North Dakota Department of Human Services

Temporary Assistance for Needy Families State Plan

2007

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Administration

Agency Structure

The North Dakota Department of Human Services (NDDHS) as the designated state IV-A agency is responsible for the administration of North Dakota's Temporary Assistance for Needy Families (TANF) Program. TANF will be administered in accordance with Title IV-A of the Social Security Act (42 U.S.C. 601 et seq.) and regulations adopted thereunder, as well as applicable state laws and the provisions of this TANF State Plan. The organizational chart for NDDHS is found in Attachment A.

The Public Assistance Division within NDDHS has the primary responsibility for the administration of the TANF Program that is under the direction of the Director, Economic Assistance Policy Division. The division consists of Energy and Nutrition Division; Public Assistance Division; System Support and Development, and Quality Control. The Economic Assistance Policy Division organizational chart is found in Attachment B.

County Administration

Each of the state's fifty-three counties, or a combination of counties, as supervised by NDDHS, administers the TANF Program. County social service offices are responsible for the day-to-day administration of the TANF Program. The only exception to county administration of TANF would be the administration of a TANF program by Tribal Government under Tribal TANF rules. At present, none of the four federally recognized tribes within the State are currently administering a tribal TANF program. Tribal NEW programs are administered by the Standing Rock Sioux Tribe, Spirit Lake Sioux Tribe, Three Affiliated Tribes, and Turtle Mountain Band of Chippewa.

Role of Public or Private Contractors

Currently, NDDHS contracts with multiple employment providers for the employment and training services necessary to meet the requirements of the Job Opportunities and Basic Skills (JOBS) Program. Any other services that are obtained under contract will be provided in compliance with this plan and related plans for other assistance programs. Procurement of contractors will follow applicable state laws and allows Faith Based organizations equal opportunity to secure contracts.

Implementation Date

The implementation date of North Dakota's TANF Program was July 1, 1997. Current plan effective April 1, 2009.

TANF Program Objectives

The TANF Program is based on a comprehensive approach to the economic problems and barriers that confront low-income families. The objectives of the TANF Program are:

1. Allow families to retain a reasonable level of resources;

2. Encourage responsibility under the social contract;
3. Provide incentives to make work more rewarding;
4. Require both parents to share in the support of their children;
5. Support relocation for work or training;
6. Evaluate performance based on the achievement of state goals;
7. Promote participation in the ND Health Tracks Program; and
8. Preserve and strengthen the family structure.

Eligibility Requirements

Treatment of Non-citizens

Qualified aliens who entered the United States before August 22, 1996 are eligible to receive assistance, if otherwise eligible.

All immigrants who meet the definition of a qualified alien and who arrive on or after August 22, 1996, will be ineligible for five years beginning on the date they obtain their qualified alien status, with the exceptions within the law for refugees, asylees, Cuban/Haitian entrants, certain Amerasians, those whose deportation has been withheld, victims of a severe form of trafficking; and veterans, active duty military and certain family members. Certain family members means battered aliens as qualified aliens according to 8 U.S.C. §1641. An alien who is not a qualified alien is not eligible for TANF benefits.

TANF Household

The focal point of the TANF Program is to assist needy, dependent children who live in the home of a relative and have been deprived of parental support or care. A dependent child is defined as being both deprived of parental support or care and needy by reason of death; continued absence from the home; incapacity, disability, or age of either or both parents. Incapacity or temporary disability means an individual with physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Disability may also mean a determination by Social Security Administration that a parent is disabled or approved under the Workers with Disabilities Medicaid Program. Aged means a parent who has attained age 65 or older.

The household must consist of a dependent child, the dependent child's brothers, sisters, half-brothers, half-sisters, and natural or adoptive parents who reside with the dependent child, who are otherwise technically eligible for TANF.

Persons receiving Supplemental Security Income (SSI) are not included in the household and any income, earned or unearned, for that individual is not counted in determining benefits.

Eligibility for TANF assistance for a pregnant woman can begin no earlier than the sixth month of a medically verified pregnancy. If a pregnant woman in the third trimester, with no

other children in the home, resides with her spouse, eligibility for the TANF benefit must be based on incapacity of the pregnant woman or her spouse. If the pregnant woman or her spouse is determined incapacitated, aged, or disabled, the needs of the pregnant woman and spouse may be met until the baby is born. Eligibility may continue if otherwise eligible after the birth of the child if either parent is disabled, incapacitated, or aged. If either parent does not meet the criteria of incapacity, disability, or aged, the case is closed the month of the child's birth.

A TANF family is defined as follows:

- An individual or group of related individuals within a household whose needs are recognized in benefits through Temporary Assistance for Needy Families.
- The parents of any dependent child and all brothers and sisters of any dependent child; whether by whole blood, half-blood, or adoption.
- Any child, parent of any eligible dependent child, or other caretaker relative who receives supplemental security income benefits.
- An alien who does not meet citizen and alienage requirements.
- An individual who is ineligible for Temporary Assistance for Needy Families benefits as the result of the imposition of a sanction.
- An individual who is a household member who is a legal dependent of a member of the household, but does not include roomers or boarders.

Residency

There is no durational residence required for eligibility for TANF benefits. A resident of the state is one who:

a. Is living in the state voluntarily; or

b. At the time of application, is living in the state and is not receiving assistance from another state.

Residence is retained until abandoned.

Families moving into North Dakota are treated the same as other families currently under the TANF program.

Teen Parents - Living Arrangement

Teen parents not living in adult-supervised settings are generally ineligible for TANF assistance.

North Dakota will not use TANF funds to provide assistance to an unmarried individual under 18 caring for a child, if the minor parent and child are not residing with a parent, legal guardian, or other adult relative, subject to limited exceptions.

1. Limited exceptions are made if the state agency determines that:

2. The teen parent has no parent, legal guardian, or other appropriate adult relative who is living or whose whereabouts are known;

3. No living parent, legal guardian, or other appropriate relative allows the individual to live in their home;

4. The teen parent or her child is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian;

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

For some other reason, it is in the best interest of the teen parent's child to waive the requirement for the teen parent and her child to live with a parent, legal guardian, or other adult relative.

If the individual falls within one of the exceptions, the state will provide or assist the individual in locating a second-chance home, maternity home, or other appropriate adult-supervised supportive living arrangement (unless the state determines that the individual's current living arrangement is appropriate). Once the teen parent is in an approved living arrangement, the state must require the individual and her child to reside in the living arrangement as a condition of receiving assistance.

Teen Parents - High School Attendance

North Dakota will not use TANF funds to provide assistance to an individual who is under age 18, is unmarried, has a minor child at least 12 weeks old, and has not successfully completed high school or its equivalent, unless the individual either participates in education activities directed toward attainment of a high school diploma or its equivalent, or participates in an alternative education or training program approved by the state.

Benefit Cap

TANF benefits were not increased because of an increase in household size if the increase was due to the birth of a child conceived while the mother or father was receiving TANF benefits in North Dakota. Exceptions to this provision are for children born as a result of rape, incest, or cases in which the parent is under age 18.

Up-Front Eligibility

Unless first determined to be exempt or granted good cause for nonparticipation, the applicant, and any member of the family for whom temporary assistance for needy families is requested, shall, as a condition of eligibility, cooperate with referrals to child support enforcement and job opportunities and basic skills or a tribal native employment works program.

Stepparent Consideration

In order to encourage marriage among single-parent families and assist those families when the primary individual in a TANF household marries, the income of the stepparent whose

needs were not previously included in the TANF benefit will be disregarded in determining the TANF benefit for the first six months following the marriage.

Income and Assets

Under the TANF Program, all income (earned and unearned income as defined by TANF policy), income deductions, and income exclusions are applied uniformly to TANF households. Resources and resource exclusions, budget methodology, reporting requirements, and certification periods are also subject to a uniform set of rules. TANF uses the term "assets" in lieu of the term "resources."

In an effort to encourage saving by the TANF household, asset limits are $3,000 for one person, $6,000 for household of two, and $25 for each additional person. Additionally, TANF permits eligible households to claim one vehicle (car, van, or pickup) as exempt from asset consideration. No individual development accounts are presently allowed under the TANF Program.

Monthly Reporting

TANF households are required to submit monthly report forms as a condition of continued eligibility. The information will be used to determine eligibility and the amount of the TANF benefit. Requiring a monthly report provides households with a systematic method of reporting income and circumstances for the base and benefit months.

The monthly report does not replace the applicant's or recipient's responsibility to report within five days any change in circumstance that may affect eligibility or the amount of the TANF benefit.

Benefit Calculation

1. TANF Standard of Need

The department has established combined requirements for Temporary Assistance for Needy Families standards of need that represent amounts of income, by household size and living arrangement, necessary for a standard of living compatible with decency and health.

The six basic items of need considered in the temporary assistance for needy families cash grant are:

1. Shelter;
2. Food;
3. Clothing;
4. Personal needs such as combs, toothbrushes, toothpaste, razor blades, sanitary supplies, and haircuts;
5. Household supplies such as cooking utensils, laundry, bedding, and towels;
6. Fuel and utilities.

The applicable standard of need determination must be based on whether the family has an independent living arrangement or a shared living arrangement. A family has an independent living arrangement if the members of that family have sole responsibility for all shelter costs. A family has a shared living arrangement if:

1. The household includes an individual who is at least eighteen years of age and not a member of the family;
2. The family receives a subsidy for shelter expenses, resides in public housing, or is not solely responsible for the assistance unit's shelter costs; or
3. Any member of the family receives assistance for the payment of shelter costs from someone not residing in the family's home.

2. **Dual Standard of Need Policy**

The applicable standard of need determination is based on whether the TANF family has an independent living arrangement or a subsidized/shared living arrangement.

- **Independent Living Arrangement**

  A family has an independent living arrangement if the members of that family have sole responsibility for all housing costs. If a family rents it living quarters, that family has sole responsibility if it is responsible to pay the full rental amount, the rent is not subsidized. If a family owns or is buying its living quarters, that family has sole responsibility if no individual who is not a member of the family pays the cost of mortgage, property insurance, property taxes, special assessments, repairs, and improvements.

- **Subsidized/Shared Living Arrangement**

  A family has a subsidized/shared living arrangement if:

  a. The family includes an individual who is at least eighteen years of age and not a member of the family;
  b. The family receives a subsidy for housing costs, resides in public housing, or is not solely responsible for the assistance unit's housing costs; or
  c. Any member of the family receives assistance for the payment of housing costs from someone not residing in the family.

  Once a determination has been made as to whether the TANF family has an independent or subsidized/shared living arrangement, the applicable standard of need is used to budget the TANF benefit.

  This policy applies if the caretaker is in receipt of TANF, disqualified individual because of a JOBS sanction, disqualified child support sanction, disqualified because of fraud, disqualified because of a drug conviction, disqualified alien, Supplemental Social Security Income recipient, minor parent who is the primary individual of the case, or the individual is in receipt of an out of home allowance.

STANDARD OF NEED WITHOUT SUSIDIZED/SHARED LIVING ARRANGEMENT

No. of Care Takers	Number of Children											For each added child
	0	1	2	3	4	5	6	7	8	9	10	+1*
0	0	213	288	360	435	507	582	655	729	802	876	72
1	282	378	477	573	670	767	864	961	1,058	1,155	1,251	96
2	378	477	573	670	767	864	961	1,058	1,155	1,251	1,349	96

STANDARD OF NEED WITH SUSIDIZED/SHARED LIVING ARRANGEMENT

No. of Care Takers	Number of Children											For each added child
	0	1	2	3	4	5	6	7	8	9	10	+1*
0	0	163	238	310	385	457	532	605	5679	752	826	72
1	232	328	427	523	620	717	814	911	1,008	1,105	1,201	96
2	328	427	523	620	717	814	911	1,008	1,105	1,201	1,299	96

Employment Incentive Disregard

Reasonable costs associated with maintaining employment are considered. A standard work allowance of 27% or $180 whichever is greater of gross earned income is disregarded. This applies to each adult household member, minor parents, stepparents, parents of minor parents, and non-student dependent children who have earned income used to determine the TANF cash benefit. The standard work allowance does not have a time limit.

Employed individuals are allowed to retain more of their earnings while eligible for TANF. Households will be eligible for assistance until their earned and unearned income received exceeds the applicable standard of need. In addition to the standard work allowance, eligible household members may receive the graduated time-limited percentage disregard that is used to offset the net earned income after deducting the standard work allowance against the TANF benefit. With the graduated disregarded income, as the earnings of the household increase, the amount counted in the benefit determination also increases until the net earnings are counted dollar for dollar against the TANF benefits.

The time-limited percentage disregard is for a thirteen-month period. For an employed TANF household member with countable earned income, a maximum of fifty percent of net earned income is disregarded for months one through six. For months seven through nine, a maximum of thirty-five percent is disregarded. For months ten through thirteenth, a maximum of twenty-five percent is disregarded. Beginning the fourteenth month none of the net earned income is disregarded.

Special Needs Items

Approved special items of need for eligible TANF household members are considered part of the state's official standard of need. Special items of need include incentives for obtaining a high school diploma or GED and completing a health tracks screening, or reimbursements for health insurance premiums, car seats, catastrophic event**,** or childcare during a parent's illness or hospitalization.

Allowable Expenses

Allowable earned income deductions include non-household member deductions for stepparent and minor parent budgeting, health insurance premium deductions for stepparent and minor parent budgeting, paid court-ordered child support, paid court ordered alimony, and child or adult dependent care related to paid employment or paid employment and training/education.

TANF allows a deduction for the cost of childcare from household income and the cost of adult dependent care for incapacitated adults living in the same home is a disregard from countable household income. However, the incapacitated adult must be an eligible TANF household member receiving TANF benefits.

Recovery of Overpayment

Overpayments are applied against minor caretakers or primary individuals age 18 and over. The overpayment or underpayment is the difference between the benefit amounts the client actually received before recoupment and the benefit amount the client should have received before recoupment.

Fraud Overpayment Recovery

Recovery of all overpayments resulting from fraud is accomplished by reducing the TANF benefit by 20% of the TANF Standard of Need for the appropriate household size each month until the overpayment is collected. A recipient may repay the amount of overpayment at a rate greater than the 20% standard as long as the decision to do so is voluntary and without duress.

If the court has ordered an amount of recovery different than the amount identified above, the amount ordered by the court would be the amount recovered.

Fugitive Felons, Probation/Parole Violators, and Convicted Drug Felons

An individual is disqualified from receiving TANF in the following situations:

1. A fleeing felon, parole or probation violator. Fleeing felons (charged with or convicted of any felony), and parole or probation violators are ineligible to participate in the program as required by 42 U.S.C. 608.

2. A convicted drug felon. Individuals who have been convicted of a felony offense for an act which occurred after August 22, 1996, which included as an element of possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) are permanently disqualified from the TANF program in North Dakota. The disqualification does not apply to alcohol-related convictions. Action to deny or terminate TANF can be taken only if verification is obtained concerning such conviction. Convictions overturned in a court of law may be removed. Felony status of the conviction is determined with reference to the crime classifications of the jurisdiction in which the conviction took place.

The disqualification for fugitive felons and probation/parole violators may end if the individual corrects the situation.

The disqualification of convicted drug felons ends if the conviction is overturned or if actions of officials or the convicted individual remove the conviction or end its status as a felony.

Fugitive felons, probation/parole violators, and convicted drug felons who are disqualified from receiving TANF assistance continue to have their income and assets considered when determining eligibility for remaining household member(s). Disqualified individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care).

Penalty for Fraudulent Misrepresentation of Residence

Any individual convicted in federal or state court of having made a fraudulent statement or representation after July 1, 1997, with respect to their place of residence in order to receive TANF simultaneously from two or more states shall be disqualified from TANF for a period of ten (10) years, effective the date of conviction. In addition, the individual shall also be referred for Intentional Program Violation (IPV).

Case Management

Case management is the activity that puts into operation the goals and objectives of TANF. TANF places primary emphasis on families moving towards self-sufficiency in contrast to past emphasis on providing benefits to address financial needs. TANF will continue to provide economic assistance to families for temporary support but, from the time they start receiving TANF benefits, work and independence is stressed.

