code of Federal Regulations*. After the first fifty (50) hours, the participant can earn additional hours by participating in work activities described in 13 CSR 40-2.300(10)(J) through (L).

(4) A participant who is married, or is a single parent head of household under twenty (20) years of age, who has one (1) or more children of any age, is deemed to be engaged in work activities, notwithstanding section (1) or (2) of this rule, if—

(A) The participant maintains satisfactory monthly attendance in a secondary school or a course of study leading to a certificate of general equivalence; or

(B) Participates in education directly related to employment for an average of at least



twenty (20) hours per week each month.

(5) For a married participant, hours of engagement in the activities described in subsection (4)(A) or (4)(B) shall be reported as the greater of—

(A) The actual hours of participation in these activities; or

(B) Twenty (20) hours.

(6) A family with two (2) work-eligible parents under twenty (20) years of age will satisfy the work activities if both participate in the activities described in subsection (4)(A) or (4)(B).

(7) A single parent head of household or relative, as defined in 13 CSR 40-2.310(5)(C), who has a child under age six (6), shall be deemed to be meeting the work participation requirement if the parent head of household or relative engages in work activities for twenty (20) hours, notwithstanding section (1) of this rule, unless otherwise required by section 261.31(d) of Title 45, *Code of Federal Regulations*.

(8) Notwithstanding the requirements of this rule or any other rule governing the TA program, the job search and job assistance work participation activity set forth in 13 CSR 40-2.300(10)(F) shall be limited as set forth in section 261.34 of Title 45, *Code of Federal Regulations*.

(9) If the division determines, after an investigation, that a participant is not cooperating with a work activity requirement as provided for in 13 CSR 40-2.310 or this regulation, the division shall schedule a face-to-face meeting with the participant to explain potential sanctions and the requirements to avoid a sanction.

(A) The division shall send notice of the scheduled meeting to the participant at least ten (10) business days before the meeting date. The notice shall include the date, time, and place designated by the division for the participant to appear. If the participant is unable to attend the meeting, the participant must contact the division to reschedule the meeting prior to the scheduled meeting time, and request an alternative meeting date, time, or place. The meeting must occur prior to or during the same calendar week as the original meeting, unless good cause exists. When good cause exists, the participant may only request to schedule one (1) additional appointment which will be within a reasonable amount of time not to exceed ten (10) business days from the original meeting date.

(B) “Good cause” includes a mistake or

conduct beyond the control of the TA participant that is not intentionally or recklessly designed to impede an eligibility determination under these or any other TA regulations. Good cause includes, but is not limited to—

1. A court-required appearance or incarceration lasting less than thirty (30) days;

2. An emergency family crisis that renders the participant unable to meet at the scheduled place, date, or time; and

3. A breakdown in transportation arrangements with no readily accessible alternate means of transportation.

(C) The participant shall have six (6) weeks from the first business day of the week following the meeting with the division to comply with the work activity requirements, as required by the division. The participant’s TA benefits shall not be sanctioned during the six- (6-) week period.

(D) If the participant fails to appear for the scheduled face-to-face meeting and does not contact the division prior to the meeting to reschedule the meeting as described in this section, the participant shall have six (6) weeks from the first business day of the week following the most recent scheduled meeting with the division to comply with the work activity requirements, as required by the division. The participant’s TA benefits shall not be sanctioned during the six- (6-) week period.

(E) If the participant does not comply with the work activity requirements during the six- (6-) week period, as described in either subsection (C) or (D) of this section, the division shall apply a sanction terminating fifty percent (50%) of the full amount of TA benefit for which the participant and the participant’s family is otherwise eligible, for a period of no more than ten (10) weeks. If the participant complies with the work activity requirements during the six- (6-) week period, described in either subsection (C) or (D) of this section, the division will take no further action against the participant’s TA benefits.

(F) During this ten- (10-) week period, the participant shall remain in sanction status and the division shall attempt to schedule a second face-to-face meeting with the participant as provided for in this section. To end the sanction, the participant shall perform work activities for a minimum average of thirty (30) hours per week for one (1) month.

(G) Failure to complete the requirements in subsection (F) of this section shall result in the participant’s TA case being closed.

(H) A participant whose case is closed under subsection (G) of this section will attend a temporary assistance eligibility interview if the individual wishes to re-apply for TA. The individual shall complete a minimum average of thirty (30) hours of work activities per

week within one (1) month of the temporary assistance eligibility interview. The completion of work activities is a pre-requisite for any further eligibility for TA.

(10) Individuals who are already sanctioned by the division for non-cooperation with work activities as of August 28, 2015, shall comply with the following:

(A) Attend a face-to-face meeting with the division as set forth in section (9);

(B) If the participant appears for the scheduled face-to-face meeting, the work requirement sanction in place prior to August 28, 2015, shall be ended. The participant shall have six (6) weeks from the first business day of the week following the meeting with the division to comply with the work participation activity requirements, as required by the division;

(C) If the participant fails to appear for the scheduled face-to-face meeting required by subsection (9)(A), and does not contact the division prior to the meeting to reschedule the meeting, the participant shall have six (6) weeks from the first business day of the week following the originally scheduled meeting with the division to comply with the work activity requirements, as required by the division. The participant’s TA benefits shall remain sanctioned at twenty-five percent (25%) during the six- (6-) week period;

(D) If the participant appears for the scheduled face-to-face meeting required by subsection (9)(A), and complies with the work activity requirements during the six- (6-) week period, no further action will be taken;

(E) If the participant does not comply with the work activity requirements during the six- (6-) week period, as described in either subsections (9)(C) or (9)(D), the division shall apply a sanction terminating a total of fifty percent (50%) of the TA benefit amount the household would otherwise receive. This sanction shall apply for a period of no more than ten (10) weeks. If the participant complies with the work activity requirements during the six- (6-) week period, described in either subsection (9)(C) or (9)(D), the division will take no further action against the participant’s TA benefits;

(F) During this ten- (10-) week period, the division shall attempt to schedule a second face-to-face meeting with the participant as provided for in subsection (9)(A). To end the sanction, the participant shall perform work activities for a minimum average of thirty (30) hours per week for one (1) month;

(G) Failure to complete the requirements in subsection (F) of this section shall result in the participant’s TA case being closed; and

(H) If the participant re-applies for TA



after his or her case was closed under subsection (G) of this section, the application cannot be approved until the applicant completes a minimum of thirty (30) hours of work activities per week with one (1) month of the TA application.

(11) The following TA participants are exempt from work activities, but may voluntarily participate in work activities:

(A) Participants who are permanently disabled, if they have been determined to be eligible for Social Security Old Age Survivor's and Disability Insurance (OASDI), Supplemental Security Income (SSI), or employer-sponsored disability insurance. Participants are exempt from work activities while an application for any of the aforementioned is pending unless or until an unfavorable determination is made;

(B) A child who is under the age of eighteen (18), or a child under age nineteen (19) who is attending secondary school and is not a head of a household;

(C) Caretaker-payees sixty (60) years of age or older;

(D) A participant who is a single custodial parent caring for a child who has not attained twelve (12) weeks of age;

(E) A participant caring for a disabled family member living in the home, provided that there is medical documentation to support the need for the participant to remain in the home to care for the disabled family member;

(F) The division may temporarily exclude TA recipients from work participation if any of the following conditions prevents them from participating:

1. The participant is determined by a physician, psychiatrist, or psychologist to have a temporary disability. The temporary disability must be expected to persist for at least thirty (30) days, and at most six (6) months. The participant shall produce a copy of medical records and a written report from a licensed medical professional providing the medical diagnosis, along with any supporting medical tests and examinations that establish the existence of the medical condition and the timeframe of the medical statement. The temporary waiver is removed when the period expires;

2. The participant is a victim of domestic violence, or participation in work activities would place the participant or his or her family in an unsafe or unstable situation. The temporary waiver will be removed once the participant informs the division that he or she can return to participation. The division shall review the ongoing necessity of the temporary waiver after thirty (30) days, regardless of whether the participant has contacted the

division;

3. The participant has an active case with the Department of Social Service's Children's Division (CD). The division shall contact CD to confirm if the participant has an active case, the anticipated duration of the active case, and whether the participant's involvement in the case prevents the recipient from participating in work activities; and

4. The participant is unable to find child care or transportation. The participant shall be required to provide the division with documentation supporting the participant's efforts to obtain childcare or transportation, including information such as dates, contacts, and outcomes. The division will review the ongoing necessity of this temporary waiver every thirty (30) days.

