

# **North Dakota Department of Health and Human Services**

## **Temporary Assistance for Needy Families State Plan**

**2022**

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## **Administration**

### **Agency Structure**

The North Dakota Department of Health and Human Services (NDDHHS) 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 North Dakota Department of Health and Human Services organizational chart is found in Attachment A.

The Economic Assistance Policy Division within NDDHHS 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 Child Care Assistance, Low Income Home Energy Assistance, Supplemental Nutrition Assistance and TANF programs. Quality Assurance, Quality Control, System Support and Policy Development Units serve as support functions in the Division. The Economic Assistance Policy Division organizational chart is found in Attachment B.

North Dakota uses commingled funds for all activities. The same financial eligibility criteria apply with respect to all benefits and services, unless specifically identified in this State Plan.

### **Human Service Zone Administration**

Each of the state's fifty-three counties, or a combination of counties, as supervised by NDDHHS, administers the TANF Program. Human service zone (HSZ) offices are responsible for the day-to-day administration of the TANF Program. The only exception to HSZ 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 administering a tribal TANF program. Tribal Native American Employment Works (NEW) programs are administered by the Standing Rock Sioux Tribe, Spirit Lake Sioux Tribe, and Turtle Mountain Band of Chippewa.

### **Role of Public or Private Contractors**

Currently, NDDHHS 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. The current plan is effective December 1, 2022.

## **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. Provide incentives to make work more rewarding;
3. Require both parents to share in the support of their children;
4. Support relocation for work or training;
5. Evaluate performance based on the achievement of state goals;
6. Promote participation in the ND Health Tracks Program; and
7. 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 TANF.
- 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 alien who is ineligible because of the application of sponsor-to-alien-deeming.
- An individual who is ineligible for TANF benefits as the result of the imposition of a sanction or disqualification.
- 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 TANF 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. Limited exceptions are made if the state agency determines that:

1. The teen parent has no parent, legal guardian, or other appropriate adult relative who is living or whose whereabouts are known;
2. No living parent, legal guardian, or other appropriate relative allows the individual to live in their home;
3. The teen parent or their 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;
4. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and their child lived in the same residence with the individual's own parent or legal guardian; or
5. 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 their 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 their 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 2 months 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 are not increased because of an increase in household size if the increase is 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 TANF is requested, shall, as a condition of eligibility, cooperate:

1. With referrals to the Child Support Division to include completing and providing forms needed by child support to provide child support services;
2. With JOBS or a Tribal NEW program; and
3. By not quitting a job or refusing employment without good cause during the period between the application date and date action is taken on the application.

### **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 a 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. Individual development accounts are exempt when determining eligibility for the TANF Program if the funds are received through a grant made available under Section 403 of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA – Public Law 104-193) to enable individuals to acquire a lasting asset after saving for an extended period of time.

### **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 future 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**

### **TANF Standard of Need**

The department has established combined requirements for TANF 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 TANF 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.

### **STANDARD OF NEED**

No. of Care Takers	Number of Children										
	0	1	2	3	4	5	6	7	8	9	10
0	0	166	243	316	393	466	543	617	693	767	843
1	237	335	436	533	632	731	830	929	1028	1127	1225
2	335	436	533	632	731	830	929	1028	1127	1225	1325

### **Employment Incentive Disregard**

Reasonable costs associated with maintaining employment are considered. A standard work allowance of 27% or \$180 of gross earned income, whichever is greater, 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, child care during a parent's illness or hospitalization, or an additional payment for those individuals who have an independent living arrangement.

For purposes of this section, a family has an independent living arrangement if the members of that family have sole responsibility for all housing costs. If a family rents its 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.

### **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.

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

### **Payment of TANF Benefits**

The NDDHHS has determined that issuing debit cards enhances self-sufficiency by expanding TANF clients' knowledge of banking systems, avoidance of check loss, and

promoting cost-effectiveness as compared to the cost of printing checks. The electronic payment card is a prepaid debit card that replaced the TANF check process. The exception to the prepaid debit card is protective payee situations. Protective payee cases will continue to receive TANF benefits by check.

TANF clients have access to using or withdrawing assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges. Clients are provided information on applicable fees and surcharges that apply to electronic fund transactions involving the assistance in the form of a handbook that is provided at the time of application and upon request thereafter. The handbook is available on line at the ND Department of Human Services Website at: <http://www.nd.gov/dhs/info/pubs/tanfjobspub.html>. A toll-free number is available for the TANF recipient to contact our EFT vendor if they have questions regarding their electronic payment card. The toll-free number is in their handbook. The same information is available through the electronic payment card vendor on-line 24 hours per day, 7 days a week.