TANF case management is the primary activity of the eligibility worker. Financial assistance is one of a variety of services designed to support families. Family needs are considered in a

context broader than just financial. The eligibility worker and household complete an assessment to identify both strengths and weaknesses in the family. This assessment is used to develop goals and activities that will help move households toward self-sufficiency, agreed upon by the family and the eligibility worker and included in the social contract.

In accordance with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, TANF affords qualified individuals with disabilities opportunity to participate in or benefit from TANF program that is equal to the opportunity the agency offers to individuals without disabilities.

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color and national origin in programs, services and activities that receive Federal financial assistance. Title VI's protection extends to otherwise eligible individuals who do not speak English well or at all. Otherwise eligible individuals, including those with limited English proficiency (LEP), are provided an equal opportunity to participate in the TANF program in accordance with Title VI. The Department requires TANF participants to receive language assistance necessary to afford them meaningful access to services, free of charge.

Assessment

There are six areas under the assessment process with many different goals for each area. The six areas are as follows:

1. Counseling - Needs are identified in areas such as individual and family counseling, substance abuse counseling, domestic violence counseling, and nutrition counseling. If nutrition was picked as an area of need, providers could be identified and the family is referred for services for anything from a nutritional assessment to menu planning or budgeting for nutritional needs.
2. Education - Adult education and early childhood education needs are identified here. Adults without a high school diploma may be referred to adult education classes or to a GED program. Preschool children may be referred to Head Start.
3. Employment - This identifies needs in the employment area and referrals may be made to a number of service agencies such as Job Service and Vocational Rehabilitation.
4. Financial - When financial difficulties are identified as an area of need, referrals may be made to housing assistance, the food pantry, budget counseling or other services that assist families in money management.
5. Legal - Families will be given referrals for legal assistance when this need is identified.
6. Supportive Services - This is a broad area that can identify needs in areas such as transportation or emergency food assistance.

Social Contract

A variety of goals may be identified as the eligibility worker and TANF family completes the assessment. Goals are identified and prioritized as those to address immediately or ones that can be worked on in the future. The task writing is to be done cooperatively between the eligibility worker and the TANF family and is individualized for each family. The development of a social contract takes into consideration an individual's disability and language proficiency

status and, where necessary, reasonable accommodations (e.g. auxiliary aids) and language assistance are provided to ensure effective communication and meaningful program access.

The goals and tasks developed during the assessment are recorded on the social contract. Each family must complete a social contract by the end of the fourth month in which they receive TANF benefits. The social contract is a signed agreement between the county social service office and the family identifying the goals and tasks for which the family is responsible. Each task has a time period identified for completion. Continued eligibility in the TANF Program depends on meeting the obligations under the social contract. Failure to complete the tasks on the contract can lead to the sanction of a household member and, in cases where the sanction is not cured, the TANF case can be closed.

Mandatory Requirements

There are two mandatory requirements that all TANF households must meet unless they are otherwise exempt. These are cooperation with Child Support Enforcement, cooperation with work and training requirements. Reasonable accommodations will be provided to persons with disabilities in accordance with Section 504, Title II of ADA and Title VI of the Civil Rights Act.

TANF recognizes the importance of a strong Child Support Enforcement effort. TANF families must agree to cooperate with Child Support Enforcement to establish paternity and assist in ensuring that non-custodial parents share in the support of their children. Non-cooperation may lead to an individual being sanctioned, and continued non-cooperation may lead to the TANF family losing benefits.

The TANF Program views employment as the key to self-sufficiency. All non-exempt individuals must participate in employment or training activities, unless they are granted good cause to temporarily postpone a referral. Individuals that do not cooperate with the tasks or program requirements may be sanctioned. Continued non-cooperation may lead to closing the TANF case.

An integral component of TANF involves employment and work experience in order to obtain work experience and assist in resume development. Employment and work experience requires a minimum number of hours per week. Nonexempt individuals, who are not actively involved in a full-time training or employment activity, as approved by the agency, may be required to participate after an appropriate assessment.

Sanctions

Sanctions result when an individual refuses to comply with the tasks set forth on the social contract. Sanctions are discussed in detail in the section titled, "Sanctions - Failure to Comply with TANF Program Requirements Penalty".

Failure to Comply with TANF Program Requirements

Families and individuals receiving assistance under North Dakota's TANF program must meet certain requirements as part of their continued eligibility for benefits. Failure to comply with those requirements may result in a penalty or sanction imposed against the responsible party(ies) unless good cause is established. Program requirements include participation in work or training activities; parenting or budgeting classes; or individual, family, substance abuse, or addiction counseling. This list is not all-inclusive; other activities may be required as determined through assessment of the individual's needs.

Sanctions will result in the disqualification of the responsible individual and his or her needs will be removed from the TANF benefit. However, the disqualified individual's income and resources continue to be counted in determining the amount of the TANF benefit for the family. Under the TANF Program, participants who fail or refuse to comply with program requirements, without good cause, may be sanctioned. Actions or failures to comply that may result in sanctions include:

a. Failure or refusal to participate in the Job Opportunities and Basic Skills program;
b. Failure or refusal to cooperate in obtaining child support or establishing paternity;
c. Not completing a social contract;
d. Not signing a social contract;
e. Not completing the goals or tasks listed on a social contract; and
f. Not cooperating with an agency providing services to meet goals or tasks listed in the social contract, including goals identified as mandatory or non-mandatory referrals and goals that are non-mandatory and identified in the assessment.

Individuals who are required to participate in the job opportunity and basic skills program do not have their financial needs met for the month of application and the following three months, until they participate. Months in which the individual does not participate are considered sanction penalty months.

All sanctions are first imposed against the responsible individual and will result in removal of the individual’s needs from the TANF benefit, known as the sanction penalty month. The sanction penalty month runs from the effective date of a sanction through the last day of that month. If the sanctioned individual does not cure the sanction prior to the end of the sanction penalty month, the sanction may progress to closure of the entire case. If a sanction leads to closure of the entire case, the household will be ineligible for assistance in the month following the sanction penalty month.

Sanctions for non-cooperation with Child Support Enforcement, a social contract, or the JOBS Program follow the non-cooperating individual.

A JOBS sanction and a social contract sanction are cured only when the responsible individual demonstrates, to the satisfaction of the county agency, that the failure to cooperate or participate, as required, has been corrected.

A Child Support Enforcement sanction will be considered cured upon notification from the Child Support Enforcement agency to the eligibility worker.

In some instances, a JOBS sanction will result in the creation of an overpayment instead of an immediate reduction in the household's TANF benefit. The overpayment will be equal to the sanctioned individual's needs during the sanction penalty month.

The consequences of a TANF sanction are the same regardless of how many times an individual may have been previously sanctioned.

The state will not reduce or terminate assistance if the household demonstrates the inability to obtain childcare for one or more of the following reasons:

1. Unavailability of appropriate child care within a reasonable distance from the individual's home or work site;

2. Unavailability or unsuitability of informal child care by a relative or under other arrangements; and
3. Unavailability of appropriate and affordable formal child care arrangements.

Demonstrated inability to obtain childcare will be based on client completion of tasks spelled out in the social contract. These tasks will be developed on an individual basis with each family and may include such things as contacting Resource and Referral to obtain a list of appropriate child care providers and following through on contacting the providers. Satisfactory completion of assigned tasks and childcare not being obtained will demonstrate inability to obtain childcare.

Reasonable accommodations will be provided to persons with disabilities in accordance with Section 504, Title II of ADA and Title VI of the Civil Rights Act.

Non-cooperation with Child Support

Individuals who apply for or are receiving assistance under the TANF Program are required to cooperate with the state's Child Support Enforcement. Any individual who is not cooperating with the state to establish paternity or to establish, modify, or enforce a support order with respect to a child of the individual shall be subject to sanction unless good cause is established.

Work Programs

North Dakota's TANF work program is called the Job Opportunities and Basic Skills (JOBS) program. Non-exempt individuals, who do not have good cause, are referred to either the state's JOBS program or to one of the four Tribal Native Employment Works (NEW) programs in the state. See Tribal New Participants on page 28.

Non-exempt individuals who are referred to the JOBS program are required to engage in allowable work activities consistent with the TANF Interim Final Rule and North Dakota's TANF Work Verification Plan.