(G) A single custodial parent caring for a child less than six (6) years of age because—

1. Appropriate child care within a reasonable distance from the home or work site is unavailable; or

2. Informal child care by a relative or under other arrangements is unavailable or unsuitable; or

3. Appropriate and affordable formal child care arrangements are unavailable; or

4. As used in this subsection, "affordable formal child care arrangements" shall mean that no participant shall be required to accept child care if the only available child care requires the family to personally pay more than twenty percent (20%) of their gross household income (less medical insurance premiums) for child care. This twenty percent (20%) includes any sliding-scale fee or additional co-payment the family would be required to pay. This twenty percent (20%) does not include any federal, state, or local child care subsidy; or

5. As used in this subsection, "appropriate child care" shall mean an appropriate provider that is:

A. Licensed by the Missouri Department of Health and Senior Services; or

B. If exempt from licensure, is registered by the Children's Division; or

6. As used in this subsection, "unsuitability of informal care" shall mean that the participant believes the child is at risk of abuse or neglect while being cared for by the provider. A participant shall not be required to use a provider with whom the participant has reason to believe will abuse or neglect the child. If another adult is residing in the household, but the participant does not believe the other adult is suitable, the participant must provide a reasonable statement as to why the other adult(s) is unavailable, or why this adult places the child at risk of abuse or neglect; or

7. As used in this subsection, "reasonable distance" shall be determined by the following:

A. The availability of personal transportation;

B. The distance from a public transportation access point to a child care facility or work site; or

C. What is considered to be a reasonable distance in the participant's community;

(H) The division shall determine if there is good cause for not participating in work activities prior to imposing a sanction. Good cause may include:

1. Employment that would result in the family of the participant experiencing a net loss of cash income;

A. Net loss of cash income results if the family's gross income, less necessary work-related expenses such as uniforms, background screenings, and personal protective equipment, is less than the cash assistance the individual was receiving at the time the offer of employment was made.

B. For the purposes of this paragraph, gross income includes, but is not limited to, earnings, unearned income, and cash assistance;

2. A court-required appearance or incarceration that renders participation unreasonable;

3. A breakdown in transportation arrangements beyond the control of the participant, with no readily accessible alternate means of transportation;

4. A breakdown in a child care arrangement, or the unavailability of child care suited for the special needs of the child for whom it is intended;

5. A lack of identified social services necessary for participation as set forth in an individual employment plan referenced in 13 CSR 40-2.370;

6. The participant's home is rendered unlivable by fire or other natural disaster;

7. A temporary disability that causes the participant to be unable to work;

8. The accidental injury of a child or other family member that requires the participant to remain at home to care for the child or family member, and that prevents the participant from being able to seek work or maintain present employment;

9. A job loss due to company layoff, downsizing, or closing; or

10. The participant or a family member is a victim of a felony, as defined in the Missouri criminal statutes.

(12) All information provided to the division by a participant as required by this regulation shall be true, accurate, and complete.



(13) A participant who is aggrieved by a decision of the division under this regulation may appeal the division's decision pursuant to section 208.080, RSMo.

AUTHORITY: section 207.022, RSMo Supp. 2014, and section 208.026, RSMo Supp. 2015.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Emergency amendment filed Aug. 18, 2015, effective Aug. 28, 2015, expired Feb. 23, 2016. Amended: Filed Aug. 28, 2015, effective April 30, 2016.*

*Original authority: 207.022, RSMo 2014 and 208.026, RSMo 2015.

13 CSR 40-2.320 Prohibition Against Displacing Existing Workers Through Work Activities Associated with the Temporary Assistance Program

PURPOSE: This rule prohibits displacing existing workers through work activities associated with the Temporary Assistance Program and creates a grievance procedure for workers who believe that they have been displaced.

(1) An adult receiving assistance through the administration of the Temporary Assistance Program may fill a vacant employment position in order to engage in work activities. An adult receiving assistance through the program, who fills a vacant employment position in order to engage in work activities, must be guaranteed wages and benefits comparable to employees in like positions.

(2) An adult receiving Temporary Assistance and participating in a wage supplementation program may only fill a new employment position.

(3) No adult in a work activity as part of the Temporary Assistance Program and described in these rules shall be employed or assigned to a work activity when—

(A) Any other individual is on layoff from the same or any substantially equivalent job;

(B) The employer has terminated the employment of any regular employee, reduced the hours of such employee, or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an individual described in section (1); or

(C) The employment opportunity is created by a strike, lockout or other bona fide labor

dispute.

(4) An individual who believes that s/he has been adversely affected by a violation of sections (2) and (3) or the organization that is duly authorized to represent the employee, shall be afforded an opportunity to grieve it. The employee or the employee's organization must first attempt to remedy the alleged violation through a meeting with the employer within thirty (30) days of the request for the meeting. If the complaint is not resolved to the satisfaction of the employee, the employee may appeal to the Division of Family Services in accordance with the provisions of 13 CSR 40-2.160. The division may make a recommendation to the employer that the employee be reinstated or receive retroactive pay and benefit. In addition, if it is found the employer violated the provisions in sections (2) and (3) above, the division shall terminate the wage supplementation contract with the employer.

(5) Nothing in this section shall preempt or supersede any provision of a collective bargaining agreement. If there is an existing grievance procedure in a collective bargaining agreement, it must be followed.

(6) Nothing in this section shall preempt or supersede any provision of state law that provides greater protection for employees from job displacement.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule file Jan. 16, 1998, effective Aug. 1, 1998.*

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.

13 CSR 40-2.325 Prohibition Against Payment of Temporary Assistance to Families That Do Not Include a Minor Child

PURPOSE: This rule prohibits the payment of Temporary Assistance to families that do not include a minor child.

(1) For the purpose of the administration of the Temporary Assistance Program, the Family Support Division shall not provide assistance to or on behalf of a family—

- (A) Unless the family includes:
1. A child under the age of eighteen (18) who resides with a custodial parent or other adult caretaker relative of the minor child; or
 2. A child under the age of nineteen (19) and a full-time student in a secondary school

(or at the equivalent level of vocational or technical training), if the child may reasonably be expected to complete the program of the secondary school (or vocational or technical training); and

(B) If the family includes an adult who has received public assistance through a program funded, in whole or part, through the Temporary Assistance for Needy Families (TANF) Block Grant, section 603 of Title 42, *United States Code* (including the Temporary Assistance Program), for a total of forty-five (45) cumulative months, whether or not consecutive, unless an exception described in 13 CSR 40-2.350 applies. As used in this paragraph "assistance" is defined as set forth in 13 CSR 40-2.300, whether provided in Missouri or another state or territory, or whether provided before or after the effective date of these rules.

AUTHORITY: section 207.022, RSMo Supp. 2014, and section 208.040.5, RSMo Supp. 2015.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Amended: Filed Feb. 8, 2016, effective Aug. 30, 2016.*

*Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014 and 208.040.5, RSMo 1939, amended 1941, 1949, 1951, 1953, 1955, 1957, 1973, 1977, 1982, 1983, 1984, 1987, 1994, 1999, 2001, 2009, 2015.

13 CSR 40-2.330 Reduction of Temporary Assistance for Noncooperation in Establishing Paternity or Obtaining Child Support

PURPOSE: This rule provides for the reduction of Temporary Assistance for noncooperation in establishing paternity or obtaining child support.

(1) If it is determined by the Division of Child Support Enforcement, or its designee, that an applicant for or a recipient of Temporary Assistance is not cooperating in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child, and the individual does not qualify for any good cause or other exception established by the Division of Child Support Enforcement, or its designee, pursuant to section 654(29) of Title 42, *United States Code*, then the Division of Family Services—

(A) Shall deduct from the assistance that would otherwise be provided to the family of the individual an amount equal to not less than twenty-five percent (25%) of the amount of such assistance.

(2) For purposes of the administration of section (1) of this rule, good cause for refusing



to cooperate is deemed to exist in one (1) or more of the following circumstances:

(A) Cooperation by the applicant may reasonably be anticipated to result in—

- 1. Physical or emotional harm to a child;
- 2. Physical or emotional harm to the claimant of sufficient severity that it will reduce the applicant's capacity to adequately care for a child; or
- 3. Physical or emotional harm to the claimant as a result of domestic violence; and

(B) Establishing paternity or securing support will be detrimental to a child because—

- 1. The child was conceived as a result of incest or rape;
- 2. Legal proceedings for adopting the child are pending before a court; or
- 3. A public or private social agency is currently assisting the applicant to resolve the issue of whether to keep the child or to relinquish the child for adoption, and the discussions have not gone on for more than three (3) months.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority:* 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.

13 CSR 40-2.335 Assignment of Certain Support Rights as a Condition for the Receipt of Temporary Assistance

PURPOSE: This rule provides for the assignment of certain support rights as a condition for the receipt of Temporary Assistance.

(1) For the purpose of the administration of the Temporary Assistance Program the Division of Family Services shall require, as a condition to eligibility for the receipt of assistance, that a member of the family assign to the Division of Family Services any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program. Such assignment of support, on or after the date the family leaves the program, shall not apply with respect to any support (other than support collected pursuant to section 664 of Title

42, *United States Code*) which accrued before the family received such assistance and which the Division of Child Support Enforcement has not collected within the time limits set forth in section 608(a)(3)(i) and (ii) of Title 42, *United States Code*.

(2) The Division of Family Services shall not require, as a condition of providing Temporary Assistance to any family, that a member of the family assign any rights to support described in section (1) which accrue after the date the family leaves the program.

(3) For purposes of the administration of this rule, an application or receipt of Temporary Assistance shall constitute an assignment of such support rights which shall take effect, by operation of law, upon a determination that the applicant is eligible for assistance.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority:* 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.

13 CSR 40-2.340 Prohibition Against Payment of Temporary Assistance to Teenage Parents Who Do Not Attend High School or Other Equivalent Training

PURPOSE: This rule prohibits the payment of Temporary Assistance to teenage parents who do not attend high school or other equivalent training program.

(1) For the purpose of the administration of the Temporary Assistance Program, the Division of Family Services shall not provide assistance to an individual who has not attained eighteen (18) years of age, is not married, has a minor child at least twelve (12) weeks of age in his/her care, and has not successfully completed a high school education (or its equivalent), if the individual does not participate in—

(A) Educational activities directed towards the attainment of a high school diploma or its equivalent; or

(B) An alternative educational or training program that has been approved by the Division of Family Services.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994.* *Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed*

Jan. 16, 1998, effective Aug. 1, 1998.

**Original authority:* 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.

13 CSR 40-2.345 Prohibition Against Payment of Temporary Assistance to Teenage Parents Not Living in Adult Supervised Settings

PURPOSE: This rule prohibits the payment of Temporary Assistance to teenage parents not living in adult supervised settings.

(1) Except as provided in section (2), for the purpose of the administration of the Temporary Assistance Program, the Division of Family Services shall not provide assistance to an individual who has not attained eighteen (18) years of age, is not married, and has a minor child in his/her care, if the individual and the minor child do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's home.

(2) In the case of an individual described in section (3) of this rule, the Division of Family Services shall provide, or assist the individual in locating a maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the Division of Family Services determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the individual's minor child reside in such living arrangement as a condition of the continued receipt of assistance or in an alternative appropriate arrangement should circumstances change and the current arrangement cease to be appropriate.

(3) For purposes of section (2) the "individual" means an individual who has not attained eighteen (18) years of age, is not married, and has a minor child in his/her care and—

(A) The individual has no parent, legal guardian, or other appropriate adult relative described in subsection (3)(B) of his/her own who is living or whose whereabouts are known;

(B) No living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative; or



(C) The Division of Family Services determines that—

1. The individual or the minor child referred to in section (1) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's parent or legal guardian;

2. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

3. The Division of Family Services otherwise determines that it is in the best interest of the minor child to waive the requirement of section (1) with respect to the individual or the minor child.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.*

13 CSR 40-2.350 Time Limit for Receipt of Temporary Assistance

PURPOSE: This rule establishes procedures for the implementation of the forty-five (45) month lifetime limit for the receipt of Temporary Assistance (TA), and exemptions to that limit beginning January 1, 2016, pursuant to section 208.040.5, RSMo.

(1) For purposes of this rule, "assistance" shall be defined according to the definition in section 260.31 of Title 45, *Code of Federal Regulations*.

(2) A family is not eligible for TA if the family includes an adult who has received assistance a cumulative total of forty-five (45) months, subject to the exemptions provided by this rule.

(A) This limit shall apply regardless of whether the family with an adult has received assistance in Missouri, another state, or territory, under the Temporary Assistance for Needy Families (TANF) Block Grant program authorized by sections 601–619 of Title 42, *United States Code*.

(B) This limit shall apply regardless of whether the adult has received Temporary Assistance before or after the effective date of these rules.

(C) The total cumulative months do not need to be consecutive.

(D) To determine the total cumulative life-

time limit, the division shall include all months in which the adult received TANF cash assistance in Missouri, on or after July 1, 1997. If TANF cash assistance was received in another state, the division shall include all months in which the adult received federal TANF cash assistance from the date that state's TANF program commenced.

(3) The division shall not count any month of receipt of assistance by a participant towards the forty-five (45) cumulative month limit, as defined in section (2), when—

(A) The participant was a minor and neither the head-of-household nor married to the head-of-household in the month the participant received assistance; or

(B) The participant's household includes a person who has been battered or subjected to extreme cruelty.

1. The participant has been battered or subject to extreme cruelty when the participant has suffered mental abuse, neglect, or a deprivation of medical care, or physical acts that resulted in, or threatened to result in, either physical injury, non-consensual sexual acts, or sexual abuse to the participant; or

(C) The participant adult lived in Indian country (as defined in section 1151 of Title 18, *United States Code*) or in a Native Alaskan Village, if at least fifty percent (50%) of the adults living on the reservation or in the village were not employed.

(4) Pursuant to section 264.1(b)(2) of Title 45, *Code of Federal Regulations*, the division shall not count any month of receipt of assistance by a participant towards the forty-five (45) cumulative month limit, as defined in section (2), when the participant is receiving assistance funded by certain separate state programs, as defined in section 270.2 of Title 45, *Code of Federal Regulations*. The exemption from the lifetime limit applies when—

(A) The adult participant is age sixty (60) or over; or

(B) The adult participant is permanently and totally disabled as defined by section 1382c(a)(3) of Title 42, *United States Code*, or is receiving employer-sponsored disability payments; or

(C) The participant is a teen parent head-of-household under the age of eighteen (18) and is attending a secondary school, or taking a course of study leading to a certificate of general equivalence; or

(D) The adult participant is required to remain in the home to care for a disabled household member.

(5) Hardship Extension. The division, pursuant to section 208.040.5(5), RSMo, shall provide Temporary Assistance to the following adults, beyond the lifetime limit, if one

(1) or more of the following conditions occur:

(A) Substance abuse. A participant has a substance abuse hardship when the participant has been—

1. Diagnosed by either a physician, licensed psychologist, or licensed clinical social worker with a substance abuse issue; and

2. Is receiving treatment through residential care, day treatment, counseling, support groups, group education, group counseling, C-STAR, Alcoholics Anonymous (AA), Narcotics Anonymous (NA), or other generally accepted substance abuse treatment methods;

3. This hardship will terminate upon completion of the substance abuse treatment, or upon the failure of the participant to cooperate with the treatment, unless there are circumstances beyond the participant's control;

(B) Mental health crisis. A participant has a mental health crisis hardship when the participant is unable to work due to a mental health condition, and has also been—

1. Diagnosed with a mental disease or condition by either a physician or licensed psychologist or division medical team review; and

2. Receiving services from Vocational Rehabilitation due to a mental health condition; or

3. Receiving treatment through residential care, counseling, support groups, mental health case management with a community support worker, or targeted case management;

4. This hardship will terminate—

A. Upon the failure of the participant to cooperate with treatment, unless there are circumstances beyond the participant's control; or

B. When the condition is no longer preventing the participant from working;

(C) The participant has an active case with the Children's Division (CD) in family centered services, as defined in 13 CSR 35-32.020(3), or alternative care, pursuant to Chapter 211, RSMo.

1. To qualify for a hardship extension under this subsection, the participant must be actively working with and cooperating with CD, and is complying with the treatment and/or services plan. The division shall determine if the participant has a hardship as the result of an active case with CD, after the division contacts CD. The division shall confirm with CD—

A. That the participant has an active CD case;

B. The anticipated duration of the active case; and

C. Whether the termination of the participant's TA creates a hardship for the participant. The participant must notify the



division that the participant is involved with CD;

(D) If the division extends assistance to part of its caseload as permitted under this section; it will only determine whether or not the extension applies to a specific family once the adult claiming the hardship has received forty-five (45) cumulative months of assistance; and

(E) The average monthly number of families receiving a hardship extension under this section shall not exceed twenty percent (20%) of the average monthly number of families to which assistance is provided during the fiscal year or the immediately preceding fiscal year;

(6) All information provided to the division by the participant seeking a hardship exemption to the forty-five (45) cumulative month limit shall be true, accurate, and complete.

(7) A participant who is aggrieved by a decision of the division under this regulation may appeal the division’s decision pursuant to section 208.080, RSMo.

AUTHORITY: section 207.022, RSMo Supp. 2014, and section 208.040.5, RSMo Supp. 2015. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Amended: Filed Feb. 8, 2016, effective Aug. 30, 2016.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014 and 208.040.5, RSMo 1939, amended 1941, 1949, 1951, 1953, 1955, 1957, 1973, 1977, 1982, 1983, 1984, 1987, 1994, 1999, 2001, 2009, 2015.*

13 CSR 40-2.355 Prohibition Against Payment of Temporary Assistance Benefits to a Person Found to Have Fraudulently Misrepresented Residence in Order to Obtain Assistance in Two or More States

PURPOSE: This rule prohibits the payment of Temporary Assistance to a person found to have fraudulently misrepresented residence in order to obtain assistance in two or more states.

(1) For the purpose of the administration of the Temporary Assistance Program, the Division of Family Services shall not provide assistance to or on behalf of an individual during the ten (10)-year period that begins on the date the individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states under programs that are funded under Title IV (42 *United*

States Code section 601 et seq.), Title XIX (42 *United States Code* section 1396 et seq.), or the Food Stamp Act of 1977, or benefits in two (2) or more states under the Supplemental Security Income program under Title XVI (42 *United States Code* section 1381 et seq.). The preceding sentence 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.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.*

13 CSR 40-2.357 Temporary Assistance Diversion Program

PURPOSE: This rule provides the eligibility requirements for the Temporary Assistance (TA) Diversion program, pursuant to Senate Bill 24 (2015).

(1) Scope. This rule describes the requirements necessary to qualify for the TA Diversion program. The program provides an alternative to Temporary Assistance (TA) benefits received on a monthly basis. The program goes into effect January 1, 2016.

(2) For purposes of this rule, the following definitions shall apply:

(A) The terms “program” and “diversion program” shall mean the TA Diversion program, unless described otherwise; and

(B) “Household” shall be defined according to the TA definition in 13 CSR 40-2.300(6).

(3) To qualify for a diversion payment, a participant must be determined eligible for TA.

(4) A participant is not eligible for this program if an adult in the participant’s household has reached his or her lifetime limit of monthly Temporary Assistance for Needy Families (TANF) payments pursuant to 13 CSR 40-2.350.

(A) Effective January 1, 2016, the lifetime limit for participation in the TA program is forty-five (45) cumulative (not necessarily consecutive) months in which an adult in the household has received assistance under the TANF block grant program, pursuant to sec-

tions 601-619 of Title 42, *United States Code*.

(B) Months in which a participant receives a payment under the TA Diversion program do not count toward the TA lifetime limit.

(C) A participant can only receive a total of five (5) diversion program payments in his or her lifetime as a parent, guardian, or caretaker relative in a TA household. This limit includes payments from diversion programs in other states or U.S. jurisdictions.

(5) A participant applying for this program is not required to comply with the TA recipient work activity requirements, as described in 13 CSR 40-2.315, subject to subsection (A) of this section. A participant applying for this program must demonstrate good cause as described in section (7) of this rule.

(A) A participant who is actively sanctioned for non-cooperation with the TA work activity requirements under 13 CSR 40-2.315, or whose TA case has been closed due to non-cooperation with the work activity requirements, shall not qualify for a diversion payment until the sanction is ended in accordance with 13 CSR 40-2.315.

(6) An eligible participant shall not receive more than one (1) diversion program payment once during a twelve- (12-) month period.

(A) The first month in determining the twelve- (12-) month period is the month in which the diversion payment was issued.

(7) A participant requesting a diversion payment is eligible to receive a payment only if the participant establishes good cause for one (1) of the following reasons:

(A) An involuntary loss of employment, as demonstrated by a written notice from the TA participant’s previous employer, unless the division determines that the participant—

1. Voluntarily quit a job; or

2. Was terminated for poor job performance or for failure to meet a condition of employment; or

(B) A catastrophic illness or accident that renders the participant unable to work temporarily or permanently, as demonstrated by a statement from a licensed medical professional. The participant shall produce a copy of medical records and a written report from a licensed medical professional, on letterhead, providing the medical diagnosis, along with any supporting medical tests and examinations that establish the existence of the medical condition and the probable duration of the medical condition. If the participant has been determined disabled by a state or federal disability determination process, a written notice from such agency shall be acceptable documentation; or



(C) The participant is a victim of an incident of domestic violence, as defined by section 455.010(5), RSMo, or of human trafficking, as defined by section 566.200(16), RSMo, that is documented by either a written self-attestation, police reports, ex parte order, or other orders or judgments issued by a court; or

(D) An employed participant is unable to care for the basic needs of his or her family due to an emergency or other event, including but not limited to—

1. An involuntary reduction in wages, as documented through pay stubs or an employer statement, to the extent that the participant qualifies for TA even though he or she is still employed; or

2. The participant temporarily loses access to adequate transportation to work or school beyond the control of the participant with no readily accessible alternate means of transportation. The participant shall produce documentation of the loss of transportation by documents such as police reports, insurance claims, repair estimates, documentation of bus route changes, towing bills, or other evidence supporting this claim; or

3. The participant temporarily loses access to child care as documented through a statement from the childcare provider, or other evidence supporting this claim; or

4. The participant has temporarily been deprived of shelter, electricity, water, heating and/or cooling, or food due to circumstances beyond the control of the participant caused by intentional or negligent acts or due to a man-made or natural disaster. The participant shall produce documentation of the event by police reports, insurance claims, repair estimates, or other evidence supporting this claim; or

5. A temporary financial hardship caused by natural or accidental death or the catastrophic illness of a household member, or a parent or sibling of a household member, including half or step-siblings; or

6. Any other event that the division determines warrants good cause, and that is supported by documentation establishing the occurrence of the event.

(8) The participant shall agree to use a diversion payment to address an issue related to the purpose of the TANF program pursuant to section 601 of Title 42, *United States Code*.

(A) The division shall issue a diversion payment directly to the participant by electronic benefits transfer (EBT).

(B) The participant is not eligible for TA in the month in which the diversion payment was issued.

(C) A TA payment shall not be issued to a household for any month for which a diversion payment was also issued, regardless of

whether the head of household or the person receiving the payment changes.

(D) The participant is not eligible for TA for up to two (2) months following the month for which the diversion payment was approved, to the extent that the total diversion payment exceeds or equals the amount of TA for which the participant would otherwise qualify in those months. The diversion case is considered to be active during this period.

(9) The TA Diversion program is not included within the definition of “assistance” in 13 CSR 40-2.300(3).

(10) All information provided to the division by a participant in support of a request for a diversion payment shall be true, accurate, and complete.

(11) The participant shall disclose to the division all information which may impact eligibility for the diversion payment. The participant has a continuing obligation to notify the division if any information supporting the grant of the diversion payment changes within ten (10) days of the change.

(12) A participant who is aggrieved by a decision of the division under this regulation may appeal the division’s decision pursuant to section 208.080, RSMo.

AUTHORITY: section 207.022, RSMo Supp. 2014, and section 208.040.5(6), RSMo Supp. 2015. Original rule filed Jan. 15, 2016, effective July 30, 2016.*

**Original authority: 207.022, RSMo 2014 and 208.040, RSMo 1939, amended 1941, 1949, 1951, 1953, 1955, 1957, 1973, 1977, 1982, 1983, 1984, 1987, 1994, 1999, 2001, 2009, 2015.*

13 CSR 40-2.360 Prohibition Against Payment of Temporary Assistance to Certain Persons Fleeing to Avoid Prosecution, or Custody or Confinement After Conviction

PURPOSE: This rule prohibits the payment of Temporary Assistance to certain persons fleeing to avoid prosecution, or custody or confinement after conviction.

(1) For the purpose of the administration of the Temporary Assistance Program, the Division of Family Services shall not provide assistance to or on behalf of any individual who is—

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the state of New Jer-

sey, is a high misdemeanor under the laws of such state; or

(B) Violating a condition of probation or parole imposed under federal or state law. The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the president of the United States grants a pardon with respect to the conduct.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.*

13 CSR 40-2.365 Prohibition Against Payment of Temporary Assistance on Behalf of Minor Children Who Are Absent from the Home for a Significant Period of Time

PURPOSE: This rule prohibits the payment of Temporary Assistance to minor children who are absent from the home for a significant period of time.

(1) For the purpose of the administration of the Temporary Assistance Program, the Division of Family Services shall not provide assistance to or on behalf of—

(A) A minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, temporarily absent from the home for a period exceeding ninety (90) consecutive days; or

(B) An individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the Division of Family Services of the absence of the minor child from the home for the period specified in or provided for pursuant to subsection (1)(A), by the end of the five (5)-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

AUTHORITY: sections 207.020 and 208.040.5, RSMo 1994. Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1949, amended 1955, 1969, 1982, 1985.*



13 CSR 40-2.370 Requirement that All Recipients for the Payment of Temporary Assistance Shall Complete an Assessment and May Be Required To Complete an Individual Employment Plan

PURPOSE: This rule requires that all applicants/recipients for the payment of Temporary Assistance shall complete an assessment and may be required to complete an individual responsibility plan which is termed an Individual Employment Plan (IEP).

(1) Initial Assessment.

(A) For the purpose of the administration of the Temporary Assistance Program, the Family Support Division shall make an initial assessment of the skills, prior work experience, and employability of each applicant/recipient of assistance under the program who is the head of household or second parent and—

1. Has attained eighteen (18) years of age; or
2. Has not completed high school or obtained a certificate of high school equivalency and is not attending secondary school.

(B) The assessment described in subsection (1)(A) shall be completed at application.

(C) On the basis of the assessment made under subsection (1)(A) with respect to an individual, the Family Support Division shall refer the recipient to the contracted service provider or its designee to negotiate an Individual Employment Plan (IEP) with the individual, unless the person meets an exclusion or exemption under 13 CSR 40-2.315(2)(C) and 13 CSR 40-2.315(2)(D).

(2) Individual Employment Plan.

(A) The contracted service provider or its designee shall develop with the individual an IEP which—

1. Sets forth an employment goal for the individual and a plan for moving the individual into employment as soon as possible and will include a requirement that the individual participate in an allowable/countable work activity for the minimum required hours outlined in 13 CSR 40-2.315;
2. To the greatest extent possible is designed to move the individual into whatever employment the individual is capable of handling as quickly as possible by establishing short- and long-term educational/occupational goals;
3. Assesses the individual's barriers that may hinder the individual's ability to seek and/or obtain employment. Those barriers may include (but are not limited to): substance abuse, legal issues, child care, health-care, transportation, and education;

4. Identify available support services, such as subsidized child care, medical services, and transportation benefits, to help ensure that the family will become self-sustaining and will be less likely to return to public assistance;

5. Address circumstances creating barriers to self-sufficiency and may be updated and adjusted to identify and address the removal of these barriers; and

6. Ascertain the skills of the individual that will expand the individual's opportunity to obtain employment.

(3) The Family Support Division shall encourage families who have an IEP to make full use of the federal earned income tax credit.

(4) If an individual in a family fails to cooperate in developing, or fails to comply with the requirements of, the IEP without good cause as defined in 13 CSR 40-2.315, the division shall sanction the individual as provided in 13 CSR 40-2.315.

AUTHORITY: section 207.020, RSMo 2000 and section 208.040.5, RSMo Supp. 2010. * Emergency rule filed Feb. 18, 1998, effective March 1, 1998, terminated Aug. 10, 1998. Original rule filed Jan. 16, 1998, effective Aug. 1, 1998. Amended: Filed June 1, 2007, effective Dec. 30, 2007. Amended: Filed Sept. 21, 2010, effective April 30, 2011.

**Original authority:* 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040.5, RSMo 1939, amended 1941, 1949, 1951, 1953, 1955, 1957, 1973, 1977, 1982, 1983, 1984, 1987, 1994, 1999, 2001, 2009.

13 CSR 40-2.375 Medical Assistance for Families

PURPOSE: This rule establishes the income limit for the Medical Assistance for Families program after June 30, 2002.

(1) The income limit for persons to be eligible for the Medical Assistance for Families program established pursuant to section 208.145, RSMo are the July 16, 1996 Aid to Families with Dependent Children (AFDC) income standards for the assistance group size.

(2) The standard work expense for persons with earned income shall be ninety dollars (\$90).

AUTHORITY: sections 207.020 and 208.145, RSMo 2000. * Emergency rule filed June 7, 2002, effective July 1, 2002, expired Dec. 27, 2002. Original rule filed June 11, 2002,

effective Dec. 30, 2002. Emergency amendment filed June 7, 2004, effective July 1, 2004, expired Dec. 27, 2004. Amended: Filed June 7, 2004, effective Jan. 30, 2005. Emergency amendment filed May 20, 2005, effective July 1, 2005, expired Dec. 27, 2005. Amended: Filed May 20, 2005, effective Dec. 30, 2005.

**Original authority:* 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.145, RSMo 1998.

13 CSR 40-2.380 Grandparents as Foster Parents

(Rescinded December 30, 2005)

AUTHORITY: sections 207.020, RSMo 2000 and 453.322 and 453.325, RSMo Supp. 2003. Emergency rule filed July 11, 2003, effective Aug. 1, 2003, expired Jan. 27, 2004. Original rule filed Jan. 23, 2004, effective July 30, 2004. Rescinded: Filed June 8, 2005, effective Dec. 30, 2005.

13 CSR 40-2.390 Transitional Employment Benefit

PURPOSE: This rule establishes the Transitional Employment Benefit. This rule also establishes the circumstances when a family is eligible for the Transitional Employment Benefit payment and the length of time a family qualifies for the Transitional Employment Benefit payment.

(1) The Family Support Division shall make payable a fifty-dollar (\$50) Transitional Employment Benefit payment to families with earned income who are no longer eligible for Temporary Assistance benefits as defined in 13 CSR 40-2.300 through 13 CSR 40-2.370 due to an increase in income, removal of an earnings disregard or an allowable expense deduction, or a household composition change which causes ineligibility due to income guidelines for Temporary Assistance provided—

- (A) The family received Temporary Assistance cash benefits for at least one (1) month;
- (B) There is a work-eligible individual, as defined in 45 CFR 261.10, included in the family;
- (C) Work-eligible individuals in the family continue to meet the minimum work participation hours as outlined in 42 USC 607.

1. Transitional Employment Benefit work participation hours must be met through employment only.

2. Work participation hours must be reported and verified within ten (10) days of



the Temporary Assistance case closing or change in employment;

(D) The family continues to meet all other eligibility requirements contained in 13 CSR 40-2.300 through 13 CSR 40-2.370 with the exception of income; and

(E) The family was eligible for and received Temporary Assistance in October 2008 or later.

(2) The family is eligible to receive the fifty-dollar (\$50) Transitional Employment Benefit payment for up to six (6) consecutive months as long as the family meets the requirements in subsections (1)(B) and (1)(C).

(3) There is no limit on the number of times a family may receive Transitional Employment Benefit payments as long as the family loses eligibility for Temporary Assistance as outlined in section (1).

(A) The Transitional Employment Benefit is not included in the sixty (60)-month lifetime limit for Temporary Assistance as referenced in 42 USC 608.

(4) Families who receive Transitional Employment Benefits shall not assign to the Family Support Division on behalf of the state any rights to support from any other person on behalf of any member of the family.

AUTHORITY: section 207.020, RSMo 2000 and section 208.040.5, RSMo Supp. 2008. Emergency rule filed Sept. 23, 2008, effective Oct. 3, 2008, expired March 31, 2009. Original rule filed Sept. 23, 2008, effective May 30, 2009.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 208.040, RSMo 1939, amended 1941, 1949, 1951, 1953, 1955, 1957, 1973, 1977, 1982, 1983, 1984, 1987, 1994, 1999, 2001.*

13 CSR 40-2.395 Spend Down Program

PURPOSE: This rule establishes terminology as well as provides definition of terms for the spend down program and defines valid verification of incurred medical expenses.

(1) Spend down is a program created for persons with disabilities and persons aged sixty-five (65) and older who have income that exceeds the Medicaid qualification limits. Such individuals may qualify for Medicaid benefits when they spend down their income that exceeds the Medicaid eligibility limit. Medicaid coverage begins when the individual's incurred medical expenses equal the monthly spend down requirement.

(2) The following definitions apply throughout this regulation:

(A) Incurred medical expenses: Expenses incurred by the individual or financially responsible relatives for necessary medical and remedial services that are recognized under state law and are not subject to payment by a third party, unless the third party is a public program of a state or political subdivision of a state. Incurred medical expenses include Medicare and other health insurance premiums, deductibles and co-insurance charges, and co-payments or deductibles imposed under 42 C.F.R. Section 447.51 or Section 447.53. The term incurred medical expenses includes expenses incurred by an individual's spouse whose income is included in the Medicaid eligibility determination;

(B) Individual: Aged persons (over sixty-five (65) years), blind persons, or people with disabilities with income above limits established under section 208.151.1.(24), RSMo, for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits; and

(C) Third party: A third party is Medicare, private health insurance, or other health care payer.

(3) How spend down amount is calculated. The monthly spend down amount is calculated as the difference between the individual's monthly net income and the Medicaid eligibility limits. The net income is calculated according to the provisions of 13 CSR 40-2.200.

(4) Spend down may be met in one (1) of the following ways:

(A) Incurred Costs Method. Spend down participants using this method must provide documentation of medical expenses they have incurred.

1. Incurred medical expenses that can be applied to spend down must be either—

A. Incurred within the month MO HealthNet coverage is requested and bills are submitted to the Family Support Division; or

B. Incurred within the three (3) months prior to the month for which MO HealthNet coverage is requested and bills are submitted to the Family Support Division for those eligible for MO HealthNet Aged, Blind and Disabled spend down program.

C. Incurred medical expenses can be applied to future months limited to a maximum of three (3) months from the current month in which MO HealthNet coverage is requested when—

(I) The bills were incurred while the participant was eligible for MO HealthNet spend down;

(II) The bills were not paid and will not be paid by MO HealthNet;

(III) The bills are currently owed by the participant;

(IV) The bills were not previously applied in any month to meet spend down, including use of out-of-pocket expenses; and

(V) The bills were incurred no earlier than three (3) months prior to the current month.

D. Allowable medical expenses include those specified in section 208.152, RSMo.

E. Proof of incurred costs does not require proof of payment of the incurred costs.

2. In order for an individual to claim that an incurred medical expense should be credited to the individual's spend down obligation, the individual shall provide documentation of the incurred medical expense within one (1) year of the date of the medical service.

3. No credit for incurred medical expenses shall be given without documentation that the individual has incurred, and is legally obligated to pay, the expense and has not previously used the expense for spend down. Documentation of an incurred medical expense shall be submitted in either one of the following methods:

A. An invoice, billing statement, or receipt from the provider that contains the following information:

(I) Name of patient;

(II) Date of service;

(III) Type of service provided and/or description of the service;

(IV) Identification of the portion of the total charges that are billed to a third party and the portion of the total charges that are patient's responsibility to pay; and

(V) To document incurred costs of mileage of medically necessary, non-emergency transportation, the individual shall certify the miles traveled and the purpose. Travel expenses required to obtain a medical item or service shall be determined at the State Employee Reimbursement rates established by the state of Missouri Office of Administration pursuant to 1 CSR 10-11.010 and 1 CSR 10-11.030 as of the date of travel; or

B. A Family Support Division Provider form signed and completed by the provider containing the information set out in subparagraph (4)(A)3.A. of this regulation.

4. The provider shall, upon request, provide any additional information required by the Family Support Division to establish that the individual has incurred the medical expense.



5. When it is known that the individual has coverage by a third party and the portion subject to payment by the third party cannot be identified, the Family Support Division shall—

A. For individuals with private health insurance or coverage by another health care payer, estimate the amount of the individual's incurred cost based upon the provisions of coverage; and

B. For individuals with Medicare Part A and/or B coverage and who do not have Qualified Medicare Beneficiary coverage, estimate the amount of the individual's incurred medical cost to be—

(I) One hundred percent (100%) of the Medicare reimbursement rate up to the individual's Medicare deductible if the deductible has not been met; and thereafter

(II) Twenty percent (20%) of the Medicare allowable reimbursement once the deductible has been met.

6. Individuals receiving Qualified Medicare Beneficiary coverage cannot use incurred medical expenses covered by Medicare towards meeting spend down.

7. If a provider provides a direct medical service based on an "ability-to-pay" or "sliding" fee scale, only the amount the individual is legally obligated to pay the provider is an incurred medical expense.

(B) Pay-in Method. An individual may pay their spend down amount to the state. The monthly spend down requirement may be paid by the individual, their spouse, a financially responsible relative, or a public program of a state or political subdivision of a state.

(C) Combination Method. An individual may use a combination of the incurred costs method and the pay-in methods to satisfy the monthly spend down amount to the state.

(5) Any individual who disagrees with the FSD's decision shall have the right to request administrative review pursuant to 208.080, RSMo, and 13 CSR 40-2.160.

AUTHORITY: section 207.020, RSMo 2000, and sections 208.151, 208.153, and 208.201, RSMo Supp. 2011. Original rule filed March 1, 2012, effective Oct. 30, 2012.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993; 208.151, RSMo 1967, amended 1973, 1981, 1982, 1987, 1988, 1989, 1990, 1991, 1993, 1995, 2001, 2001, 2005, 2007, 2011; 208.153, RSMo 1967, amended 1967, 1973, 1989, 1990, 1991, 2007; and 208.201, RSMo 1987, amended 2007.*

13 CSR 40-2.400 Definitions for the Screening and Testing for the Illegal Use of Controlled Substances by Temporary Assistance Applicants and Recipients

PURPOSE: This rule establishes the definitions that will govern the use of certain terms used to establish the procedures for the screening and testing for illegal use of controlled substances by Temporary Assistance applicants and recipients.

(1) Applicant—A person who has applied for Temporary Assistance benefits in accordance with Temporary Assistance eligibility regulations, but has not yet been determined eligible for benefits.

(2) Appropriate substance abuse treatment program—A substance abuse treatment program that the Department of Mental Health has approved and—

(A) Is certified as an alcohol and drug abuse treatment program by the Department of Mental Health; and

(B) Is contracted with the Department of Mental Health to provide Comprehensive Substance Treatment and Rehabilitation (CSTAR) services.

(3) Drug test—The urine dipstick five- (5-) panel test.

(4) Entry into the substance abuse treatment program—A recipient shall be considered to have entered into a substance abuse treatment program when the recipient has been enrolled in the Department of Mental Health's consumer information system by an appropriate treatment provider.

(5) Controlled substance—a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425, RSMo.

(6) Head-of-household—The individual who is registered as the applicant or recipient for Temporary Assistance benefits with the division.

(7) Individual—A person who is either an applicant or recipient for Temporary Assistance benefits with the Family Support Division.

(8) Misdemeanor or felony drug offense—Any arrests or convictions for violating any federal or Missouri state statutes relating to any illegal use, possession, trafficking, delivery, distribution, registration, creation, production, or manufacturing of any drugs, narcotics, controlled substances, controlled substance analogues, imitation controlled sub-

stances, drug paraphernalia, counterfeit substances, or immediate precursor shall constitute the misdemeanor or felony drug offenses that shall be screened for by a search of the records of the Missouri Highway Patrol.

(9) Protective payee—An individual appointed by the Family Support Division to act on behalf of the Temporary Assistance household with regard to Temporary Assistance benefits.

(10) Reasonable cause—Reasonable cause exists when there is reasonable suspicion that there is an articulable individualized basis for suspecting that the Temporary Assistance applicant or recipient is engaging in the illegal use of controlled substances. Reasonable suspicion shall be deemed to exist based on the response to the screening tool or when a search of the law enforcement records of the Missouri Highway Patrol establishes that the individual has been arrested or convicted of a misdemeanor or felony drug offense within the last twelve (12) months.

(11) Recipient—A person who receives public assistance benefits in accordance with Temporary Assistance eligibility regulations.

(12) Successful completion of substance abuse treatment program—A recipient referred under section 208.027, RSMo, has successfully completed a substance abuse program when a letter or other official notice is issued from the appropriate substance abuse treatment program verifying the recipient has made satisfactory progress toward the criteria outlined in 9 CSR 30-3.130(8)(A) and if the recipient has not tested positive in accordance with 13 CSR 40-2.420.

(13) Temporary Assistance (TA)—Missouri's Temporary Assistance for Needy Families program that provides temporary cash assistance to families as set forth in sections 208.040, RSMo, et seq. and 13 CSR 40-2.300 to 13 CSR 40-2.370.

(14) Temporary Assistance for Needy Families (TANF)—The federal program under which Missouri's Temporary Assistance benefits are distributed as set forth in 42 U.S.C. section 601, et seq. and 42 CFR 260.10, et seq.

(15) Treatment provider—Is an individual or entity that operates a substance abuse treatment program that the Department of Mental Health has approved and—

(A) Is certified as an alcohol and drug abuse treatment program by the Department of Mental Health; and



(B) Is contracted with the Department of Mental Health to provide Comprehensive Substance Treatment and Rehabilitation (CSTAR) services.

(16) Urine dipstick five- (5-) panel test—A test that will analyze an individual's urine sample to determine whether an individual has used the following controlled substances:

- (A) Amphetamines/Methamphetamines;
- (B) Cannabinoids (THC);
- (C) Cocaine;
- (D) Opiates; and
- (E) Phencyclidine (PCP).

AUTHORITY: section 208.027, RSMo Supp. 2012. Original rule filed June 29, 2012, effective Feb. 28, 2013.*

**Original authority: 208.027, RSMo 2011.*

13 CSR 40-2.410 Screening Temporary Assistance Applicants and Recipients for Illegal Use of a Controlled Substance

PURPOSE: This rule adds the requirement that all applicants or recipients for the payment of Temporary Assistance who are age eighteen (18) or older and are the head-of-household complete a screening for illegal use of a controlled substance. This rule also establishes the individual's eligibility due to the screening and consequences when the individual fails to comply with the screening requirement and when the screening provides reasonable cause for illegal use of a controlled substance.

(1) The Family Support Division shall conduct a screening to determine illegal use of a controlled substance for all Temporary Assistance applicants and recipients who are age eighteen (18) or older, are the head-of-the-household, and are otherwise eligible for Temporary Assistance benefits as defined in 13 CSR 40-2.300 through 13 CSR 40-2.370.

(A) The individual must cooperate with the screening process.

1. The individual must agree to complete the screening process.

2. The individual must answer all questions.

(B) Screening shall consist of the following two (2) processes:

1. The individual shall submit answers to a screening tool administered by the Family Support Division at the time of application; and

2. The Family Support Division shall conduct a periodic match of Temporary Assistance recipients with the Missouri State High-

way Patrol law enforcement records for individuals that have an arrest, suspended imposition of sentence, or conviction for a misdemeanor or felony drug offense upon implementation of the screening process.

(C) The individual may request referral to and then must successfully complete an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.430 in lieu of a drug test as set forth in 13 CSR 40-2.420.

(D) The division shall not provide Temporary Assistance to or on behalf of an individual who refuses to cooperate with the screening process. The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of a refusal to cooperate with the screening process or an administrative hearing decision if a hearing is requested and the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(2) The individual shall submit to a urine dipstick five- (5-) panel drug test, as set forth in 13 CSR 40-2.420 if—

(A) The individual's response to the screening tool gives rise to reasonable suspicion the individual engages in the illegal use of a controlled substance; or

(B) An individual has an arrest or conviction for a misdemeanor or felony drug offense from the match with the Missouri Highway Patrol within the preceding twelve (12) months of the date of the match with the Missouri Highway Patrol.

AUTHORITY: section 208.027, RSMo Supp. 2014. Original rule filed June 29, 2012, effective Feb. 28, 2013. Amended: Filed Nov. 3, 2014, effective April 30, 2015.*

**Original authority: 208.027, RSMo 2011.*

13 CSR 40-2.420 Testing for the Illegal Use of a Controlled Substance by Applicants and Recipients of Temporary Assistance

PURPOSE: This rule adds the requirement that applicants for Temporary Assistance and recipients for the payment of Temporary Assistance who are age eighteen (18) or older and are the head-of-household whose screening for illegal use of a controlled substance establishes reasonable cause to believe the individual engages in the illegal use of a controlled substance must submit to a urine dipstick five- (5-) panel drug test. This rule also establishes the individual's ineligibility for Temporary Assistance pursuant to the drug testing requirement.