### **Recovery of Overpayment**

Overpayments are applied against minor caretakers or primary individuals age 18 and over. The overpayment is the difference between the benefit amounts the client actually received before recoupment and the benefit amount the client should have received before recoupment. Recovery of all overpayments resulting from client or agency is accomplished by reducing the TANF benefit by 10% 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 10% standard as long as the decision to do so is voluntary and without duress.

### **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 and Probation/Parole Violators**

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.

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

Fugitive felons and probation/parole violators 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 assistance simultaneously from two or more states under the TANF, Medicaid, Supplemental Nutrition Assistance (SNAP) or Supplemental Security Income (SSI) programs shall be disqualified from TANF for a period of ten (10) years, effective with the date of conviction. In addition, the individual shall also be referred for Intentional Program Violation (IPV).

If an individual is not convicted in federal or state court, but has 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, the 10 year penalty cannot be applied. However, the individual shall be referred for Intentional Program Violation (IPV).

### **Penalty for Misuse of TANF Benefits through Electronic Benefit Transfer Transactions**

Any individual who uses a TANF debit card in a liquor store; a casino, gambling casino, or gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment shall be referred to the Administrative Disqualification Hearings Officer for a determination of an IPV.

This provision does not apply when the establishment that sells groceries including such staple foods which also offers, or is located within the same building or complex as a casino, gambling or gaming activities or if the ATM located in the establishment is the only available source to obtain cash such as on a reservation. If it comes to the department's attention that an individual is unable to access monies from their account, the department would visit with the Electronic Payment Card vendor about adding an ATM in the remote location.

### **Implementation of New Provisions**

To implement this provision, the NDDHHS, TANF Program will notify TANF applicants and recipients of the prohibition of using the TANF debit card in any liquor store; any casino, gambling casino, or gaming establishment, or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment by:

- Sending out a special notification to each TANF recipient through a special mailing,
- Including this information in the Application for Assistance Guidebook given to each new applicant for TANF; and
- Including this information in the Cardholder Handbook provided to each TANF applicant and recipient who are issued their benefits on a debit card.

In addition, an Intentional Program Violation will be pursued against any TANF recipient who used a temporary assistance for needy families debit card in any liquor

store; any casino, gambling casino, or gaming establishment, or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment unless:

- A recipient of assistance does not have any other adequate access to their cash assistance, or
- A recipient of assistance does not have access to using or withdrawing assistance with a minimal fees or charge, including an opportunity to access assistance with no fee or charge, and are provided information on applicable fees and surcharges that apply to electronic fund transactions involving the assistance, and that such information is made publicly available.

### **Intentional Program Violation (IPV)**

Any individual who is suspected of withholding information for the purpose of improperly establishing or maintaining eligibility for benefits shall be referred to the Administrative Disqualification Hearings Officer for a determination of an IPV, or the court system for a determination of fraud.

An IPV disqualification can be established in the following three ways:

1. Administrative Disqualification Hearing (ADH) is pursued when an individual is suspected of intentionally withholding information that results in improperly establishing or maintaining eligibility for TANF benefits or who uses a temporary assistance for needy families debit card in a liquor store; a casino, gambling casino, or gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state of entertainment. ADH procedures should be initiated in instances when there is sufficient documentary evidence to substantiate that an individual has committed one or more acts of intentional program violation.
2. Court Conviction – Fraud is a result of an individual being convicted in federal or state court of having made a fraudulent statement or representation which results in improperly establishing or maintaining eligibility for TANF benefits. Upon receipt of the judgment:
  - a. If the court judgment includes a TANF disqualification period, the period imposed is equal to the time periods established for an IPV.
  - b. If the court judgment does not include a TANF disqualification period, the IPV process defined in this section and resulting disqualification periods are adhered too.
3. Disqualification for Fraudulent Representation of Residence – Part A, Section 408 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 implemented a provision which prohibits a State to which a grant is made under section 403 from using any part of the grant to provide cash assistance to an individual during the 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 2 or more States. 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.

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

Individuals who have committed an IPV will be disqualified from receiving TANF benefits for the following time periods:

- 12 months for the 1<sup>st</sup> offense.
- 24 months for the 2<sup>nd</sup> offense.
- Permanently for the 3<sup>rd</sup> or subsequent offense.

### **Case Management**

The JOBS employment contractors conduct 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 JOBS employment contractor and included in an employability plan.

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 several areas under the assessment process with many different goals for each area. These areas include, but are not limited, to those as follows:

1. Counseling - Needs are identified in areas such as individual and family counseling, substance abuse counseling, family 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. Children may be referred to Head Start and/or Early Head Start Programs.
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.
7. Case management – Case management is the activity that puts into operation the goals and objectives of the TANF program. TANF places primary emphasis on families moving towards self-sufficiency.

### **Mandatory Requirements**

There are two mandatory requirements that all TANF households must meet unless they are otherwise exempt. These are cooperation with the Child Support Division and 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 the Child Support Division to establish paternity and assist in ensuring that non-custodial parents share in the support of their children. Non-cooperation may result in application denial, 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 who 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 require 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 for 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 unless good cause is established. Program requirements include participation in work or training activities; employment may not be terminated without good cause; 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 assets 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 JOBS program;
- b. Failure or refusal to cooperate in obtaining child support or establishing paternity;

Individuals who are required to participate in the JOBS 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 the Child Support Division and the JOBS Program follow the non-cooperating individual.

A JOBS sanction is 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 sanction will be considered cured upon notification from the Child Support Division 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 child care 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 child care will be based on client completion of tasks spelled out in the employability development plan. 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 child care not being obtained will demonstrate inability to obtain child care.

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 the Child Support Division**

Individuals who apply for or are receiving assistance under the TANF program are required to cooperate with the Child Support Division. 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 application denial for failure to meet Up-Front Eligibility or sanction unless good cause is established.

#### **Work Program**

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 three Tribal Native Employment Works (NEW) programs in the state. See section titled 'Tribal Participation'.

Non-exempt individuals who are referred to the JOBS program are required to engage in allowable work activities consistent with the TANF 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, head start and early head start, 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.

**Family Violence Option**

North Dakota chooses to implement the Family Violence Option provided in 42 U.S.C. 602(a)(7). Family 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 family violence-screening component is included in the TANF eligibility interview and the employment provider's assessment. The purpose of the screening tool is to identify victims of

family violence, make referrals to appropriate services for victims of family violence, and identify victims of family violence to exempt individuals 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.

Employment contractors conduct screenings that indicate past or present family violence may result in a referral for services. The client and employment contractor 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 family 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 family violence may be excused from work participation requirements, education requirements and may receive assistance past the 60-month lifetime limit on TANF participation. The consideration is based on identification of family 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 family violence. The long-range goal is to address and resolve these issues to a point where the client can attain self-sufficiency.

NDDHHS recognizes the devastating effect of family violence on the lives of its victims. The TANF program developed by North Dakota provides opportunities to identify the occurrence of family 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.

### **Consolidation Act of 2022**

By March 15, 2023, North Dakota certifies the State will provide information to victims of sexual harassment or survivors of domestic violence, sexual assault, or stalking (Section 402 (a)(8) of the Social Security Act) to:

- (i) ensure that applicants and potential applicants for assistance under the State program funded under this part are notified of assistance made available by the State to victims of sexual harassment and survivors of domestic violence, sexual assault or stalking
- (ii) ensure that case workers and other agency personnel responsible for administering the State program funded under this part are trained in---
  - (I) the nature and dynamics of sexual harassment and domestic violence, sexual assault, and stalking
  - (II) state standards and procedures relating to the prevention of, and assistance for, individuals who are victims of sexual harassment or survivors of domestic violence, sexual assault, or stalking; and

- (III) methods of ascertaining and ensuring the confidentiality of personal information and documentation related to applicants for assistance and their children who have provided notice about their experiences of sexual harassment, domestic violence, sexual assault, or stalking; and
- (iii) ensure that, if a State has elected to establish and enforce standard and procedures regarding the screening for, and identification of, domestic violence, sexual assault, or stalking pursuant to paragraph (7)
  - (I) The State program funded under this part provides information about the options under this part to current and potential beneficiaries and
  - (II) case workers and other agency personnel responsible for administering the State program funded under this part are provided with training regarding State standards and procedures pursuant to paragraph (7)
  - (iii) the terms 'sexual assault' and 'stalking' have the meanings given such terms in sections 40002 of the Violence Against Women Act of 1994 (34 U.S.C. 12291).".

North Dakota's current combined application informs a TANF applicant and potential applicant about domestic violence which includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of any of the above. The current combined application also informs applicants and potential applicants of their right to claim good cause and that their information will remain confidential. The TANF applicant or potential applicant may choose to talk to their eligibility worker about domestic violence. Eligibility workers are required to explain the Good Cause Exemption, Eligibility workers are required to explain that all information remains confidential.

### **Out-Of-Wedlock Pregnancy Prevention**

The NDDHHS addresses the issue of out-of-wedlock pregnancies. Information is available to other government entities and private agencies providing services to children.

NDDHHS disburses funds to nongovernmental entities that provide Alternatives to Abortion services which includes teenage pregnant or teens that think they may be pregnant. Services provided include providing information, counseling, pre-natal and parenting education and referrals.

TANF benefits cannot be used as a vehicle to allow unwed minor parents to establish their own household. Subject to limited exceptions, 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.

In attempt to reduce out-of-wedlock births, the department has increased effort to educate young men 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 in the Application for Assistance Guidebook each TANF applicant receives which includes information about the 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-based 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**

NDDHHS has information which is available to schools, law enforcement and the court system to educate service providers and government entities about statutory rape through the Department's website. This Information is available to educate male teens and young men about statutory rape.

NDDHHS on its own does not serve as broad a population as is needed to fully address this issue. NDDHHS cooperates and provides technical assistance to other public entities 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. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 and its conforming state law, sweeping changes were made to the Child Support Division program in an effort to strengthen its ability to provide services successfully. Under this federal welfare reform, child support was viewed as the safety net for families. Complementing the strengthened the Child Support Division program, cooperation requirements and sanctions as consequences for noncooperation were also strengthened. Much of this increased emphasis on responsibility is found in the section titled, "Child Support Division".

### **Child Support Division**

Since the late 1990's, the State of North Dakota has expanded 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 several changes that enhance enforcement abilities and increase parental responsibilities.

- Child Support Division has administrative authority to issue subpoenas for gathering information to establish, modify or enforce support orders.
- Child Support Division has administrative authority to order genetic testing.
- Child Support Division has administrative access to records of public and private entities to find non-custodial parents, wages and assets
- A new hire registry was developed and is maintained 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 for the Child Support Division to require an individual to pay support in accordance with a payment plan 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.
- Courts and the Child Support Division 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 the Child Support Division may lead to sanctions that could lead to a family losing eligibility.

**Additional Parental Responsibility under TANF also includes:**

- Subject to limited exceptions, 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 in order to increase the likelihood of their securing and advancing in employment sufficient to better support their families.

**Parental Responsibility Initiative for the Development of Employment (PRIDE) Program**

The program provides job placement services to noncustodial parents to address their nonpayment of child support. The PRIDE project is modeled after the TANF Job Opportunities and Basic Skills program in providing case management, job skills improvement, and job placement to help noncustodial parents obtain or improve their employment in order to pay child support.

Case management services which include:

- A comprehensive assessment to identify barriers to employment due to medical, educational, social or other services and work history
- Assessment on an ongoing basis as needed
- Referral for other services as needed

**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, be reviewed periodically to determine if the exemption remains 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.

The hardship exemptions to the 60-month lifetime limit as it applies to families which include an individual who was battered or subject to extreme cruelty, 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, or
  - The household includes an individual who is or would otherwise be subject to work activity requirements who is a victim of family violence. (See Family Violence Option provisions of this plan).

### **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. Qualified Kinship Care households 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 child care 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 NDDHHS.

Kinship care maintenance payments and support services, similar to the foster care payments in North Dakota includes the TANF standard of need based on household size plus an additional \$300.00 per month maintenance payment:

1. A court of competent jurisdiction has entered an order placing child's care, custody, and control with a HSZ, Division of Juvenile Services or Tribal Agency; and
2. Before placing a child in Kinship Care, the HSZ, Division of Juvenile Services or Tribal Agency must complete a Kinship Care family study, Kinship Care Placement and Kinship Care Agreement; and a child abuse and neglect background check, and such other investigations as the NDDHHS 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 NDDHHS.

### **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 TANF 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 JOBS 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 Division.