Reasonable accommodations will be provided to persons with disabilities in accordance with Section 504, Title II of ADA and Title VI of the Civil Rights Act.

Allowable Work Activities for TANF/JOBS Participants:

1. **Unsubsidized employment:**
   Unsubsidized employment includes full or part-time employment in the public or private sector that is not subsidized by TANF or any other public program.
2. **Subsidized Private or Public Sector Employment:**
   Subsidized private or public sector employment means employment in the private or public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a non-exempt individual.
3. **Work Experience:**
   Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available means a work activity, performed in return for TANF, that provides an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment. The purpose of work experience is to improve the employability of those who cannot find unsubsidized employment.
4. **On-the-job-training (OJT):**
   OJT means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job.
5. **Job Search and Job Readiness Assistance:**
   Job search and job readiness assistance means the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable. Such treatment or therapy must be determined to be necessary, based on documentation from a qualified professional.
6. **Community Service Programs:**
   Community service programs are structured programs and embedded activities in which TANF recipients perform work for the direct benefit of the community under the auspices of public or private nonprofit organizations. Community service programs include 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. Community service programs are designed to improve the employability of recipients not otherwise able to obtain employment. North Dakota will take into account the prior training, experience, and skills of a recipient in making appropriate community service placements.

7. **Vocational Educational Training:**
   Vocational educational training means 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.
8. **Job Skills Training Directly Related to Employment:**
   Job skill training directly related to employment means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.
9. **Education Directly Related to Employment:**
   Education directly related to employment, in the case of recipient who has not received a high school diploma or a certificate of high school equivalency means education related to a specific occupation, job, or job offer.
10. **Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence:**
    Satisfactory attendance at 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 means 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.
11. **Providing Child Care Services to an Individual who is Participating in a Community Service Program:**
    Providing child care services to an Individual who is participating in a community service program means providing child care to enable another TANF recipient to participate in a community service program.

    North Dakota considers non-exempt individuals, who participate in this activity, to be employees for purposes of determining how many hours of work they may be required to complete under the minimum wage requirements contained in the Fair Labor Standards Act (FLSA). See Section II (B) of the work verification plan for additional information on FLSA deeming of core hours.

Domestic Violence Option

North Dakota chooses to implement the Family Violence Option provided in 42 U.S.C. 602(a)(7)**.** Domestic Violence includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force or assault, not committed in self-defense, on the complaining family or household members.

Family or household member means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a

child in common regardless of whether they are or have been married or have lived together at any time.

The domestic violence-screening component is included in the TANF assessment. The purpose of the screening tool is to identify victims of domestic violence, make referrals to appropriate services for victims of domestic violence, and identify victims of domestic violence to exempt from work participation requirements and the 60-month lifetime limit for TANF benefits. The exemptions are based on incapacity along with other conditions that may likewise exempt clients from participation requirements for a period of time.

Screenings that indicate past or present domestic violence may result in a referral for services. The client and worker will discuss the need for counseling, support group services or further assessment and will arrive at a strategy to address the need. It is important for victims of domestic violence to establish some control in their lives. As a first step towards this end they will be given support to develop an intervention strategy to address their present needs.

Victims of domestic violence may be excused from work participation requirements, education requirements and may receive assistance past the 60-month limit on TANF participation. The consideration is based on identification of domestic violence, evidence that it is interfering with daily living, and participation in counseling or support services to address the problem. The purpose of the exemption is to allow the client time to address issues related to domestic violence. The long-range goal is to address these issues and get past them to a point where the client can reach self-sufficiency.

NDDHS recognizes the devastating effect of domestic violence on the lives of its victims. The TANF Program developed by North Dakota provides opportunities to identify the occurrence of domestic violence and to support families as they work to overcome the problems associated with past or present violence. The goal of the TANF Program is to identify these conditions and create individual plans to address these needs. Self-sufficiency is always the goal under TANF and in cases where exemptions are granted; they are viewed as temporary in nature.

Out-Of-Wedlock Pregnancy Prevention

NDDHS in partnership with the North Dakota Health Department addresses the issue of out-of-wedlock pregnancies with clients served by NDDHS programs. A training package on preventing out-of-wedlock pregnancies has been developed to present to all children, age 13 and older. The package is made available to other government entities and private agencies providing services to children. Family planning information is included in light of increasing sexual activity at a younger age by today's youth.

Abstinence education is part of the training package for youth and in addition a grant from North Dakota Health Department may be made available in each of the eight regions for competitive bidding to develop and implement an abstinence education program for the

youth in each region. Pre-pregnancy family planning services are offered to those who are eligible for Medicaid.

In TANF, we encourage marriage by disregarding the stepparent's income for six months when a person on assistance marries.

TANF benefits cannot be used as a vehicle to allow unwed minor parents to establish their own household. North Dakota requires minor parents to live with their parents or in an approved adult supervised setting in order to receive assistance. Public education is carried out in a variety of ways to inform minors of these provisions.

To include young men in this attempt to reduce out-of-wedlock births, an increased effort is made to educate them on the consequences of fathering a child. Primary concentration is an emphasis on child support laws and the financial obligations and responsibilities that go along with being a father.

In an effort to reduce the number of out-of-wedlock births a section on family planning is included as part of the assessment tool and each family is provided with a brochure entitled Family Planning Program.

Abortion Alternatives Program

North Dakota Senate Bill 2409, during the 2005 legislative session, created the Abortion Alternatives Program. The act established an alternatives-to-abortion services program. The services are outcome-bases with positive outcome-based results. For purposes of this program, “alternatives-to-abortion services” are those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children. The program is temporary but subject to legislative reauthorization, and was effective January 1, 2006.

Statutory Rape Education & Training

In TANF there is a directive to expand teen pregnancy prevention programs to include men by conducting a program of education and training on the problem of statutory rape.

North Dakota Heath Department has developed a training package available to schools, law enforcement and the court system to educate service providers and government entities about statutory rape.

The training package developed is made available to a broader audience by offering it to public and private secondary schools and public and private colleges in North Dakota. NDDHS on its own does not serve as broad a population as is needed to fully address this issue. We will work to cooperate and give technical assistance to other public entitles and private organizations to distribute information to as large a group as possible.

Parental Responsibility

TANF places a renewed emphasis on responsibility of the custodial and non-custodial parents to care for their children. Much of this increased emphasis on responsibility is found in the Enhanced Child Support Enforcement section.

Enhanced Child Support

The State of North Dakota uses greater administrative access to sources of information from a variety of public and private entities to promote expedited and enhanced child support enforcement services. The following highlights illustrate administrative changes that enhance enforcement abilities and increase parental responsibilities.

- Child support does have the authority to use administrative subpoenas for gathering information to establish, modify or enforce support orders.

- Child support does have the authority to administratively order genetic testing. Child support has eliminated the right to jury trials in paternity cases. Child support requires temporary payment of support based on probable paternity findings, thereby reducing the incentive to delay hearings as a means of delaying payments.

- Greater administrative access to records of public and private entities to find non-custodial parents, wages and assets is pursued. A new hire registry in the state was developed to better track employment of non-custodial parents.

- In cases where a child is receiving assistance under TANF and the non-custodial parent owes past due child support, state law includes authority to issue an order or request a court to issue an order requiring an individual to pay support in accordance with a payment plan or to participate in work activities as defined in 42 U.S.C. 607(d) which defines the mandatory work requirements. This requirement will be met using existing programs based upon a request for a court order to pay or participate in work.

- Courts have the authority to suspend various licenses of persons owing past due child support.

- More is expected of the custodial parent as well. Non-cooperation with child support may lead to sanctions that could lead to a family losing eligibility.

Additional Parental Responsibility under TANF also includes:

- Minor parents must live with their parents or in an approved adult supervised setting to receive assistance through TANF.
- Minor parents are required to stay in school. Based on assessment results, they may be required to receive extra training on issues such as parenting, and food and nutrition education. The goal of this is to increase their chances of finding good employment to better support their children.

60-Month Lifetime Limit - Exemption Criteria

The state is prohibited from providing TANF benefits to families that include adults who have received TANF benefits for 60 months (whether or not consecutive). Individuals may be allowed an exception to the rules if they meet the criteria listed in this section. Cases must meet the exemption criteria specified in this section and, unless the condition is permanent, the cases will be reviewed periodically to determine if the exemption is still valid.