(1) The Family Support Division shall require an individual to submit to a urine dipstick

five- (5-) panel drug test when the Family Support Division determines there is reasonable cause to believe the individual is engaging in the illegal use of a controlled substance. The determination of reasonable cause shall be based upon the screening process set forth in 13 CSR 40-2.410.

(A) The division or its designee shall notify the individual in writing, at the individual's last known address as contained within the division records, of the reasonable cause determination that requires the individual to submit to a urine dipstick five- (5-) panel drug test.

(B) The division or its designee shall notify the individual in writing of the location of the test and the date by which the test must be completed and of the drug testing process.

(C) The division or its designee shall make the test available either within the individual's county of residence as known to the division or in an adjacent county if the testing location is within twenty-five (25) miles of the individual's residence, whichever is closer.

(D) The individual must provide verification of identity when submitting to the drug test. Acceptable forms of identity verification include: U.S. passport; driver's license issued by the state or U.S. territory with a photograph or other identifying information; certificate of degree of Indian blood; school identification card; U.S. military card or draft card with photograph; identification card issued by federal, state, or local government; Native American tribal document.

(2) Drug Testing Protocols.

(A) All urine samples collected under this program shall be collected and analyzed by a qualified contractor of the state of Missouri with laboratory facilities that comply with the standards of the National Institute on Drug Abuse/Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services or other appropriate accrediting institution. The collection and analysis shall include the initial screening of the urine dipstick five- (5-) panel test and when necessary a confirmation test analyzed by a laboratory that complies with the standards of the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services. All samples confirmed by the laboratory as non-negative shall be interpreted as positive or negative by a medical review officer licensed by the American Association of Medical Review Officers, American College of Occupational and Environmental Medicine, Medical Review Officer Certification Council, or American Society of Addiction Medicine.



(B) The laboratory must screen and test for the substances set forth in 13 CSR 40-2.400(16). Said testing must screen, at a minimum, for the levels of such substances as provided by 1 CSR 30-7.010(5), as may be amended from time-to-time.

(3) The division shall not provide Temporary Assistance to or on behalf of an individual who is required to submit to a drug test and who refuses to cooperate with any part of the drug testing process.

(A) A refusal to cooperate with the testing process shall include one (1) or more of the following:

1. Failure to provide a sample for drug testing within the required time frame;
2. Failure to fully comply with the drug testing process as directed by the Family Support Division or its designee;
3. Failure to appear for drug testing at the designated location and time;
4. Failure to contact or cooperate with any medical review process;
5. Failure to provide verification of identity;
6. Failure to complete any documents or consent forms required by the Family Support Division or its designee, the drug testing provider, the Department of Mental Health, or the substance abuse treatment provider;
7. Failure to provide a sufficient amount of urine for testing; or
8. Failure to provide a urine sample at the correct temperature.

(B) The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of a positive test, test refusal, or an administrative hearing decision if a hearing is requested and the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(4) The division shall not provide Temporary Assistance to or on behalf of an individual who tests positive for illegal use of a controlled substance and fails to enter, participate, and successfully complete an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.430. The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of a positive test or an administrative hearing decision if a hearing is requested and the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(5) An individual subject to drug testing who has a positive drug result may, at his or her expense, have the positive drug test result confirmed. The individual must make this

request for testing within ten (10) days from notification of the positive test result.

(6) The division may require a urine dipstick five- (5-) panel drug test six (6) months after the date the recipient entered the substance abuse treatment program as defined in 13 CSR 40-2.430. If the individual tests positive, the individual is ineligible for Temporary Assistance for a period of three (3) years from the date of a positive test or an administrative hearing decision if a hearing is requested and the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(7) The amount of assistance that would otherwise be required to be provided under the Temporary Assistance Program to the family members of an individual to whom sections (3), (4), and (6) apply shall be reduced by the amount which would have otherwise been made available to the individual who has been declared ineligible.

(8) The division shall add an otherwise eligible individual who has been declared ineligible for Temporary Assistance as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.430 to the Temporary Assistance household after the three- (3-) year period of ineligibility has elapsed. The individual is subject to the rules as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.450.

AUTHORITY: section 208.027, RSMo Supp. 2014. Original rule filed June 29, 2012, effective Feb. 28, 2013. Amended: Filed Nov. 3, 2014, effective April 30, 2015.*

**Original authority: 208.027, RSMo 2011.*

13 CSR 40-2.430 Substance Abuse Treatment Program for Temporary Assistance Recipients

PURPOSE: This rule explains the referral and treatment process for recipients of Temporary Assistance benefits who are required to enter and complete a substance abuse treatment program as a result of 13 CSR 40-2.420.

(1) The Family Support Division shall refer recipients of Temporary Assistance benefits who are determined to have tested positive for the illegal use of a controlled substance under the provisions of section 208.027, RSMo, to an appropriate substance abuse treatment program approved by the Department of Mental Health, as set forth in 13 CSR 40-2.400.

(2) Recipients referred to an approved substance abuse treatment program as set forth in these rules shall receive a comprehensive assessment to determine the appropriate level of care and to develop an initial treatment plan. Treatment services shall be delivered in accordance with all rules applicable to certified programs as defined in 9 CSR 30-3.032.

(3) Active participation in the substance abuse treatment program by recipients referred as provided in section 208.027, RSMo, shall be demonstrated by—

- (A) Completion of comprehensive assessment as set forth in section (2);
- (B) Enrollment in an appropriate substance abuse treatment program;
- (C) Consent to communication between and among the treatment provider, Family Support Division, and Department of Mental Health personnel about participation and progress in substance abuse treatment; and
- (D) Participation in the development of an individualized treatment plan and satisfactory progress toward treatment goals.

(4) The Department of Mental Health or the treatment provider shall inform the Family Support Division in writing within five (5) days of the following:

- (A) The date the recipient enters into the substance abuse treatment program; and
- (B) The date upon which the recipient successfully completed the substance abuse treatment program; and
- (C) The date the recipient did not successfully complete the substance abuse treatment program.

(5) The written notice(s) required in section (4) shall be signed by the treatment provider. The original, signed notice(s) shall be self-authenticating and shall be admissible into evidence without further foundation at any hearing conducted under 13 CSR 40-2.440. The hearing officer may authorize a substitution of the original with a copy for the record. If the division or the recipient objects to the introduction of the notice(s) into evidence, the party making the objection shall have the burden to establish that the notice(s) is not authentic and should not be admitted into evidence. The recipient or the division may request that the hearing officer issue a subpoena to the treatment provider for examination or cross-examination on the record.

AUTHORITY: section 208.027, RSMo Supp. 2012. Original rule filed June 29, 2012, effective Feb. 28, 2013.*

**Original authority: 208.027, RSMo 2011.*



13 CSR 40-2.440 Hearings for Proceedings under 13 CSR 40-2.400 through 13 CSR 40-2.450

PURPOSE: This rule adds the requirement that all applicants or recipients for Temporary Assistance benefits who are age eighteen (18) or older and are the head-of-household who refuses or fails to cooperate with the screening process, who refuses to submit to a drug test, or who tests positive for the illegal use of controlled substances and fails to participate in a substance abuse treatment program will have a hearing. This rule establishes the procedures to be followed in the hearing.

(1) Eligibility for Hearing.

(A) Any applicant for or recipient of Temporary Assistance may request the Director of the Family Support Division to provide an administrative hearing before the Director of the Family Support Division or his/her designee when he/she—

1. Refuses to cooperate with the screening process;
2. Refuses to submit to a drug test; or
3. Tests positive for the illegal use of controlled substances; and
4. Does not participate in an appropriate substance abuse treatment program; or
5. Fails to successfully complete an appropriate substance abuse treatment program.

(2) Notification of Adverse Action and Hearings.

(A) Notice. The Family Support Division shall notify the individual in writing of any action affecting his/her Temporary Assistance benefit(s) as set forth in section (1). The notification shall be sent by mail to his/her address of record at least ten (10) days before the date the action becomes effective. The individual has the duty to notify the Family Support Division of any change in his/her residence address, mailing address, and other contact information. The notice for administrative hearings shall meet the requirements set out in section 208.080, RSMo, the hearing requirements in 45 CFR 205.10, this regulation, and any other applicable federal statutes or regulations. The individual shall have ninety (90) days from the date of the notice of the action affecting his/her Temporary Assistance benefit(s) in which to request an appeal to the Director of the Family Support Division.

(B) Hearings. The administrative hearings shall be conducted pursuant to procedures set forth in section 208.080, RSMo, the hearing requirements in 45 CFR 205.10, this regulation, and any other applicable federal statutes or regulations by administrative hearing officers designated by the Director of the Family Support Division.

(3) Hearing Procedure. The following procedure shall apply to administrative hearings required by section (1).

(A) Notice. The hearing officer shall mail a notice of the hearing to the Family Support Division, the individual at his/her address of record, and if appropriate, to the individual's attorney or designated representative. The notice shall include any information required by either Chapter 208, RSMo, 45 CFR 205.10, or any other federal statutes or regulations that are applicable to the hearing being conducted under the authority of section (1). In addition, the following information shall be included in every hearing notice:

1. The caption and number of the case;
2. The time and place of the hearing;
3. The subject of the hearing;
4. That an order will be entered in accordance with the adverse action notice if the individual fails to appear and participate at the hearing;
5. Information on how to contact the hearing officer to request an in-person hearing if the individual has a need for a special accommodation due to a disability; and
6. That the individual may represent him/herself or the individual may authorize another individual, such as legal counsel or a relative, to act as a representative.

(B) No answer or responsive pleading shall be required to respond to any notice affecting his/her Temporary Assistance benefit(s) mailed by the Family Support Division or notice of an administrative hearing provided for under this regulation.

(C) The hearing officer shall set the date and time for the hearing. The hearing may be continued once on request of the individual or the Family Support Division.

(D) The hearing shall be conducted by telephone if the individual agrees, or at the local office of the Family Support Division.

(E) The Family Support Division shall have the burden to establish by a preponderance of the evidence that the individual—

1. Tested positive for the illegal use of a controlled substance;
2. Refused to cooperate or submit to the screening as set forth in 13 CSR 40-2.410;
3. Refused to cooperate or submit to the test for illegal use of a controlled substance as required by 13 CSR 40-2.420;
4. Failed or refused to participate in an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.420; or
5. Failed or refused to successfully complete substance abuse treatment as set forth in 13 CSR 40-2.440.

(F) Affirmative Defenses. The individual shall have the burden of proving any of the affirmative defenses set forth below. Failure

to comply with any of the requirements of subsection (3)(F) shall be considered a waiver of the affirmative defenses set forth below.

1. The individual was prescribed drugs by a licensed physician that resulted in the positive test for the illegal use of controlled substances. It shall be presumed that the ingestion of medication prescribed to someone other than the individual subject to the test for illegal use of controlled substances required under section 208.027, RSMo, will not constitute an affirmative defense to excuse or negate the positive test result for the illegal use of a controlled substance.

2. The individual has a medical condition that prevented the individual from submitting a sample for testing for illegal use of controlled substances or from completing an appropriate substance abuse treatment program. The assertion of this affirmative defense shall be governed by the following rule:

A. The individual must produce a copy of medical records and a written report from the individual's physician providing the medical diagnosis along with any supporting medical tests and examinations that establish the existence of the medical condition that the individual asserts prevented compliance with the testing for illegal use of controlled substances or from completing an appropriate substance abuse treatment program.

(G) Evidence at the Hearing.

1. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, affidavits, and the contents of the aforementioned documents submitted by the individual or the Family Support Division at the hearing are declared to be competent evidence and admissible into evidence at the hearing to be considered by the hearing officer along with any other evidence or testimony submitted.

2. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, affidavits, and the contents of the aforementioned documents purporting to be executed and signed by the medical doctor or other appropriate authority, its agents or employees accompanied by a business record affidavit that meets the requirements of section 490.692, RSMo, shall be *prima facie* evidence of it being properly executed and signed without further proof of identification.

3. Written medical reports, medical records, reports of medical review officers,



chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, affidavits, and the contents of the aforementioned documents reporting a positive drug test result shall create a rebuttable presumption that the individual has tested positive for the illegal use of a controlled substance in violation of section 208.027, RSMo, or has failed to successfully complete an appropriate substance abuse treatment program. The entry of the written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, affidavits, and the contents of the aforementioned documents reporting a positive drug test result or the failure to successfully complete an appropriate substance abuse treatment program into evidence at the administrative hearing required by section (1) shall shift the burden of proof to the individual to refute the presumption.

(H) The hearing shall be on the record.

(4) The hearing officer in an administrative hearing requested under section (1) shall make specific written findings of fact and conclusions of law pertinent to the questions in issue. The findings of fact and conclusions of law shall be based solely upon the evidence introduced into the record at the hearing. Copies of the decision of the hearing officer shall be mailed to the individual and their attorney at law or legal guardian and the Family Support Division.

(5) Judicial Review.

(A) Any applicant for or recipient of Temporary Assistance who may request the director provide an administrative hearing under section (1) may obtain judicial review pursuant to section 208.100, RSMo.

AUTHORITY: section 208.027, RSMo Supp. 2014. Original rule filed June 29, 2012, effective Feb. 28, 2013. Amended: Filed Nov. 3, 2014, effective April 30, 2015.*

**Original authority: 208.027, RSMo 2011.*

13 CSR 40-2.450 Assignment of a Protective Payee Over Temporary Assistance Benefits When the Head-of-Household is Declared Ineligible for Temporary Assistance Pursuant to 13 CSR 40-2.400 through 13 CSR 40-2.440

PURPOSE: This rule adds the requirement

that all recipients for Temporary Assistance benefits who are age eighteen (18) or older and are the head-of-household and who become ineligible as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.440 will have a protective payee assigned to administer the Temporary Assistance benefit.

(1) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household refuses to complete the screening process as set forth in 13 CSR 40-2.410.

(2) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household refuses to submit to a drug test for the illegal use of a controlled substance as set forth in 13 CSR 40-2.420.

(3) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household tests positive for the illegal use of a controlled substance and does not enter or successfully complete a substance abuse treatment program as set forth in 13 CSR 40-2.430.

(4) The Family Support Division shall designate the protective payee, within forty-five (45) days of the administrative hearing decision that affirms the division as outlined in 13 CSR 40-2.440, or when a new protective payee must be designated.

(A) The Temporary Assistance head-of-household may nominate an individual to be their protective payee.

(B) A relative, friend, clergy person, or other qualified adult may be designated as the protective payee.

(C) The protective payee shall certify to the division he/she meets the following qualifications before being appointed to be a protective payee:

1. Over the age of twenty-one (21);

2. Able to read, write, and willing and able to act in a fiduciary capacity to handle funds on behalf of another person;

3. Has the ability to keep his/her current residence and mailing address on file at all times with the Family Support Division and keep the individual and other household members informed of his/her current address and contact information;

4. Able to maintain records and account for the use of funds as provided in this regulation;

5. The Department of Social Services has not established a claim against him/her for fraud or misuse arising from any program

administered by the Department of Social Services;

6. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any felony;

7. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor set forth in Chapter 570, RSMo;

8. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor involving the use and/or possession of controlled substances;

9. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor involving the ineligible individual or a family member that is in the Temporary Assistance household;

10. Has not been placed on the central registry maintained by the Department of Social Services for any actions or inaction involving the ineligible individual or a family member that is in the Temporary Assistance household; and

11. Has no civil or criminal court order that hinders the ability of the protective payee to perform any duties as provided in this regulation.

(D) The protective payee has an affirmative obligation to notify the division of any changes in circumstances that would affect his/her qualifications to serve as protective payee as set forth in section (4) including changes in his/her address or contact information within ten (10) days of the change.

(5) A person shall not be qualified to serve as a protective payee under the following circumstances:

(A) The person does not meet the qualifications set out in section (4) of this regulation; or

(B) The person makes any false statements in the certification as set out in section (4) of this regulation.

(6) Responsibilities of the protective payee include:

(A) Acting in a fiduciary capacity on behalf of the members of the Temporary Assistance household when receiving and using the Temporary Assistance benefits under this regulation;

(B) Keeping receipts and other records necessary and appropriate to document how



he or she has spent or otherwise utilized the Temporary Assistance benefits paid to the protective payee under this regulation;

(C) Providing an accounting to the individual, to other household members, or their legal representative and/or the Family Support Division for the receipt and expenditure of all Temporary Assistance benefits paid under this regulation; and

(D) Providing copies of the receipts and other documents to the individual or the division upon request.

(7) The protective payee must use the Temporary Assistance benefits as follows:

(A) To meet the needs of the Temporary Assistance household. Approved uses may include, but are not limited to, the following examples: clothing, food, household supplies such as cleaning supplies and sanitary supplies, medicine, school supplies for children in the household, utility payments, rent, and activities for the children;

(B) Shall not be used to meet the needs of the protective payee or to compensate the protective payee for managing the Temporary Assistance benefits;

(C) Shall not be given to or used in any way to benefit the ineligible individual, or an individual or entity that does not provide a need for the Temporary Assistance household;

(D) Shall not be utilized to purchase controlled substances without a prescription from a licensed health care professional; and

(E) Any payments made to the protective payee that are utilized in violation of this regulation shall be considered a misuse of Temporary Assistance benefits.

(8) The Family Support Division may remove and designate a new protective payee when—

(A) The protective payee fails to use the benefits as set out in section (7) of this regulation;

(B) The protective payee fails to meet the qualifications in section (4); and

(C) A protective payee who has been previously removed shall be disqualified from serving as a protective payee under this regulation.

(9) The Family Support Division may remove the protective payee at such time when the head-of-household is no longer ineligible for Temporary Assistance benefits as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.440.

AUTHORITY: section 208.027, RSMo Supp. 2012. Original rule filed June 29, 2012, effective Feb. 28, 2013.*

**Original authority: 208.027, RSMo 2011.*