5. An applicant may appeal a denial, limitation, or termination of Diversion Assistance, and a recipient of Diversion 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 denied may not be provided and Diversion Assistance approved may not continue pending the hearing decision.
6. A month in which Diversion Assistance is received does not count towards the TANF 60-month lifetime limit.
7. 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 a 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 Transition Assistance and TANF for the same month. A family may not receive Transition Assistance and Diversion Assistance for the same month.
2. Transition Assistance is not applicable in an application month. Only recipients of TANF may 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 child care, 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 HSZ 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, Women, Infants, and Children (WIC), etc.

### **Tribal Participation**

Four federally recognized tribes provide various types of services to tribal members within North Dakota. NDDHHS works closely with Tribal NEW programs in areas such as the JOBS and Child Care Assistance Programs. It is the intent of NDDHHS to support in an appropriate manner the decision of each Tribe to directly participate or not to participate in administering TANF. NDDHHS provides 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.

### **Tribal NEW Participants**

Non-exempt individuals who are members of a federally recognized tribe may be referred to one of the three 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 three Tribal NEW programs that are administered by the tribes: Standing Rock Sioux Tribe Tribal NEW Program, Spirit Lake Sioux Tribe Tribal NEW Program, and Turtle Mountain Band of Chippewa Tribal NEW Program.

Individuals who are referred to a Tribal NEW program are excluded from the work participation rate calculation unless 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 are 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 covered emergency 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.

## **Crossroads Program**

The purpose of the Crossroads program is to assist teen parents who are attending school with short and long term goals to complete their high school level education while working to develop key tools to become self-supporting in the future.

The Crossroads Program provides:

- Case management services for individual needs such as:
  - Decision making
  - Child care selection
  - Family relationships
  - Parenting skills
  - Housing
  - School attendance
  - Goal setting and planning for the future
  - Referrals to other agencies.
- Transportation assistance
- Waived co-payment under the Child Care Assistance Program (must meet all other eligibility criteria for the Child Care Assistance Program).
- Completion of High School/GED Incentive Payment.

## **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 HSZ 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 statutes 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 and kept confidential as required by law 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;
- HSZ 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 NDDHHS or received from health care providers.

## **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 seek clarification from HSZ 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 NDDHHS 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 NDDHHS 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 or her 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 or her demand for personally receiving the information, it should be provided. In such situations, a narrative entry should 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 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 HSZ 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 HSZ 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 HSZ 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 HSZ 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 NDDHHS 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 of 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 NDDHHS and HSZs 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 which 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 HSZ action has resulted in the suspension, reduction, discontinuance, or termination of assistance;
2. NDDHHS may, on its own motion, review individual cases and make determinations that are binding upon the HSZ. 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 HSZ shall be understood to include appeals taken from determinations made by NDDHHS.
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 NDDHHS or claimant's HSZ before filing a request for a fair hearing with the executive director of NDDHHS.
5. If a claimant dies after the claimant has filed a request for a fair hearing, and before the decision of NDDHHS has been rendered in the case, an heir of the claimant may continue with the proceedings on behalf of the claimant's estate, 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](http://www.HHS.gov/OCR). To file a complaint, an individual may contact one or all of the following:

Program Civil Rights Office  
North Dakota Department of Health and Human Services  
Legal Advisory Unit  
600 E. Boulevard Avenue, Dept 325  
Bismarck, ND 58505-0250  
Voice Phone (701) 328-2311  
Fax (701) 328-2173  
TTY 1-800-366-6888

US Department of Health and Human Services  
Office for Civil Rights, Region VIII  
1961 Stout Street  
Room 08-148  
Denver, CO 80294  
Voice Phone (800) 368-1019  
FAX (202) 619-3818  
TDD (800) 537-7697

U.S. Department of Health and Human Services  
Office of Civil Rights  
200 Independence Avenue SW  
HHH Bldg., Room 509-F  
Washington, DC 20201  
Voice Phone 1-202-619-0403  
TDD 1-800-537-7697  
Fax 202-619-3437

### **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 NDDHHS.
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.

### **Assisting Individuals in Training for, Seeking and Maintaining Employment in the Eldercare Workforce**

Section 6703(a)(2) of the PPACA requires each State TANF agency to indicate whether it intends to assist individuals in being trained for, gaining and retaining employment in the eldercare workforce.

NDDHHS does not directly promote TANF recipients to be trained for, to gain and retain employment in the eldercare workforce. However, individuals are encouraged to pursue employment based on their training and skills. Individuals interested in pursuing employment in the eldercare workforce are encouraged to pursue training and employment in the eldercare workforce.

## **PUBLIC INVOLVEMENT**

As required under 42 U.S.C. 602(a), NDDHHS has provided opportunities to local governments, private sector organizations, and the general public to review and discuss the 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 was posted on the NDDHHS website for the 45-day comment period with an invitation for interested parties to comment on the plan. ND's TANF State Plan was posted to NDDHHS Website on October 3, 2022 with comments due back by November 22, 2022. HSZ directors receive notification that the TANF state plan is available for viewing on the department's website. The notification solicited comments and included where to send those comments.
2. A public notice was placed in each of the state's daily newspapers and each Tribal newspapers requesting suggestions from the public on the content of the TANF State Plan.
3. Comments received were considered as part of the recommended changes to the State Plan.



## **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, Doug Burgum, 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 Health and 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 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 family 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 family violence or be at risk of further family violence.
7. Make a summary of the TANF State Plan available to the public.

**CERTIFIED BY THE CHIEF EXECUTIVE OFFICER OF THE STATE:**

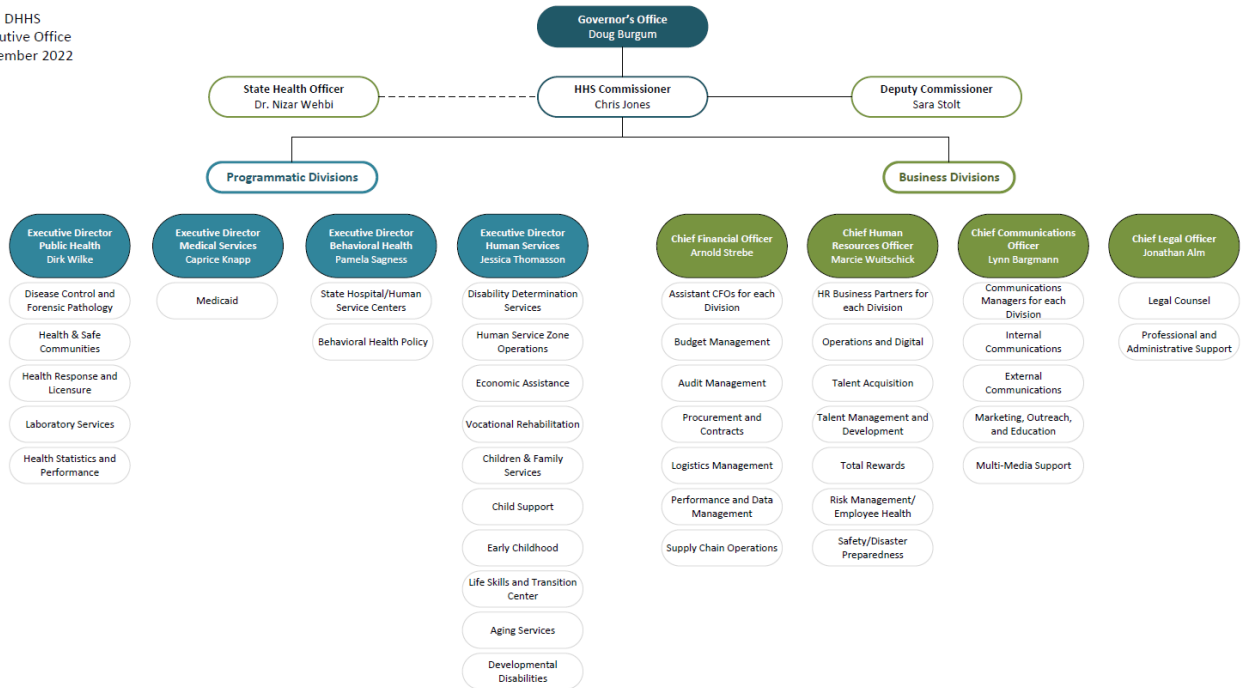
\_\_\_\_\_  
Doug Burgum, Governor of North Dakota

\_\_\_\_\_  
Date

# ATTACHMENT A

## NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES ORGANIZATIONAL CHART

DHHS  
Executive Office  
September 2022



## ATTACHMENT B

### NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES ECONOMIC ASSISTANCE DIVISION ORGANIZATIONAL CHART

ND Dept. Human Services  
Economic Assistance Division  
August 2022