Indian Country exemptions to the 60-month lifetime limit are available only to adults who live in Indian country (as defined in 18 U.S.C. 1151) or an Alaska Native village, with respect to months in North Dakota in which data provided by Job Service North Dakota, or with respect to months in other States in which data found reliable by that State, indicates that at least fifty percent of adults living in Indian country or in the village were unemployed.

Exemptions to the 60-month lifetime limit for hardship and families that include an individual who has been battered or subject to extreme cruelty apply to households that have reached the 60-month time limit, may not exceed twenty percent of the average monthly number of families receiving TANF assistance, and are limited to:

1. Families that include an individual who has been battered or subject to extreme cruelty, if the individual has been subjected to:
   - Physical acts that result in or threatened to result in physical injury to the individual;
   - Sexual abuse;
   - Sexual activity involving a dependent child;
   - Being forced as a caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
   - Threats of, or attempts at physical or sexual abuse;
   - Mental abuse; or
   - Neglect or deprivation of medical care.

2. Cases in which a hardship has been determined for reasons documented in the case file, including:
   - The Social Security Administration has determined the adult caretaker to be disabled;
   - The needy caretaker relative is age 65 or over;
   - Eligible parents or caretaker relatives who are providing care to a child whose condition precludes care by a child care provider, in-home care, or outside of the home care and prevents the parent or caretaker relative from becoming employed, and
   - The household includes an individual who is or would otherwise be subject to work activity requirements who is a victim of domestic violence. (See Domestic Violence Option provisions of this plan).

Special Projects

The NDDHS recognizes there are diverse populations within the state and that the various human service planning regions can better meet the needs of the populations within their regions and determine methods to assist recipients in their endeavors to become self-sufficient.

As a result, human service planning regions may, with state approval, provide TANF benefits and services that are not identical to benefits and services provided elsewhere in North Dakota. Approved special TANF projects will have objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment that will provide opportunities for recipients to become self-sufficient.

Closer cooperation between County Social Services, Employment Providers and the Regional Human Service Centers is a key feature of these Special Projects. The NDDHS encourages efforts to use the resources of these agencies to assist TANF families to become more self-sufficient. In regions containing Indian Reservations, Tribal Programs should be included in these cooperative efforts.

A core feature of each of the approved special TANF projects will be the enhanced cooperation between county social services, Employment Providers and the applicable regional human service center.

Kinship Care Assistance

Kinship care supports a child residing outside the child's parental home if the child is residing with a caretaker relative who is that child's relative by birth, marriage, or adoption. Placement will receive financial resources through supportive services and a monthly maintenance payment. Within the limits established by the department under the foster care program, supportive services may provide reimbursements for childcare expenses, transportation, clothing, emergent needs, activity fees, and as a payer of last resort, reasonable legal fees incurred by or on behalf of a child approved by the department. Support services and a kinship care maintenance payments are in the same amount as the standard of need for a shared living arrangement for a child or children under the temporary assistance for needy families program and:

1. A court of competent jurisdiction has entered an order placing child's care custody, and control with a county agency in North Dakota or their designee; and

2. Before placing a child in kinship care for more than thirty days, the county agency with care, custody, and control of the child, or their designee, has completed a family study, a child abuse and neglect background check, and such other investigations as the department may determine necessary to demonstrate that:

   a. The home in which care will be provided is in fit and sanitary condition and properly equipped to provide good care to the child.

b. The caretaker relative, and other adults residing in the home of a caretaker relative are properly qualified to carry on the duties and responsibilities of a kinship care provider;

c. Kinship care will be provided in the home for the public good in accordance with social service policy and with due regard to the health, morality, and well-being of all children cared for in the home; and

d. The home will be maintained according to standards prescribed for its conduct by the department.

Diversion Assistance

Diversion Assistance provides short-term help to needy families to assist them in becoming or remaining self-sufficient. Diversion cash assistance is provided to qualified families while enabling individuals to clear up problems that might push them further into poverty. Diversion assistance is not assistance for purposes of 45 CFR 260.31. Diversion assistance is funded with TANF and MOE funds.

1. A family may not receive diversion assistance and a temporary assistance for needy families grant for the same month. A family may receive diversion assistance for up to four months within a twelve-month period, beginning in the month diversion assistance is provided. No family that includes a caretaker who is not a legally responsible relative of a child member of the family may receive diversion assistance.

2. Diversion assistance may be provided to defray expenses necessary to retain or obtain employment. Expenses must be verified.

3. Members of a family are not required to participate in the job opportunities and basic skills program.

4. No cooperation in obtaining support or establishing paternity for any child member of the family is required. The family may request a referral to the child support enforcement agency.

5. No assessment and social contract are required.

6. An applicant may appeal a denial, limitation, or termination of diversion assistance, and a recipient of diversion of assistance may appeal termination or reduction of assistance, by making a written request for a hearing within thirty days from the date of the notice of adverse action. Diversion assistance not already approved may not be provided pending the hearing decision.

7. A month in which diversion assistance is received does not count towards the temporary assistance for needy families sixty-month lifetime limit.

8. A family must be income and asset eligible for Diversion assistance. All income (earned and unearned income as defined by policy), income deductions, and income exclusions are applied uniformly. The asset limits are $3,000 for one person, $6,000 for household of two**,** and $25 for each additional person plus one vehicle (car, van, or pickup) is exempt from asset consideration.

Transition Assistance

Transition Assistance promotes job retention by providing an extended period of cash assistance to qualified TANF households. TANF households with earnings from employment exceeding the allowable standard of need for their household size may remain eligible for TANF for up to six months. Transition Assistance provides a safety net of financial support during this six-month period to assist households in attaining self-sufficiency, thereby eliminating the need for future government benefits.

1. A family may not receive a grant for Transition Assistance and TANF for the same month. A family may not receive a grant for Transition Assistance and Diversion Assistance for the same month.

2. Transition Assistance is not applicable in an application month. Only recipients of TANF become eligible for Transition Assistance.

3. Transition Assistance is an extension of an ongoing TANF case, where the monthly earnings from employment exceed the allowable standard of need, based on the size of the household.

4. Transition Assistance provides a monthly job retention incentive and a one-time incentive for individuals who obtain a high school diploma or GED. Reimbursement of expenses associated with the cost of childcare, health insurance, health tracks and transportation may also be provided. Expenses must be verified.

5. Existing eligibility requirements under TANF continue to apply under Transition Assistance.

6. Transition Assistance counts towards the sixty-month lifetime limit. A qualifying family may receive Transition Assistance multiple times during the sixty-month lifetime limit.

7. The maximum number of consecutive months a family may receive Transition Assistance cannot exceed six months.

8. Allowable income deductions applicable to TANF are not applicable to Transition Assistance.

TANF Information And Referral Services

The county social services offices throughout the state provide TANF Information and Referral Services to applicants and recipients of all programs administered in those offices, including all locally administered economic assistance programs, concerning available services in their area such as Housing Assistance, Food Pantry, Social Security Administration, Vocational Rehabilitation, Human Service Centers, Salvation Army, WIC, etc.

State Only Programs

North Dakota State only funded cash assistance program may provide a subsidy to families with children and pregnant women who:

- Are working and receiving assistance under the state Child Care Assistance Program or Supplemental Nutrition Assistance Program; or
- May be otherwise ineligible for or not receiving TANF assistance or Diversion Assistance.

Tribal Participation

Four federally recognized tribes provide various types of services to tribal members within North Dakota. NDDHS has worked closely with tribal staff in areas such as the Job Opportunities and Basic Skills (JOBS) and Childcare Programs. It is the intent of NDDHS to support in an appropriate manner the decision of each tribe to directly participate or not to participate in administering TANF. NDDHS will provide each member of an Indian tribe, who is a resident of the state and is not eligible for assistance under a Tribal Family Assistance Plan approved under Section 412, with equitable access to assistance under the TANF Program.

If any of the four federally recognized tribes choose to operate a TANF Program separate from the state, the tribal TANF Program may set its own eligibility and benefit rules subject to federal approval. Tribal TANF participants will not be included in the state's TANF reports or work rate calculation.

The State of North Dakota does not discriminate on the basis of race, color, national origin, disability status, sex, age, religion or any other protected status.

Tribal NEW Participants

Non-exempt individuals, who are members of a federally recognized tribe, may be referred to one of the four tribal Native Employment Work (NEW) programs within the state for work and training activities. Native American's may participate in JOBS program or the Tribal NEW program. There are four Tribal NEW programs that are administered by the tribes, Standing Rock Sioux Tribe Tribal NEW Program, Spirit Lake Sioux Tribe Tribal NEW Program, Three Affiliated Tribes Tribal NEW Program, and Turtle Mountain Band of Chippewa Tribal NEW Program.

Individuals who are referred to a Tribal NEW program are excluded in the work participation rate calculation or included if the non-exempt individual meets the minimum number of required hours in a federal work activity and meets the verification requirement attached to federal reporting of hours of participation in a federal work activity.

Emergency Assistance

TANF resources will be used for emergency assistance to needy families with children who were eligible for emergency assistance under the approved North Dakota AFDC State Plan as of September 30, 1995.

The emergency covered services will be limited to children who are in situations where a court has determined that continued presence in their home is not in their best interest or for out of home care and preservation services to eligible families with children who are experiencing an emergency.

The kind of assistance provided to meet emergency situations shall be limited to maintenance payments for foster family care, group or residential child care or residential treatment for children separated from their parents including all food, clothing and supervision, unless the child is eligible for such assistance under Title IV-E, intensive in-home, parent aide and family focused casework.

The application for foster care shall constitute the application for foster care maintenance payments for Non-IV-E eligible children for emergency assistance.

Emergency Assistance may be provided for 365 days per year.

Confidentiality And Safeguarding Information

Federal and state laws and regulations strictly limit the use and disclosure of confidential information concerning applicants and recipients of economic assistance programs to purposes directly related to the administration of those programs, including, though not necessarily limited to:

1. Establishing eligibility, determining amount of assistance, and providing needed services for applicants and recipients;

2. Any prosecution of criminal or civil proceeding conducted in connection with the administration of such programs; and

3. Furnishing to a federal, state, or local law enforcement officer the current address of any recipient, to enable the officer to conduct the official duties of the officer. The recipient may be 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 that is a felony…or is a parole or probation violator.

Staff members at both state and county levels of government have access to conversation, files, records, reports, and mail that reflect information of a highly private nature. This information deals with such human problems as illegitimacy, mental illness and deficiency, conflicts with the law, economic distress, marital discord, and congenital deformities or other medical handicaps. Extreme discomfort, embarrassment, and harm can result for the individual or family if such information falls into the hands of unauthorized persons. For this reason, strict standards for safeguarding this information are defined in federal and state statues and their violation has potentially serious legal consequences.

During the course of determining eligibility, the eligibility worker uses prudent methods for gathering information. Only factual information relevant to the determination of eligibility and work readiness will be sought and entered in the case file. The worker shall identify themselves by name, position, and purpose at each public contact.

1. Information to be safeguarded

Other types of information that must be safeguarded include, but are not necessarily limited to:

- The names and addresses of applicants and recipients and amounts of assistance paid, except as provided in North Dakota Administrative Code;
- Social and economic conditions or circumstances that are identified with a particular individual. This restriction also applies to information obtained from North Dakota Job Service, Internal Revenue Service, or from the Social Security Administration;
- County social service board and/or other professional evaluations of information about a particular individual;
- Medical data, including diagnosis and past history of a disease or disability, concerning an applicant/recipient; and
- Personal health information that is generated by the Department of Human Services or received from health care providers is kept confidential as required by law.

2. Information that need not be safeguarded

Information of a general nature concerning caseloads, number of recipients by program, social and statistical data resulting from studies, surveys and reports, expenditures for programs and for administration, etc., that cannot be identified with specific individuals or families is public information and can safely be released to the news media or other interested parties.

3. Release of Information to Public Officials

Applicants/recipients of assistance programs sometimes approach their legislators, members of the Washington delegation, or other elected or appointed official to complain or seek information about some aspect of their assistance status. On their behalf, the

official may in turn seek clarification from county or state staff. When such inquiry is clearly made at the request of the applicant or recipient, there is an implied consent on the latter's part to release the required information. In this instance, the facts can be safely provided without a signed SFN 1059, "Authorization for Release of Information".

4. Release of Information for Research Projects

Information concerning persons applying for or receiving assistance or services through any program administered or supervised by NDDHS may be released to a person conducting bona fide research, provided that all conditions outlined in Section 75-01-02-02 of the North Dakota Administrative Code are met. All research requests will be routed through the NDDHS Institutional Review Board (IRB) for approval or denial.

5. Release of Information from Case File to Applicant/Recipient

Case file information may be inspected by the applicant/recipient or his legal representative and copies of case materials, if requested, should be provided free or at reasonable cost. The file in some instances may contain medical or psychological information that if inadequately explained and interpreted, could be harmful to the person. When such is the case, the applicant/recipient should be advised that the information would best be provided to an appropriate professional who, in turn, could interpret the material. If, however, the individual persists in his demand for personally receiving the information, it should be provided. In such situations, a narrative entry should be clearly indicate that the request for information was granted but against agency recommendation.

6. Release of Information to Other Agencies

In addition to purposes directly related to the administration of assistance programs, information concerning applicants/recipients is available to persons and/or agency representatives of federal or federally assisted programs that provide aid, in cash or in-kind, to people on the basis of need.

Release of information to other persons or agencies may be made with the applicant's/recipient's signed permission, via SFN 1059, "Authorization for Release of Information", or other appropriate documentation.

7. Use of Public Records Without Knowledge or Consent

Public records may be consulted for documentary evidence without requesting the individual's consent. Additionally, no consent is required when seeking essential information from the Social Security Administration, BENDEX System, Job Service, Job Insurance Division, courts, Bureau of Indian Affairs, county courthouse records, or Credit Bureau publications.

8. Release of Information to Law Enforcement Authorities and Courts

Disclosure of information to law enforcement authorities, including the State's Attorney, is permissible when necessary to properly administer the program (e.g., initiate an investigation or prosecution for suspected fraud) or when the applicant/recipient has consented to the disclosure (use SFN 1059 to record the consent). Copies of relevant documents from the case record can be made available to such officials, if necessary.

The Deficit Reduction Act of 1984 permits the release to law enforcement authorities of the name and address of a current TANF recipient who is a fugitive felon. A fugitive felon is one who has been convicted of (not merely charged with) a felony and who is subject to a court order for his/her apprehension. To receive such information, law enforcement officials must be able to provide the recipient's name and social security number and satisfactorily demonstrate that: a) the recipient is a fugitive felon, b) the location and apprehension of such felon is within their official duties, and c) the request is made in the proper exercise of those duties.

A county social service board representative may receive a subpoena requiring testimony or disclosure of information from records concerning an applicant or recipient. If the subpoena is issued by or at the request of the attorney representing the applicant/recipient, the subpoena may be complied with because of the latter's implied consent. When the subpoena for a court appearance is issued by any other person, however, the county social service board representative should appear in court at the appointed time, bringing copies of any case materials that will likely be required. When asked to testify about the applicant/recipient or to turn over confidential documents, the court's attention should first be called to state law (Section 50-06-15 of the North Dakota Century Code) that provides a criminal penalty for disclosing confidential information. If the judge then orders the testimony to be given or the documents to be released, the subpoenaed individual can safely comply.

Subpoenas are sometimes issued to secure witnesses in a "deposition," defined as the taking of sworn testimony, usually in an attorney's office, but with no judge present. If such a subpoena is received by a county social service board representative, the attorney issuing the subpoena should be immediately advised of the confidential nature of the requested testimony. Often this will result in the withdrawal of the subpoena. If not, the subpoenaed individual should appear at the deposition and make a statement, as described above, regarding the criminal penalty provided in state law for disclosing confidential information. Because no judge will be present to order the testimony, no confidential information may be divulged in the deposition. Unless a party to the action or lawsuit gives the authority to do so, no one can be required to produce records at a deposition.

If a subpoena is received in an action or lawsuit in which the county social service board or one of its employees (in the employee's official capacity) is a party, the subpoena should be promptly brought to the attention of the attorney representing the party. Consultation with the state's attorney or legal counsel for NDDHS should be sought if other questions about the proper response to a subpoena arise.

9. Certain Practices Prohibited

The determination of a person's initial or continued eligibility for assistance shall be conducted in a manner consistent with his or her rights under the United States Constitution, the Social Security Act, and Title VI of the Civil Rights Act of 1964 and in accordance with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. Thus any practice that violates an individual’s privacy or personal dignity,

subjects him to any form or harassment or discrimination prohibited by law (e.g., Section 504, Title II of the ADA or Title VI of the Civil Rights Act), or infringes on his constitutional rights is forbidden.

The North Dakota Department of Human Services and county social service boards shall not, directly or through contractual or other arrangements, on the ground of race, color, religion, gender, national origin, age, or disability;

- Deny any individual any aid, care, services, or other benefits provided under this program;
- Provide any aid, care services, or other benefits to an individual which is different or is provided in a different manner from that provided to others under the program;
- Subject an individual to segregation or separate treatment in any manner related to receipt of any aid, care, services, or other benefits provided under the program;
- Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, or other benefits provided under the program;
- Treat an individual differently from others in determining whether he/she satisfies any eligibility or other requirement or condition which individuals must meet in order to receive any aid, care, services, or other benefits provided under the program; or
- Deny any individual an opportunity to participate in the program through the provision of services or afford him/her an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee where the primary objective of the federal financial assistance to the program is to provide employment, including a program under which the employment is provided to reduce unemployment).

10. Privacy during Interviews

All reasonable precautions should be taken to ensure that interviews are conducted in private surroundings. Whenever possible, a private office shall be used. Likewise, office procedures should be such that confidential information is not inadvertently revealed to bystanders or others having no legitimate interest in the affairs of the applicant/recipient.

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 (45 CFR Parts 160 and 164) provides for the privacy of individualized health information. Under HIPAA, a notice of privacy rights and explanation of how protected health information (PHI) is used or disclosed is distributed to every recipient.

Individuals that conduct the interviews are informed of HIPAA Privacy rules specify federal penalties that will be imposed on persons if a patient's right to privacy is violated. For non-criminal violations of the privacy standards by the persons subject to the standards, there are civil monetary penalties of $100 per violation up to $25,000 per year, per standard. In addition, criminal penalties are provided in HIPAA for certain types of violations of the statute that are done knowingly: up to $50,000 and one year in prison for obtaining or disclosing protected health information; up to $100,000 and up to five years

in prison for obtaining or disclosing protected health information under “false pretenses;” and up to $250,000 and up to 10 years in prison for obtaining protected health information with the intent to sell, transfer or use it for commercial advantage, personal gain or malicious harm.

Right to Fair Hearing

1. An opportunity for a fair hearing is available to any applicant or recipient who requests a hearing in the manner set forth in this chapter and who is dissatisfied;
   a. Because an application was denied or not acted upon with reasonable promptness;
   b. Because county social service board action has resulted in the suspension, reduction, discontinuance, or termination of assistance;

2. NDDHS may, on its own motion, review individual cases and make determinations that are binding upon the county social service board. An applicant or recipient aggrieved by such determination shall, upon request, be afforded the opportunity for a fair hearing. All references to appeals from decision of county social service boards shall be understood to include appeals taken form determinations made by NDDHS.

3. A fair hearing request may be denied or dismissed where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect benefit computation.

4. The claimant may first seek corrective action from NDDHS or claimant's county social service board before filing a request for a fair hearing with the executive director of NDDHS.

5. If a claimant dies after the claimant has filed a request for a fair hearing, and before the decision of NDDHS has been rendered in the case, an heir of the claimant may continue on behalf of the claimant’s estate, or the proceedings if a legal representative has not been duly appointed.

6. If a dissatisfied claimant dies before the claimant can file a request for a fair hearing, the duly appointed representative of the claimant's estate, or any heir of the claimant if no representative has been appointed, may file such request when the claimant was dissatisfied with the denial of the claimant's application for assistance, or was dissatisfied with the amount of the assistance the claimant was receiving prior to the claimant's death.

7. The claimant has the right to challenge provision that relates to discrimination or Health Privacy claims. The website for Office of Civil Rights is www.HHS.gov/OCR> To file a complaint, an individual may contact one or all of the following:

   Beth Steffan, Program Civil Rights Officer
   North Dakota Department of Human Services
   600 E. Boulevard Ave
   Bismarck, ND 58505-0250
   1-701-328-3332 or 1-800-755-2671
   TTY 1-800-328-3480

   US Department of Health and Human Services
   Office of Civil Rights, Region VIII
   Federal Office Building
   1961 Stout St.
   Denver, CO 80294
   1-303-844-2028
   TTU 1-303-844-3439

   Health and Human Services, Director
   Office of Civil Rights, Room 506-F
   2000 Independence Ave SW
   Washington, D.C. 20201
   1-202-619-3257
   TDD 1-202-619-3257

Withdrawal of Request for Fair Hearing before Decision

1. The claimant may withdraw the request for fair hearing at any time before a decision is made by NDDHS.
2. In cases where there appears to be a possibility for corrective action without further fair hearing proceedings, the claimant may file a conditional withdrawal of the request for a fair hearing. Such conditional withdrawal will not prohibit the claimant from filing a new request for a fair hearing if the claimant remains dissatisfied with any such corrective action. No hearing shall be delayed or canceled because of this possibility unless the claimant consents to such delay.

PUBLIC INVOLVEMENT

As required under 42 U.S.C. 602(a), NDDHS has provided opportunities to local governments, private sector organizations, and the general public to review and discuss the Temporary Assistance for Needy Families (TANF) Program. Local governments, private

sector, and the general public were given an opportunity to submit comments on the design and content of the TANF State Plan. Details of the state's efforts to solicit suggestions and comments are listed below.

1. The TANF State Plan is posted on the North Dakota Department of Human Services website with an invitation for interested parties to comment on the plan. Notification was sent to all county social service agency directors on November 1, 2007, directing them to the department's website to view the TANF State Plan.

2. A public notice was placed in each of the state's daily newspapers requesting suggestions from the public content of the TANF State Plan.

3. Testimony before committees of the North Dakota Legislature was presented primarily before the legislative appropriations and human services committees. Other committee testimony was provided as requested. Comments and suggestions from the committee members were also considered in the preparation of NDDHS's plan recommendation. The ND Legislature has adopted and amended provisions of NDCC chapter 50-09 that authorized the operation of the state's TANF Program. The Legislature appropriated the necessary federal, state, and other funds for operation of the TANF Program. North Dakota's Governor signed each of these bills into law.

4. Comments from participants were considered as part of the plan recommendation.

CERTIFICATIONS

The state of North Dakota will operate a program to provide Temporary Assistance for Needy Families (TANF) so that children may be cared for in their own homes or in the homes of relatives; to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and encourage the formation and maintenance of two-parent families. This program is known as the North Dakota TANF Program.

I, John Hoeven, Governor of North Dakota, certify that in administering and operating a program that provides Temporary Assistance for Needy Families with minor children under Title IV-A of the Social Security Act, the state of North Dakota will:

1. Specify the North Dakota Department of Human Services as the agency responsible for the administration and supervision of the program under part A in all political subdivisions of the state;

2. Operate a Child Support Enforcement Program under the State Plan as approved under part D;

3. Operate a Foster Care and Adoption Assistance Program in accordance with part E, and certify that the state will take all necessary actions to ensure that children receiving assistance are eligible for medical assistance;

4. Provide each member of an Indian tribe, who is domiciled in the state and is not eligible for assistance under a Tribal Family Assistance Plan approved under Section 412, with equitable access to assistance under the state program funded under this part attributable to funds provided by the federal government;

5. Establish and enforce standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the state program, kickbacks, and the use of political patronage; and

6. Establish standards and procedures to screen and identify individuals receiving TANF assistance who are victims of domestic violence; make referrals for counseling and supportive services, as appropriate; and waiver certain program requirements in cases where compliance with such requirements would make it more difficult for the individual to escape domestic violence or be at risk of further domestic violence.

7. Make a summary of the TANF State Plan available to the public

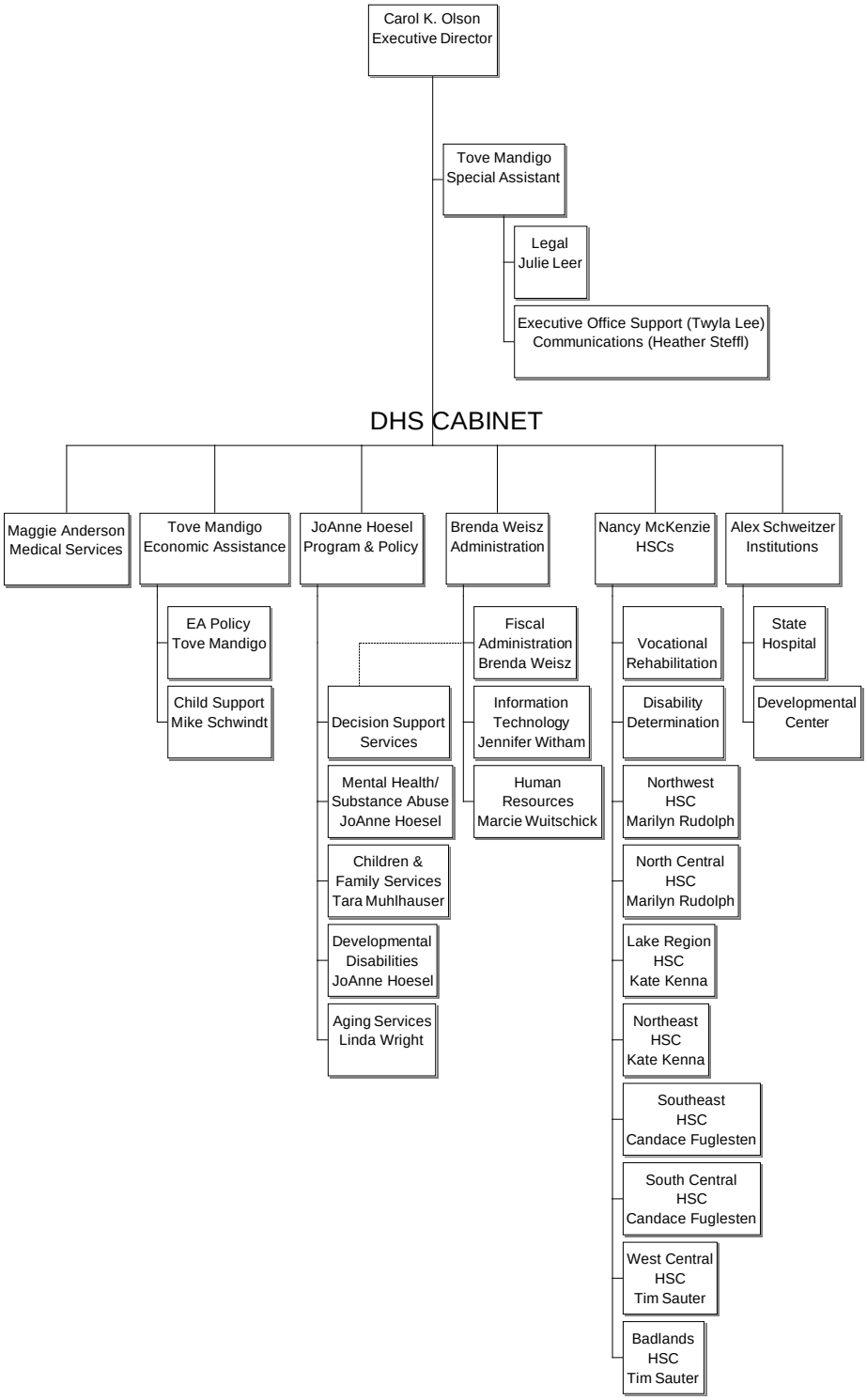
CERTIFIED BY THE CHIEF EXECUTIVE OFFICER OF THE STATE:

_____ _____

John Hoeven, Governor of North Dakota Date

ATTACHMENT A

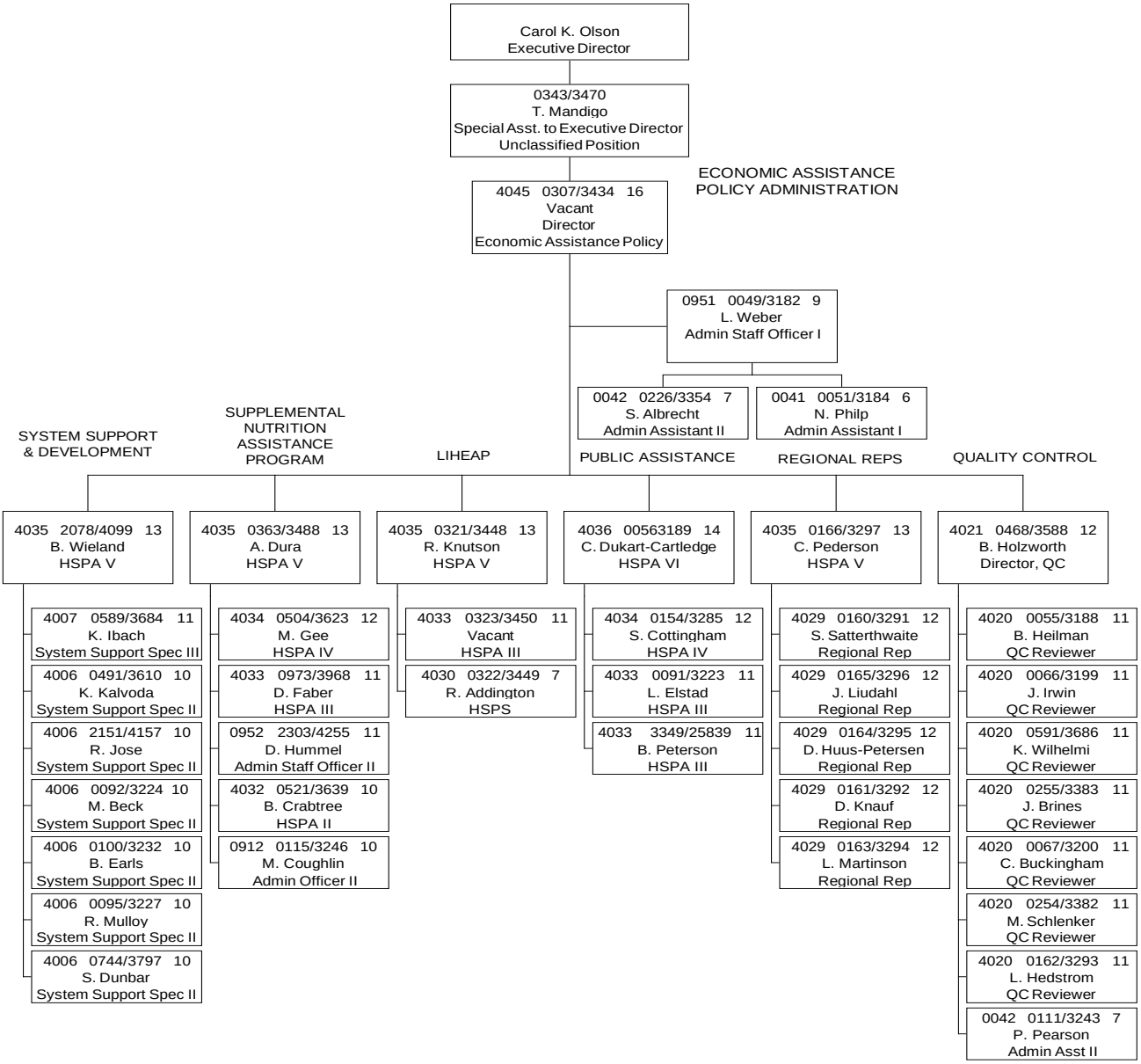
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES ORGANIZATIONAL CHART



Plan Amended eff. 04-01-2009

ATTACHMENT B

ECONOMIC ASSISTANCE POLICY DIVISION ORGANIZATIONAL CHART



Plan Amended eff. 04-01-2009