

+-----+
 | INFORMATIONAL LETTER |
 +-----+

TRANSMITTAL: 99 INF-21

TO: Commissioners of
 Social Services

DIVISION: Temporary
 Assistance

DATE: December 30, 1999

SUBJECT: Child Assistance Program (CAP) Eligibility: Procedures
 for Employment Sanctions

SUGGESTED

DISTRIBUTION: CAP Coordinators
 Employment Coordinators
 Temporary Assistance Directors
 Staff Development Coordinators

CONTACT PERSON: Greg Nolan at (518) 486-7657

ATTACHMENTS: None.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-24, 99 INF-5		366.1, 366.4(i)	SSL 131-z	CAP Operat- ional Manual pp. II-12 and II-13	

The purpose of this informational letter is to clarify the procedures that districts must follow when a CAP participant fails to comply with work program requirements.

Since the Child Assistance Program is a component program of Family Assistance (FA), the Department of Labor's (DOL) welfare-to-work regulations (12 NYCRR 1300) apply to CAP participants the same as they do to FA recipients. The only difference is that CAP regulations (18 NYCRR 366.4(i)) provide for the entire CAP case to be ineligible for CAP, as well as an individual FA sanction to be imposed, when a CAP participant fails to comply with work program requirements.

As with FA cases, districts must outline a CAP participant's work program requirements in the individual's employment plan. For CAP, districts may choose to substitute the CAP Self-Sufficiency Plan for the employability plan, but they must specify that they are doing this in the district Employment Plan they submitted to DOL. Regardless of which plan (individual employment plan or CAP self-sufficiency plan) is used, districts must be clear in delineating the minimum number of hours that the CAP participant must engage in work, or work-like activities.

When a CAP participant fails to comply with the employability requirements outlined in the individual's employment plan, the district must follow normal DOL processing procedures to determine if the CAP case must be closed and a FA sanction imposed.

Depending upon how local district operations are set-up, this process will normally involve individuals outside the CAP unit, as well as the CAP case manager. It is important that this process be well coordinated.

The first step is the conciliation process. CAP participants who fail to comply with required work activities must be allowed an opportunity to complete the conciliation process before a determination can be made to close the CAP case and impose a FA sanction. The local equivalent of the conciliation notice (DSS-4230) must be provided to CAP participants when the district determines that a CAP participant has failed to comply with required work activities.

After the conciliation is completed, if the district determines that the CAP case must be closed and a FA sanction imposed, there are specific procedures that must be followed. A separate determination must be made of the CAP family's eligibility for FA. This does not require a reapplication, but rather simply determining FA financial eligibility with respect to resources and income.

If the CAP case is also financially ineligible for FA, timely notice imposing the FA sanction and CAP discontinuance must be sent. Since the adverse action being taken impacts both CAP and FA, the CAP "Notice of Action" (DSS-3969) and the FA "Notice of Intent to Change PA and FS for Noncompliance With Employment Related Requirements" (DSS-4004) both must be sent to the family.

Suggested notice language to include on the DSS-3969 is the following:

"In your (enter "employability plan" or "CAP self-sufficiency") plan you agreed to (enter required work activity). Since you failed to do this without good cause, your CAP case is being closed. A sanction from receipt of Family Assistance (FA) for failure to perform the work activity in the plan is being imposed against (enter name of sanctioned individual). You will receive a separate notice telling you about this FA sanction.

The remainder of your household has been determined to be ineligible for public assistance because (enter reason)."

The "Noncompliance With Employment Related Requirements" (DSS-4004) must be completed and sent simultaneously.

If the CAP case is financially eligible for FA, timely notice imposing the transfer of the CAP case to FA and subsequent FA sanction must be sent. Again, since the adverse action being taken impacts both CAP and FA, the CAP "Notice of Action" (DSS-3969) and the FA "Notice of Intent to Change PA and FS for Noncompliance With Employment Related Requirements" (DSS-4004) both must be sent to the family.

Suggested notice language to include on the DSS-3969 is the following:

"In your (enter "employability plan" or "CAP self-sufficiency") plan, you agreed to (enter required work activity). Since you failed to do this without good cause, your CAP case is being closed and your family being transferred back to the Family Assistance (FA) program. Also, a sanction is being imposed against (enter name of sanctioned individual) for (enter time period of sanction). Because of the sanction, your family is only eligible for a partial FA grant. This means that we figured your Family Assistance grant without giving a portion of the grant to (enter name of sanctioned individual). You will receive a separate notice informing you of the FA sanction."

The "Noncompliance With Employment Related Requirements" (DSS-4004) must be completed and sent simultaneously.

Medicaid Implications

There are no employment requirements for Medicaid recipients. When a CAP case that is also in receipt of Medicaid is closed due to an employment sanction and the case is ineligible for Family Assistance, the case should be referred to Medicaid for continued coverage. When a CAP case is closed because of an employment sanction and the remaining persons in the case are opened under Family Assistance, the entire case, including the employment-sanctioned individual, will continue to receive Medicaid through the Family Assistance case.

When the CAP "Notice of Action" and "Non-compliance With Employment Related Requirements" notice are sent to a CAP case being closed due to an employment sanction, and that case is also in receipt of Medicaid, the boxes for Medicaid being continued unchanged must be checked.

Date December 30, 1999

Trans. No. 99 INF-21

Page No. 4

This information will be included in the next update of the CAP Operational Manual.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance