NOTICES OF FINAL RULEMAKING

Initiated After January 1, 1995

Unless exempted by A.R.S. § 4101995, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the Administrative Procedure Art (A.R.S. § 41-1001) *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY INCOME MAINTENANCE

PREAMBLE

1. Sections Affected — Rulemaking Action

Article 4	Repeal
R6-3-401	Repeal
R6-3-402	Repeal
R6-3-403	Repeal
R6-3-404	Repeal
R6-3-405	Repeal
R6-3-406	Repeal
R6-3-407	Repeal
R6-3-408	Repeal
R6-3-409	Repeal
R6-3-411	Repeal
R6-3-412	Repeal
R6-3-413	Repeal
R6-3-414	Repeal
R6-3-415	Repeal
R6-3-418	Repeal
R6-3-420	Repeal
R6-3-421	Repeal
R6-3-422	Repeal
R6-3-423	Repeal
R6-3-424	Repeal
R6-3-425	Repeal
R6-3-426	Repeal
R6-3-427	Repeal
R6-3-428	Repeal
R6-3-429	Repeal
R6-3-430	Repeal
R6-3-431	Repeal
R6-3-432	Repeal
R6-3-433	Repeal
Article 5	Repeal
R6-3-501	Repeal
R6-3-502	Repeal
R6-3-503	Repeal

R6-3-504	Repeal
R6-3-505	Repeal
R6-3-506	Repeal
R6-3-507	Repeal
R6-3-508	Repeal
R6-3-509	Repeal
R6-3-510	Repeal
R6-3-511	Repeal
R6-3-512	Repeal
R6-3-513	Repeal
R6-3-514	Repeal
R6-3-515	Repeal
R6-3-516	Repeal
R6-3-517	Repeal
Article 10	Repeal
R6-3-1001	Repeal
R6-3-1002	Repeal
R6-3-1003	Repeal
R6-3-1004	Repeal
R6-3-1005	Repeal
R6-3-1006	Repeal
R6-3-1007	Repeal
R6-3-1008	Repeal
R6-3-1009	Repeal
R6-3-1010	Repeal
R6-3-1012	Repeal
R6-3-1013	Repeal
R6-3-1014	Repeal
R6-3-1015	Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

   A.R.S. § 41-1954(A)(3), 46-134(12), 46-201 *et seq.*, 46-291 *et seq.*; Laws 1981, 4th S.S., Ch. 1, § 13, and Laws 1983, Ch. 304, § 17.

3. The effective date of the rules:

   November 9, 1995

4. A list of all previous notices appearing in the Register addressing the final rule:

   Notice of Rulemaking Docket Opening:
   1 A.A.R. 201, March 17, 1995

   Notice of Proposed Rulemaking:
   1 A.A.R. 946, July 7, 1995

   Notice of Oral Proceedings:
   1 A.A.R. 948, July 7, 1995

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

   Name: Vista Thompson Brown

   Address: Department of Economic Security
   1789 West Jefferson, Site Code 837A
   Phoenix, Arizona 85007

   or

   P.O. Box 6123, Site Code 837A
   Phoenix, Arizona 85005

   Telephone Number: (602) 542-6555

   Fax Number: (602) 542-6000

6. An explanation of the rule, including the agency's reasons for initiating the rule:

   The Department is repealing all current rules governing the operation of the Aid to Families with Dependent Children (AFDC) Program and adopting new rules for the program. The Department is repealing the current AFDC rules in Chapter 3 because the

rules are badly out-of-date. The current AFDC rules were adopted in 1976 and no longer reflect the controlling federal law. Additionally, the current rules are not in proper style or format. The Department is now repealing the antiquated rules and adopting new rules which reflect current policy and practice and which conform to the federal requirements.

The Department is also repealing all the Work Incentive (WIN) Program rules. The WIN Program was repealed by P.L. 100-485, § 202(a). In addition, the Department is repealing all the Medical Assistance for the Aged (MAA) Program rules. The MAA Program was repealed by Laws 1981, 4th S.S., Ch. 1, § 13, and Laws 1983, Ch. 304, § 17.

Repeal of the outdated AFDC rules will benefit the public by eliminating rules which are inconsistent with federal law and which do not reflect the Department's current practice and procedures. Repeal of the WIN program and MAA rules will benefit the public by eliminating obsolete rules which no longer serve any useful purpose.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
   Not applicable.

8. The summary of the economic, small business, and consumer impact:
   Repeal of the outdated AFDC, WIN Program, and MAA rules will not result in any new direct or indirect costs, other than the minor administrative costs associated with the rulemaking process.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable)
   There were no changes between the proposed rules and the final rules.

10. A summary of the principal comments and the agency response to them:
    The Department received no comments on these rules.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
    Not applicable.

12. Incorporations by reference and their location in the rules:
    None.

13. Was this rule previously adopted as an emergency rule?
    No.

14. The full text of the rules is not printed here. The full text appeared in 1 A.A.R. 946, July 7, 1995. Pursuant to A.A.C. R1-1-601(E)(14), when the text of complete Sections are being repealed only, the full text shall not appear.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 12. DEPARTMENT OF ECONOMIC SECURITY
AID TO FAMILIES WITH DEPENDENT CHILDREN

PREAMBLE

1. Sections Affected — Rulemaking Action

Article 1.	New Article
R6-12-101	New Section
R6-12-102	New Section
R6-12-103	New Section
R6-12-104	New Section
R6-12-105	New Section
Article 2	New Article
R6-12-201	New Section
R6-12-202	New Section
R6-12-203	New Section
R6-12-204	New Section
R6-12-205	New Section
R6-12-206	New Section
R6-12-207	New Section
R6-12-208	New Section
R6-12-209	New Section
R6-12-210	New Section
R6-12-211	New Section

Article 3	New Article
R6-12-301	New Section
R6-12-302	New Section
R6-12-303	New Section
R6-12-304	New Section
R6-12-305	New Section
R6-12-306	New Section
R6-12-307	New Section
R6-12-308	New Section
R6-12-309	New Section
R6-12-310	New Section
R6-12-311	New Section
R6-12-312	New Section
R6-12-313	New Section
R6-12-314	New Section
R6-12-315	New Section
R6-12-316	New Section
R6-12-317	New Section
Article 4	New Article
R6-12-401	New Section
R6-12-402	New Section
R6-12-403	New Section
R6-12-404	New Section
R6-12-405	New Section
R6-12-406	New Section
Article 5	New Article
R6-12-501	New Section
R6-12-502	New Section
R6-12-503	New Section
R6-12-504	New Section
R6-12-505	New Section
R6-12-506	New Section
R6-12-507	New Section
R6-12-508	New Section
Article 6	New Article
R6-12-601	New Section
R6-12-602	New Section
R6-12-603	New Section
R6-12-604	New Section
R6-12-605	New Section
R6-12-606	New Section
R6-12-607	New Section
R6-12-608	New Section
R6-12-609	New Section
R6-12-610	New Section
R6-12-611	New Section
R6-12-612	New Section
R6-12-613	New Section
R6-12-614	New Section
R6-12-615	New Section
R6-12-616	New Section

R6-12-617	New Section
Article 7	New Article
R6-12-701	New Section
R6-12-702	New Section
R6-12-703	New Section
R6-12-704	New Section
R6-12-705	New Section
R6-12-706	New Section
Article 8	New Article
R6-12-801	New Section
R6-12-802	New Section
R6-12-803	New Section
R6-12-804	New Section
R6-12-805	New Section
R6-12-806	New Section
R6-12-807	New Section
Article 9	New Article
R6-12-901	New Section
R6-12-902	New Section
R6-12-903	New Section
R6-12-904	New Section
R6-12-905	New Section
R6-12-906	New Section
R6-12-907	New Section
R6-12-908	New Section
Article 10	New Article
R6-12-1001	New Section
R6-12-1002	New Section
R6-12-1003	New Section
R6-12-1004	New Section
R6-12-1005	New Section
R6-12-1006	New Section
R6-12-1007	New Section
R6-12-1008	New Section
R6-12-1009	New Section
R6-12-1010	New Section
R6-12-1011	New Section
R6-12-1012	New Section
R6-12-1013	New Section
R6-12-1014	New Section
R6-12-1015	New Section
Article 11	New Article
R6-12-1101	New Section
R6-12-1102	New Section
R6-12-1103	New Section
Article 12	New Article
R6-12-1201	New Section
R6-12-1202	New Section
R6-12-1203	New Section
R6-12-1204	New Section
R6-12-1205	New Section

R6-12-1206	New Section
Article 13	New Article
R6-12-1301	New Section
R6-12-1302	New Section
R6-12-1303	New Section
R6-12-1304	New Section
R6-12-1305	New Section
R6-12-1306	New Section
R6-12-1307	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
   A.R.S.§§ 41-1954(A)(3), (F), and (G), 46-134(12), 46-201 *et seq.*, 46-291 *et seq.*, and Laws 1994, Ch. 301, §§ 2 to 17 and 19.

3. The effective date of the rules:
   November 9, 1995

4. A list of all previous notices appearing in the Register addressing the final rule:
   Notice of Rulemaking Docket Opening:
   1 A.A.R. 201, March 17, 1995

   Notice of Proposed Rulemaking:
   1 A.A.R. 962, July 7, 1995

   Notice of Oral Proceedings:
   1 A.A.R. 965, July 7, 1995

5. The name and address of agency personnel with whom persons may communicate regarding the rule:
   Name: Vista Thompson Brown

   Address: Department of Economic Security
   1789 West Jefferson, Site Code 837A
   Phoenix, Arizona 85007

   or

   P.O. Box 6123, Site Code 837A
   Phoenix, Arizona 85005

   Telephone: (602) 542-6555
   Fax Number: (602) 542-6000

6. An explanation of the rule, including the agency's reasons for initiating the rule:
   The Department of Economic Security is repealing all current rules governing the operation of the Aid to Families with Dependent Children (AFDC) Program and adopting new rules for the program. The Department has authority under A.R.S. §§ 1954(A)(3), (F) and (G), 46-134(12), 46-201 *et seq.*, 46-291 *et seq.* and Laws 1994, Ch. 310, §§ 2 to 17 and 19 to adopt these AFDC rules. AFDC is a program authorized pursuant to 42 U.S.C. 601 *et seq.* which provides temporary financial assistance to needy parents or relatives for the care of their dependent children.

   The Department is repealing the current AFDC rules in Chapter 3 because the rules are badly out-of-date. The current AFDC rules were adopted in 1976 and no longer reflect controlling federal law. Additionally, the current rules are not in proper style or format. The Department is now repealing the antiquated rules and adopting new rules which reflect current policy and practice and which conform to the federal requirements.

   The rules also implement Arizona's AFDC welfare reform provisions. In 1994, the Arizona Legislature adopted a comprehensive set of welfare reform provisions. The welfare reform measures were further amended by the Arizona Legislature in 1995. Arizona's welfare reform project is entitled EMPOWER (Employing and Moving People Off Welfare and Encouraging Responsibility). EMPOWER was approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315. Under the EMPOWER project, Arizona has federal approval to deviate from certain provisions of the federal law governing operation of the AFDC, Food Stamp, and JOBS programs.

   EMPOWER offers a bridge towards independence by creating an environment of responsibility and accountability. EMPOWER provides incentives for working, expands support services, and discourages long-term dependence on welfare. EMPOWER will help welfare recipients make the transition to self-sufficiency.

   Major provisions of the EMPOWER project include: time-limited assistance, a family benefit cap, unwed minor parent residence restrictions, Individual Development Accounts (IDAs) to accumulate savings for education or training, elimination of the 100-hour rule for 2-parent AFDC families, and extension of transitional child care from 12 to 24 months. EMPOWER also includes a 3-year demonstration project in Pinal County, entitled JOBSTART, which allows AFDC recipients to work for private or public sector employers with the recipient's AFDC and food stamp benefits used to partially reimburse the employer for the wages paid to the AFDC recipient.

   The rules govern all aspects of the AFDC program, including the EMPOWER welfare reform measures. The rules include definitions of program terminology and set forth the requirements for the AFDC program including: the application process, non-finan-

cial criteria, resources, income, eligibility and benefit determination, payments, appeals, overpayments, and intentional program violations. The rules establish comprehensive provisions for the AFDC program which are consistent with federal law and the terms of Arizona's welfare reform demonstration project waiver.

The rules create a new Chapter 12 exclusively for the AFDC program. Currently, the AFDC rules are housed in Chapter 3 with the state public assistance program rules. Separation of the AFDC rules from the state public assistance program rules will give the public a clear, meaningful, and comprehensive set of rules exclusively for the operation of the AFDC program.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

I. ESTIMATED COSTS AND BENEFITS TO THE STATE

A.COSTS:

The Department estimates the development costs for implementing the EMPOWER Program at $2.3 million. The state cost will be $1.15 million.

B.BENEFITS:

The Department estimates the net savings over the 7 years of the EMPOWER demonstration will be $12.7 million. Arizona will save $4 million in state appropriations for welfare expenditures over the 7-year period.

II. ESTIMATED COSTS AND BENEFITS TO THE POLITICAL SUBDIVISIONS

A:COSTS:

AFDC recipients will have less funds to spend on goods and services in political subdivisions. The loss will be $55.3 million over the 7-year period.

B:BENEFITS:

Political subdivisions will benefit from the lower state expenditures for AFDC costs.

III. ESTIMATED COSTS AND BENEFITS TO PRIVATE PERSONS/CONSUMERS

A:COSTS:

AFDC recipients will lose $55.3 million in benefits due to the EMPOWER Program welfare reform provisions. The loss will be as follows:

- $20.3 million due to the family benefit cap;
  State share = $6.9 million.
- $35.0 million due to time limited assistance;
  State share = $11.9 million.

B:BENEFITS:

AFDC recipients will receive $22.7 million in additional benefits during the 7 years of EMPOWER. The benefits are as follows:

- $13 million due to elimination of the 100-hour rule;
  State share = $4.4 million.
- $1.2 million due to Individual Development Accounts;
  State share = $0.4 million.
- $8.5 million due to transitional child care extension from 12 to 24 months;
  State share = $2.9 million.

IV. ESTIMATED COSTS AND BENEFITS TO BUSINESSES/SMALL BUSINESSES

A:COSTS:

None

B:BENEFITS:

Under JOBSTART, a 3-year demonstration project in Pinal County, the AFDC and Food Stamp Program benefits that a recipient is eligible to receive will be used to subsidize employers who are willing to employ and train welfare recipients. The employer may receive a 9-month subsidy with a possible 3-month extension. In addition to the AFDC and food stamp subsidy, the state will pay the employers share of Unemployment Insurance, Workers' Compensation, and Federal Insurance Contributions Act (FICA) medical compensation. The benefits to the employer will be $3.2 million over a 3-year period.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Department made the following changes between the proposed rules and the adopted rules:

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For better grammar and clarity, added the word "payment". Changed "proration" to "prorating" to conform with the word used in R6-12-705.

ARTICLE 7. DETERMINING ELIGIBILTY AND BENEFIT PAYMENT AMOUNT

R6-12-705 Determining Benefit Payment Amount; ~~proration~~ Prorating

R6-12-101

Added a definition of "appellant" in response to a comment that the term "appellant" is used in the rules but is not defined.

9. "Appellant" means an applicant or recipient of assistance who is appealing an adverse action by the Department.

Added a definition of "eligibility determination date" to clarify the meaning of the term used in the rules.

28. "Eligibility determination date" means the date the Department makes the decision described in R6-12-706 and issues the eligibility decision notice.

Changed the description of EMPOWER from a "Program" to a "project" because EMPOWER is a welfare reform demonstration project, not a separate program.

29. "EMPOWER ~~Program~~ project" means the Arizona welfare reform ~~program~~ project approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315. Under the EMPOWER ~~Program~~ project, Arizona has federal approval to deviate from certain provisions of the federal law governing operation of the AFDC, Food Stamp, and JOBS programs.

Added a definition of "homestead property" in response to a comment that the term was unclear within the context used in the rules.

38. "Homestead property" means a home owned and occupied by an applicant or recipient, or which is co-owned and occupied by a separated or divorced spouse of an applicant or recipient.

Revised the definition of "Mandatory member" or "mandatory member of the assistance unit" to avoid using an incorporation by reference.

48. "Mandatory member" or "mandatory member of the assistance unit" means ~~a person who is required to be a member of a particular assistance unit, pursuant to 45 CFR 206.10(a)(1)(vii), (October 1994) which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.~~ any natural or adoptive parent, and any blood-related or adoptive sibling, of a dependent child, if the parent or sibling lives in the same household with the dependent child and is otherwise eligible for assistance.

Added a clause to clarify the notice date is the date the notice is issued.

52. "Notice date" means the date which appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.

Corrected the citation by adding subsection (A).

67. "Resident" means a person who meets the definition of A.R.S. § 46-292(A)(1).

Revised for clarity.

73. "Suitable work" means work in a recognized occupation for which a person is reasonably ~~fitted~~ qualified.

Changed the word "statute" to the plural form because "Title IV-A of the Social Security Act" is more than one statute.

76. "Title IV-A of the Social Security Act" means 42 U.S.C. 601 - 617, the ~~statute~~ statutes establishing the AFDC program.

Changed the word "statute" to the plural form because "Title IV-E of the Social Security Act" is more than one statute.

77. "Title IV-E of the Social Security Act" means 42 U.S.C. 670 - 679, the ~~statute~~ statutes establishing the foster care and adoption assistance programs.

Added the word "vendor" for clarity.

80. "Vendor payment" means a payment which a person or organization who is not a member of an assistance unit makes to a third-party vendor to cover assistance unit expenses.

Renumbered definitions R6-12-101(9) through R6-12-101(81) to accommodate the 3 additional definitions.

R6-12-102(A)

Deleted the word "shall" because the word is unnecessary and made the word "include" plural for correct grammar.

2. Personally identifiable information ~~shall include~~ includes:

R6-12-105

Changed the description of EMPOWER from a "Program" to a "project" because EMPOWER is a welfare reform demonstration project, not a separate program.

A. The Department shall randomly assign AFDC applicants and recipients who are served by the Glendale, Peoria, 67th Avenue, and Chinle FAA local offices into experimental, non-experimental, and control groups for an evaluation of the EMPOWER ~~Program~~ project modifications approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315.

C. The experimental and non-experimental groups are subject to the EMPOWER ~~Program~~ project provisions. The experimental and control groups will be used to evaluate the EMPOWER ~~Program~~ project.

Revised for clarity and better grammar.

D. The following ~~provisions of this chapter shall~~ rules do not apply to an applicant or recipient who is assigned to the control group:

R6-12-203(C)(4)

Added a clause which refers to the verification prescribed in R6-12-205(A) for clarity. Changed "regular transmittal" to "Department's practice of exchanging" to emphasize the role of the Department in obtaining information through various databases. Added a new subsection (g) to ensure that the Department provides applicants with clear written information about the applicant's responsibilities to timely report changes in circumstances and redesignated former subsection (g) as subsection (h).

b. Any additional verification information as prescribed in R6-12-205(A) which the applicant must provide for the Department to conclude the eligibility evaluation;

c. The ~~regular transmittal of~~ Department's practice of exchanging eligibility and income information through the Income and Eligibility Verification System (IEVS);

g. The requirement to report all changes within 10 calendar days from the date the change becomes known;

R6-12-203(C)(6)

Placed in the active tense for better grammar and clarity.

6. ~~Advise the applicant of the persons who shall be included in the applicant's assistance unit, and who may be included, at the applicant's option;~~
Explain to the applicant who is a mandatory member of the assistance unit, and who the applicant may include as an optional member;

R6-12-203(C)(11)

Added a reference to clarify that individual development accounts are described in R6-12-404.

11. Inform the applicant of the opportunity to set aside funds in an individual development account as prescribed in R6-12-404 for educational or training purposes.

R6-12-203(E)

Deleted reference to the termination of benefits for a recipient because the provision only applies to new applicants.

E. The Department shall deny the application~~, or terminate assistance,~~ when the applicant ~~or recipient~~ fails to request a second appointment as provided in subsection (D), or when the applicant ~~or recipient~~ misses a second scheduled appointment.

R6-12-205(A)

Revised in response to comments to ensure that verification is requested only when deemed essential to an eligibility determination.

A. The Department shall obtain independent verification or corroboration of information provided by the applicant or recipient when required by law, or when ~~reasonably deemed appropriate based on the experience of the Department~~ necessary to determine eligibility or benefit level.

R6-12-205(B)

Revised in response to comments to ensure that eligibility interviewers do not bombard an applicant with limitless requests for information.

B. The Department may verify or corroborate information by any reasonable means including~~, without limitation~~:

R6-12-205(C)

In response to comments, added a provision regarding the Department's obligation to help the applicant or recipient obtain verification.

C. The applicant or recipient has the primary responsibility for providing all required verification. The Department shall offer to assist an applicant or recipient who has difficulty in obtaining the verification and requests help.

R6-12-206(C)

In response to a comment, clarified that the Department may deny or terminate benefits when the applicant or recipient is not at home for a scheduled home visit only when the visit is for the purpose of an initial application interview or 6-month eligibility review interview, and not for other reasons such as a missed appointment with an Office of Special Investigations investigator.

C. The Department may deny or terminate benefits if the applicant or recipient is not home for a scheduled visit for:

1. An initial interview and has not timely rescheduled the visit pursuant to R6-12-203(D), or
2. A 6-month review interview and has not timely rescheduled the visit pursuant to R6-12-210(D).

R6-12-207(B)

Added a statement to clarify that the applicant is informed of the consequences of not returning the withdrawal form within 10 days.

1. The Department shall accept the oral request, provide the applicant with a written withdrawal form, and request that the applicant complete the form and return it to the Department. The Department shall inform the applicant of the consequences of not returning the withdrawal form within 10 days of the notice date.

R6-12-209(C)

In response to a comment, added a provision which the requires the approval notice to include the amount of assistance and the recipient's appeal rights.

C. When an assistance unit satisfies all eligibility criteria, the Department shall compute a benefit amount, approve the application, and send the applicant an approval notice. The approval notice shall include the amount of assistance and an explanation of the assistance unit's appeal rights.

R6-12-210

Clarified that the notice for a review is mailed at least 30 days prior to the date the review is due. Added new subsections (D) and (E) to clarify that the procedures for scheduling a second appointment for a 6-month eligibility review differ from those for an initial application interview. Added "good cause" reasons for missing a second scheduled appointment for a 6-month review interview in response to comments that the rules ought to provide for good cause exceptions when an applicant or recipient fails to reschedule the interview before close of business on the day of the missed appointment. Redesignated subsection (E) as subsection (F).

B. At least 30 days prior to the 6-month review date, the Department shall mail the recipient a notice advising of the need for a review. In response to such notice, the recipient shall file a request for a 6-month review and interview by the date specified on the notice.

D. When the recipient misses a scheduled appointment for a 6-month review interview, the Department shall schedule a second interview if the recipient so requests within ten days of the missed appointment.

E. The Department shall terminate benefits when the recipient fails to request a second appointment as prescribed in subsection (D), or when the recipient misses a second scheduled appointment without good cause. Good cause shall include the following circumstances:

1. Lack of transportation on the day of the appointment,
2. Illness, or
3. Serious injury or accident involving an assistance unit member.

R6-12-211

In response to a comment that the Department must reinstate benefits in a prompt and timely fashion, clarified that the Department will reinstate benefits within 10 calendar days. Corrected the reference to R6-12-611.

B. Notwithstanding subsection (A), the Department shall reinstate benefits within 10 calendar days when:

3. The recipient files a request for fair hearing as provided in R6-12-1002 within 10 days of the notice date of the termination notice, unless the request is for continuance of benefits past the 24-month limit set forth at R6-12-315, or the 6-month limit set forth at R6-12-611~~612~~.

R6-12-308(A)

In response to comments that the rule was unclear, reworded the paragraph to clarify that a child is ineligible due to the family benefit cap when the child is born during a temporary interruption of receipt of AFDC benefits by the parent or relative of less than 60 months.

3. ~~Temporarily a non-recipient of AFDC for less than 60 months due to voluntary withdrawal or ineligibility, after which the parent or non-parent caretaker relative reapplies and is determined eligible for AFDC.~~ Off AFDC for less than 60 months during the period between AFDC termination and AFDC reinstatement.

R6-12-308(B)

Reworded to improve grammar and clarity.

B. A child born during any period of time specified in subsection (A) is ineligible for AFDC for a ~~the duration of the~~ 60-consecutive-calendar-month period ~~in which the child was born.~~ as provided in this subsection:

1. The 60-month period of ineligibility for the child ~~shall begin~~ begins with the first calendar month the parent or non-parent caretaker relative is eligible for AFDC after November 1, 1995, and ~~shall continue~~ continues for 60 consecutive calendar months. A subsequent 60-month period ~~shall begin~~ begins the first eligible month following expiration of a prior 60-month period.
2. A child born during any period of time specified in subsection (A) may qualify for AFDC upon expiration of the 60-month period ~~in which the child was born~~ prescribed in subsection (B)(1), if otherwise eligible.

R6-12-308(C)

Revised to improve grammar and clarity.

C. A dependent child who is ineligible pursuant to subsection (A) ~~shall remain~~ remains ineligible for the duration of the 60-month period prescribed in subsection (B) if the child subsequently lives with another parent or relative.

R6-12-308(D)

Added the word "if" at the end of the clause to provide for a consistent lead for the 5 paragraphs.

D. An assistance unit may receive benefits for an additional child that would otherwise be excluded under subsection (A) if:

R6-12-308(D)(1)

To improve grammar and clarity, deleted the word "if" at the beginning of the paragraph; split subsection (1) into subsections (1) and (2) for clarity, renumbered subsections (2), (3), and (4) as subsections (3), (4), and (5); and added the word "and" to the new subsection (2) to improve grammar and clarity.

1. ~~If~~ The child is born within 10 calendar months of an initial eligibility determination made on or after November 1, 1995;
2. The parent or non-parent caretaker relative is an active AFDC participant on November 1, 1995, and the child is born within 10 months of the first eligibility redetermination thereafter;

R6-12-308(D)(3)

In response to a comment that the rule was unclear, reworded the rule for clarity.

~~3. The child is born:~~

~~a. After the parent or relative has not received AFDC for at least 12 consecutive months; and~~

b. During the time period beginning with the 22nd month after AFDC termination but not more than 10 months after the parent or relative resumes receiving AFDC after such period of non-receipt;

3. The parent has not received AFDC for a minimum of 12 consecutive months, and the child is born:

a. No earlier than the 22nd month after the parent left AFDC; and
b No later than the end of the 10th month after the parent returns to AFDC;

R6-12-308(D)(4)

In response to a comment that the rule was unclear, clarified that a multiple birth means twins or triplets, changed the word "minor" to "dependent child", and the word "grant" to "assistance unit".

4. The child is the firstborn, including all children in the case of a multiple birth such as twins or triplets, of a dependent child ~~minor~~ who is included in an AFDC assistance unit ~~grant~~; or

R6-12-308(D)(5)

Added a clause for clarity.

5. The child is born as a result of an act of sexual assault or incest and the applicant or recipient satisfies the following requirements.

R6-12-308(D)(5)(b)

Revised to improve grammar and clarity.

b. Acceptable verification ~~may include~~ includes:
   i. Medical or law enforcement records in cases of sexual assault or incest; ~~and~~ or

R6-12-308(D)(5)(c)

Changed "rape" to "sexual assault" for consistency with terminology used in A.R.S. § 46-292.

c. If the applicant or recipient is unable to provide evidence to support the claim of sexual assault ~~rape~~ or incest, the Department shall accept the written statement of the applicant or recipient as sufficient verification of sexual assault ~~rape~~ or incest unless evidence to the contrary exists.

R6-12-308(D)(5)(d)

In response to a comment, added a provision to ensure the protection of the victim's privacy.

d. The FAA shall report allegations of sexual assault or incest to the Office of Special Investigations and, if the parent is a minor, to Child Protective Services. The Department shall not disclose the name, address, and any information concerning the sexual assault or incest to any person except those persons who require the information to investigate the allegations.

R6-12-310(C)

Added a statement for clarity.

2. A parent is a convicted offender who is living in the home while serving a sentence of unpaid public or community service; however, such parent shall not be considered part of the assistance unit for computation of the grant. The Department shall consider the parent to be out of the home for the purpose of deprivation.

R6-12-310(E)

Revised to improve grammar and clarity.

E. The circumstances listed in this subsection ~~shall~~ do not constitute deprivation by continued absence.

R6-12-312(E)

In response to a comment, changed the standard of proof for a good cause claim for noncooperation with child support enforcement requirements because the "reasonable certainty" standard could pose an unreasonable burden of proof on some applicants and recipients.

E. Acceptable verification shall be documentation which establishes the claim of good cause by a preponderance of evidence ~~with reasonable certainty~~ and may include:

R6-12-312(F)

Added a new subsection (F) to provide for circumstances when the applicant or recipient is unable to furnish evidence to support the good cause claim, since some applicants and recipients will not have reported the incidents, and redesignated subsections (F), (G), (H), and (I), as subsections (G), (H), (I), and (J), respectively.

F. If the applicant or recipient is unable to provide the verification specified in subsection (E) above, the applicant or recipient shall furnish information which permits the Department's Office of Special Investigations to investigate the good-cause circumstances.

R6-12-313(B)

Deleted the word "the" to improve grammar and clarity.

8. A person with a child under ~~the~~ age 6 who is currently employed at least 20 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days, or a person with a child age 6 or older who is currently employed at least 30 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days. Any interruption in such employment shall not exceed 10 days;

R6-12-313(H)

Clarified that the JOBS Administration makes the good cause determination.

H. A person may establish good cause for a failure or refusal to participate in JOBS as provided in R6-10-119 and R6-10-120. The JOBS Administration shall determine if good cause exists.

R6-12-315(C)

Clarified that a month in which the adult is eligible to receive benefits, but is not included in the assistance grant due to a sanction for noncompliance with an eligibility requirement, counts as a month of receipt when determining the 24-month benefit limit. Clarified the 24 months is a durational "limit", and the 60 months is a "period" of time.

C. The Department shall calculate the 24-month limit, and the 60-month period ~~periods,~~ beginning with the calendar month the recipient is first eligible for benefits, but shall not include any month prior to November 1, 1995, in the calculation. A month in which an adult is ineligible due to noncompliance with an eligibility requirement is counted towards the 24-month limit.

R6-12-315(D)

Clarified that the 24 months is a benefit "limit", and the 60 months is a "period" of time, and changed the statement from a negative to a positive statement for better grammar and clarity.

D. The 24-month limit and 60-month period ~~periods shall not~~ begin ~~until~~ in the calendar month following the month the person reaches age 18.

R6-12-315(E)

Revised to improve grammar and clarity.

E. Once the 60-month time period begins, it ~~shall continue~~ continues for 60 consecutive months. A subsequent 60-month period ~~shall begin~~ begins the first eligible month following expiration of a prior 60-month period.

R6-12-315(H)

Revised for better grammar and clarity.

H. The Department shall conduct regular eligibility reviews as prescribed in R6-12-210 for an assistance unit which includes an ~~ineligible~~ adult who is ineligible because of the 24-month limit. ~~due to the provisions of this Section.~~

R6-12-315(J)

In response to a comment that the Department ought to set a specific time period for notice to recipients, clarified that the Department will send the recipient notification of the opportunity to apply for an extension at least 30 days prior to the end of the last eligible month.

J. The Department shall provide the assistance unit with written notice of the opportunity to apply for an extension at least 30 days prior to removing an ineligible adult from the assistance grant due to the 24-month limit.

R6-12-316(A)

Reworded for clarity and better grammar. Added a good cause provision for not applying for an extension within 10 calendar days of the notice date of the opportunity to apply for an extension. This will allow a recipient who is unable to file an extension application timely to establish good cause for not timely filing. Reversed the order of the second and third sentences of subsection (A) for a more logical flow of the rule.

A. A recipient may request an extension of the 24-month limit by filing a written request with the Department within ten calendar days from the ~~notice~~ date of the notice prescribed in R6-12-315(J) ~~the opportunity to apply for an extension provided to the recipient~~. The request shall include the reason for an extension. The Department shall consider the mailing date of the request to apply for an extension as the filing date.

1. The Department shall accept an extension request filed on or before the last day of the 24th eligible month, or last day of a previous extension period, if the recipient establishes good cause for not filing the extension application within ten calendar days from the notice date of the opportunity to apply for an extension.
2. Good cause is limited to a sickness, accident, or other family hardship which was so severe it prevented the recipient from filing the extension application within the 10-day period.

R6-12-316(C)

Clarified that the Department will consider the recipient's entire course of action in seeking employment when making a determination of the recipient's eligibility for an extension of the 24-month benefit limit.

C. To qualify for an extension, the recipient shall establish that he or she has followed a course of action throughout the period of AFDC eligibility which is reasonably designed to result in employment, and which demonstrates a willingness to work. The Department shall determine good faith from the recipient's entire course of action and may consider the following actions ~~by a recipient~~ as evidence of a good faith effort to secure employment:

R6-12-316(I)

Added the word "finding" to the activities to which good cause is applicable because the rule also applies to job-search activities. Changed the word "participant" to "recipient" for conformity with terminology used elsewhere in the rules. Added a new subsection (7) to provide a good-cause exemption for lack of child care because the Department realizes that available and appropriate child care may be needed in order to find and maintain employment. Renumbered former subsection (7) as subsection (8).

I. For the purpose of this Section, good cause is limited to the following circumstances which prevent the person from finding, accepting, or maintaining employment:

5. Severe weather conditions prevented the recipient ~~participant~~ and other persons similarly situated from traveling to or participating in the employment activity;
7. The person lacks available and appropriate child care; or

R6-12-403(A)

To better reflect the intent of the rule, clarified that the paragraph does not apply to the usual residence of the assistance unit.

7. When the assistance unit owns real property, other than the usual residence described in subsection (A)(1) above, and is making a good faith effort to dispose of it, the equity value shall be excluded for 6 months, subject to the conditions listed in this subsection.

R6-12-404(C)(3)

In response to several comments received, deleted the provision which prohibits a dependent child from holding an individual development account (IDA). Laws 1994, Ch.227, § 3 does not exclude dependent children from holding an IDA. This change will allow dependent children to save money in an IDA to further their own education.

3. A dependent child shall not hold an IDA.

R6-12-404(G)

Clarified that the balance in an individual development account is excluded when the balance is exactly $9,000.

G. The Department shall exclude from the resource limitation set forth at R6-12-401(B) the balance held in an IDA which at any one time is ~~less than~~ $9,000 or less, except that any cumulative deposits over the life of an IDA which exceed $12,000 shall count against the resource limitation.

R6-12-405(D)

In response to a comment that the reference to a homestead exemption was confusing, removed homestead exemption because the rule relates to any property defined as homestead property in R6-12-101(38).

D. The improper transfer of homestead ~~real~~ property ~~covered by a homestead exemption~~ shall not affect eligibility if the property was transferred because the person cannot continue residing in the home for health reasons, as determined by a competent medical authority.

R6-12-503

Deleted the zeros representing cents because they are unnecessary.

4. Non-recurring cash gifts which do not exceed $30~~.00~~, per person in any calendar quarter.

R6-12-504

Changed "approval" date to "eligibility determination date" because eligibility determination date is included in the definitions, and clarified that subsection (B) applies to approved applications.

B. After the eligibility ~~approval~~ determination date, and if the application is approved, the Department shall count current child support, alimony, or spousal maintenance received by the Department's Division of Child Support Enforcement (DCSE), on behalf of an assistance unit member, in excess of $50 per month, as income in the month received for the purpose of determining continued eligibility.

R6-12-603(A)

Reworded for better grammar and clarity.

1. The agency or organization ceases to exist during the 3 years ~~no longer exists~~; or

R6-12-603(G)

Corrected a typographical error.

G. When an assistance unit includes both a sponsored alien and other members, and the deeming provisions of this section would render the ~~assistant~~ assistance unit ineligible, the Department shall determine eligibility of the other members without considering the sponsored alien or the sponsor's income or resources.

R6-12-603(H)

Revised to improve grammar and clarity.

H. The sponsored alien and the sponsor are jointly liable for any overpayment resulting from the sponsor's provision of incorrect or incomplete information, unless the sponsor had good cause, so as to make the alien solely liable. Good cause ~~shall include~~ includes:

R6-12-608(C)(2)

Revised to improve grammar and clarity.

a. A minor parent is emancipated if the minor parent's parent, adult specified relative as defined ~~at~~ in R6-12-309(A), or legal guardian has relinquished all control and authority over the minor parent, and no longer provides financial support to the minor parent.

R6-12-608(C)(2)(iii)

In response to a comment, deleted receipt of food stamp benefits from the definition of emancipation because food stamps are not cash financial assistance and are not an indicator that the minor parent is not financially independent.

iii. Has not received AFDC ~~or Food Stamp Program~~ benefits for each of the 12 consecutive months immediately preceding the month the minor parent applies for AFDC.

R6-12-608(C)(3)

Revised to improve grammar and clarity.

3. The physical or emotional health or safety of the minor parent, or the minor parent's child, would be at risk if the minor parent and the minor parent's child resided in the home of the minor parent's parent, legal custodian who is related to the minor parent to the degree specified ~~at~~ in R6-12-309(A), or legal guardian.

R6-12-608(C)(4)

Revised to improve grammar and clarity.

4. The minor parent lives with the minor parent's parent, adult specified relative as defined ~~at~~ in R6-12-309(A), or legal guardian who either:

R6-12-608(D)(2)(b)

Revised to conform with accepted terminology.

b. If the minor parent lives with a non-parent ~~parental specified~~ caretaker relative or legal guardian, the Department shall not count the income available to the assistance unit when determining the benefit level.

R6-12-609(F)

Corrected the spelling.

F. An applicant or ~~recipinet~~ recipient who is assigned to the control group as prescribed in R6-12-105 shall not qualify for TPEP unless the PWEP is unemployed for at least 30 days prior to the month of receipt of benefits. As used in this subsection, "unemployed" shall mean:

R6-12-614(A)

Added the word "this" for clarity.

2. If the assistance unit reestablishes eligibility for AFDC or TPEP during the initial 24-month period, and subsequently loses this eligibility, the assistance unit:

Article 7

Added the word "PAYMENT" for clarity.

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT PAYMENT AMOUNT

R6-12-705

Added the word "payment" for clarity.

R6-12-705. Determining Benefit Payment Amount; Prorating

R6-12-806(A)(2)

Deleted the word "child" because support means child support, alimony, spousal maintenance, or medical support.

a. The recipient fails, without good cause, to cooperate in obtaining ~~child~~ support as required by R6-12-311(C); or

R6-12-902(B)

Clarified that the Department will inform the recipient in writing of the effect of a request to withdraw a member from assistance.

B. The Department shall acknowledge receipt of a withdrawal request and advise the unit in writing within 10 days of receipt of the withdrawal request of the effect of the request, as specified below.

R6-12-903(B)(2)

In response to a comment, clarified that the Department will provide adequate and timely notice when the addition of a new assistance unit member causes ineligibility.

2. If the new member renders the unit ineligible, and is a mandatory member, the unit is ineligible. The Department shall provide adequate and timely notice.

R6-12-905

Clarified to emphasize when ineligibility begins.

An assistance ~~unit~~ unit's ~~shall become ineligible~~ ineligibility begins at the time described below:

1. ~~In the~~ On the first day of the same month in which any of the following events occurs ~~in which a change occurs when the unit is rendered ineligible for~~:
2. ~~In the~~ On the first day of the first month benefits can be terminated following timely notice of adverse action for failure to comply with a 6-month eligibility review.
3. ~~In the~~ On the first day of the first month in which the assistance unit is not eligible on the date AFDC benefits are paid when the unit is rendered ineligible for reasons not specified in subsections (1) or (2) above.

R6-12-906

Clarified to emphasize when ineligibility begins. Deleted the word "child" because support means child support, alimony, spousal maintenance, or medical support.

Ineligibility for an individual member of an assistance unit begins at ~~shall become ineligible~~ the time described below:

1. ~~In the~~ On the first day of the first month the member can be removed after timely notice of adverse action, but no later than the second month following noncompliance with the following requirements:
   a. Participation in JOBS pursuant to R6-12-313; or
   b. Cooperation with ~~child~~ support enforcement efforts pursuant to R6-12-311.
2. ~~In the~~ On the first day of the first month in which the member is not eligible on the date AFDC benefits are paid when the member is rendered ineligible for reasons not specified in subsection (1) above.

R6-12-907(C)

Clarified the action is effective at a certain date within the month.

1. The ~~month~~ date the adverse action is effective;

R6-12-908(3)

In response to a comment, clarified that the Department will not refer a case for an investigation on mere speculation that

a fraudulent act may have been committed.

3. The Department has valid reason to suspect that an act has been ~~Any act is committed or may have been~~ committed for the purpose of deception, misrepresentation, or concealment of information relevant to a determination of eligibility or the form or amount of a benefit payment; or

R6-12-1002

Removed the masculine adjective and placed in the present tense to conform with accepted rulemaking style.

D. Any document mailed by the Department shall be considered as having been given to the addressee on the date it is mailed to ~~his~~ the addressee's last known address. The date mailed shall be presumed to be the date shown on the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure.

E. The Office of Appeals shall deny any request that ~~was~~ is not timely filed.

R6-12-1003

Added a reference for clarity.

E. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearing as prescribed in R6-12-1006.

R6-12-1004

In response to a comment that the Department issue a supplemental payment "promptly", clarified that the Department will issue a supplemental payment within 10 days of the hearing decision.

D. If the appellant files a request for appeal more than ten days after, but within 20 days of, the adverse action notice date, the Department may take the adverse action while the appeal is pending. If the Office of Appeals then rules in favor of the appellant, the Department shall issue a supplemental payment to the appellant to cure any underpayment within 10 days from the date of the hearing decision.

R6-12-1005(C)(1)

In response to a comment, deleted the word "detailed" from the required contents of a subpoena because applicants and recipients may not always be able to provide a "detailed" description of anticipated testimony.

c. The name and address of any person to be subpoenaed, with a ~~detailed~~ description of the subject matter of the witness's anticipated testimony; and

d. A ~~detailed~~ description of any documents or physical evidence to be subpoenaed, and the name and address of the custodian of the document or physical evidence.

R6-12-1005(D)

In response to a comment, added a new subsection (D) to clarify that an appellant may request a change of hearing officer.

D. An appellant may request a change in hearing officer if the appellant so requests at least 10 days prior to the hearing. The appellant is limited to one request.

R6-12-1010(B)

Deleted the word "appropriate" because it is unnecessary.

3. If, within 10 days of the scheduled hearing date at which the appellant failed to appear, the appellant files a written request to reopen the proceedings and establishes good cause for non-appearance, the hearing officer shall reopen the proceedings and reschedule the hearing with ~~appropriate~~ notice to all interested parties.

R6-12-1014(A)

Changed the word "appellant" to "party" for consistency.

1. The ~~appellant~~ party shall file a written petition for review with the Office of Appeals within 15 calendar days of the mailing date of the hearing officer's decision.

R6-12-1102(B)

In response to a comment, added a new subsection (B) to clarify the order in which the Department will seek recovery of an overpayment.

B. The Department shall seek recovery from the caretaker relative, or the caretaker relative's current assistance unit, first. If the caretaker relative is unavailable due to death or disappearance, or was not a member of the overpaid assistance unit, the Department shall seek recovery from the other members of the overpaid assistance unit, or the other members' current assistance units.

R6-12-1201

Clarified that a person is considered to have committed an intentional program violation (IPV) by one of the reasons described in the subsection for the purpose of imposing a sanction.

B. For the purpose of imposing sanctions as prescribed in R6-12-1204, a person is considered to have committed an IPV if:

R6-12-1202(C)

Clarified that sanctions are applicable upon a finding of IPV, and clarified that a returned signed waiver is for the purpose of avoiding a disqualification hearing.

2. An explanation of the disqualification sanctions ~~the Department shall impose on the suspected violator~~ imposed for intentional program violations;

4. The date by which the suspected violator must return the signed waiver notice to the Department in order to avoid the hearing;

R6-12-1202(D)

Clarified that a person is considered to have committed an IPV by one of the reasons described in the subsection for the purpose of imposing a sanction.

D. For the purpose of imposing sanctions as prescribed in R6-12-1204, a signed waiver notice shall have the same effect as an administrative adjudication that an IPV occurred ~~and shall subject the violator to the same sanctions~~.

R6-12-1203(E)

Clarified that an IPV hearing is conducted in the same manner as other AFDC hearings except as expressly provided for in the subsection.

E. ~~The~~ A hearing officer, as prescribed in R6-12-1005, shall conduct the disqualification hearing pursuant to the procedures set forth in R6-12-1006, R6-12-1007, and R6-12-1011~~.~~, except as prescribed in this subsection.
   1. The suspected violator does not need to request a hearing as prescribed in R6-12-1006(B).
   2. The standard of proof is clear and convincing.
   3. ~~However, so~~ So long as the Department sent an advance notice of hearing as provided in subsections (A) and (B) above, the hearing officer shall conduct the disqualification hearing even if the suspected violator or representative cannot be located or fails to appear at the hearing without good cause.

R6-12-1305(A)

Deleted the word "adjusted" because Laws 1994, Ch. 301, § 2(C)(3) does not exclude "adjusted" wages. "Adjusted" gross wages, defined as "net project wages" in Laws, Ch.301 § 2(C)(7), are applicable only to the calculation of supplemental payments.

A. The Department shall exclude as income the participant's ~~adjusted~~ gross monthly wages received from the subsidized job placement, except that JOBSTART wages in excess of 40 hours per week at the federal minimum wage, and income from other sources, shall count pursuant to Article 4.

R6-12-1306

Added headings to subsections (A), (B), and (C) to identify the 3 different types of supplemental payments. Added the word "reconciliation" to distinguish the supplemental payment described in subsection (C) from "advance" supplements or "emergency" supplements. Redesignated the subsections (A), (B), and (C) with new subsections (1), (2), and (3).

A. Advance supplemental payments.
B. Emergency supplemental payments.
C. Reconciliation supplemental payments.
   1. The Department shall provide a reconciliation supplemental payment to a JOBSTART participant who receives less in adjusted gross wages in a benefit month than the cash value of the combined AFDC and Food Stamp Program benefits which the participant is eligible to receive for that month due to a reduction in available work hours by the employer.
   2. The Department shall issue the reconciliation supplemental payment no later than the 10th day of the month following the benefit month.
   3. The reconciliation supplemental payment, plus the adjusted gross wages and any other supplemental payments already received for the benefit month, shall not exceed the cash value of the combined AFDC and Food Stamp Program benefits the participant was eligible to receive for the benefit month.

Additional changes were made to correct minor grammatical flaws, such as the addition of an apostrophe. In several instances throughout the rules, the Department changed the alphabetical form of "ten" to the numeric form "10", and changed the words "paragraph" and "subparagraph" to "subsection" to conform with accepted rulemaking style.

10. **A summary of the principal comments and the agency response to them:**

During the comment period, the Department received comments raising issues or questions about some specific rules, as more fully described below.

A commenter expressed concern that the definition of a "request for hearing" in R6-12-101(66) may be read to require more than what is necessary to request a hearing and asked that the definition be tempered to remove an implication that nothing short of a fairly unmistakable written demand is required.

Federal regulations at 45 CFR 205.10(a)(5)(i) give states the option to require applicants or recipients to request hearings in writing. The Department has elected the option of a written hearing request. The Department liberally construes any written inquiry or submission which expresses a desire to present an issue to a higher authority as a hearing request within the meaning of R6-12-101(66) and, therefore, believes a change in the language of the rule is unnecessary. The requirement that a request be in writing is reasonable because it saves the Department from the burden of assuming that any oral complaint about "unfairness" should be treated as a request for a hearing. In addition, the requirement of a written expression is easily met because of the requirement of R6-12-1003(A) that the Department assist a recipient to put a request in writing.

A commenter suggested adding the clause, "or the representative's designee", to R6-12-102(C)(1) to allow for situations when the authorized representative is not able to obtain the file and wants to authorize another representative of the agency to collect the information. The Department believes there is no need to modify the rule because the applicant or recipient is the one who designates to whom the Department may disclose the confidential information. The name of that person or agency is identified on the release of information form. (*See* R6-12-102(C)(1)(b)). Allowing a designated representative to "sub-designate" another person would pose a risk of unauthorized disclosure and potentially violate federal requirements mandating confidentiality.

A commenter expressed a concern that R6-12-105(D) does not specifically list R6-12-608 as a rule which is not applicable to the control group for the EMPOWER welfare reform demonstration project evaluation study. The Department is not listing R6-12-608 with the control group exceptions in R6-12-105(D) because R6-12-608 also applies, in part, to all applicants and recipients whether or not assigned to the evaluation control group. For example, the income deeming procedures in R6-12-608(D) are applicable to a minor parent who is married or has been married. R6-12-608 applies to both unwed minor parents and married minor parents. Only unwed minor parents are affected by the EMPOWER minor parent requirements. Therefore, for clarity, the exception to the minor parent provisions for individuals assigned to the control group is set forth within the rule itself at R6-12-608(G), rather than in R6-12-105(D).

Two commenters were concerned that R6-12-203(D) and (E) require an applicant or recipient to reschedule a missed interview appointment by the close of business the same day. Failure to do so results in denial of the application or termination of assistance. The commenters contend the rule should provide for good cause exceptions for missing the appointment due to circumstances such as lack of transportation or child care, or other family emergencies which make it impossible for the applicant to attend the interview or contact the Department to reschedule the interview before close of business on the day of the missed appointment.

The Department has clarified that the above requirement only applies to initial applications, not 6-month review interviews, by amending R6-12-203(E), and adding new subsections R6-12-210(D) and (E). (*See* comments above regarding changes made to R6-12-203(E), and R6-12-210(D) and (E). Currently, the Department does not allow good cause exceptions for missing an interview appointment for an initial application. Because of the need for the Department to adequately schedule staff so that a sufficient number of eligibility interviewers are available throughout the day to conduct interviews, the Department denies an initial application when the applicant fails to reschedule another appointment before close of business on the day of the missed appointment. The applicant has recourse because the person can always file another application.

The Department is aware that this procedure may create hardships in certain situations. Therefore, the Department is reassessing its current practice to determine if the same good cause reasons which are allowed for 6-month reviews can also be used for initial applicants. Due to the impact that a change would have on local office procedures and automated systems, the Department is not modifying the rule at this time. The Department will obtain data on the number of applicants adversely affected by the current practice. If a decision is made to go forward with the change, the Department will amend the rule in a subsequent rulemaking action.

A commenter raised an issue about some possible inconsistencies with regard to the determination of a physical or mental incapacity of a parent. The commenter suggested that the rule should reflect the medical/vocational disability criteria the Department uses to determine disability for the General Assistance (GA) program. The commenter was concerned primarily that R6-12-204(B)(2) conditions demonstration of a parent's incapacity on a physician's statement that the parent has a physical or mental condition which prevents the parent from working.

R6-12-204(B)(2) relates to the finding of a disability within the meaning of R6-12-101(59) when that determination is made by the Family Assistance Administration (FAA) eligibility interviewer based on a statement provided by a licensed physician. An eligibility interviewer is not a physician and thus is not qualified to assess all medical and social factors when determining whether a person suffers from a physical or mental incapacity within the meaning of R6-12-101(59). In order for an FAA eligibility interviewer to make that determination, a statement from a physician is needed which clearly states the person has a condition which prevents the person from working, and thus meets the criteria defined in R6-12-101(59).

When the applicant or recipient is unable to provide a statement from a physician, the eligibility interviewer refers the issue to the District Medical Consultant for a disability determination. The District Medical Consultant is a licensed physician who is trained to make disability determinations based on appropriate medical/vocational criteria. *See* R6-12-101(26). The District Medical Consultant considers medical/vocational factors similar to those applicable to the GA program. R6-12-204(D) provides for disability determinations which are made by the District Medical Consultant.

A concern was raised about the verification procedures at R6-12-205. One commenter wanted the rule to include the eligibility interviewer's responsibility to assist the applicant or recipient in obtaining the necessary verification. Another commenter suggested that the rules ought to provide that the Department will obtain verification through collateral contacts identified by the applicant, and require further action by the applicant or recipient only when the collateral contact efforts prove unsuccessful within the 10-day verification time frame. In that event, an applicant or recipient would be allowed a reasonable time thereafter in which to secure still-missing verification within the 45-day application processing time frame.

The applicant or recipient has the primary responsibility to obtain verification to establish eligibility. The Department offers to assist when the applicant or recipient has difficultly in obtaining the verification within the processing time frames, and verifies information through the use of third-party collateral contacts when appropriate. The Department has added a statement to R6-12-205(C) to clarify that the worker shall offer to assist the applicant in obtaining verification when it is difficult or impossible for the applicant or recipient to do so. (*See* changes made to R6-12-205(C) above). Due to the high volume of cases, the Department cannot step in every time to contact a third party for verification. Often it is easier for the applicant or recipient to furnish the information. For example, it is easier for the applicant or recipient to produce a rent receipt than it is for the Department to track down the landlord to obtain the information.

A commenter suggested the addition of language to R6-12-206(C) to explicitly provide that an application will not be denied, or benefits terminated, when it is "morally impossible" for a person to be home for a scheduled home visit. We believe the clarifying language added to R6-12-206(C), and the addition of R6-12-210(D) and (E) will solve this problem for a home visit scheduled for a 6-month review interview. (*See* discussion above for missed appointments for an initial eligibility interview.) The suggested language would also have made the rule impossible to objectively enforce.

A commenter raised an issue regarding the denial of benefits to otherwise eligible dependent children not yet 22 years old, who were precluded by disabilities from completing their secondary schooling before reaching age 19. The eligibility criteria for a

dependent child is prescribed in state and federal law. A.R.S. § 46-101(5) defines a dependent child as a child "under the age of 18 years or, if 18, must be a full-time student in a high school, or in the equivalent level of vocational or technical training, and shall be reasonably expected to complete the program before reaching age 19". Additionally, 45 CFR 233.10(b)(2)(ii)(a)(1) defines a needy child as a child "under the age of 18, or age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19". (*See* A.R.S. § 46-101(5) and 45 CFR 233.10(b)(2)(ii)(a)(1)). Thus, the law precludes the Department from extending AFDC eligibility to dependent children age 19 through 22.

A comment was directed at R6-12-308(A) and (C). The commenter questioned the wisdom of applying the family benefit cap to children relegated by parents to the care and custody of needy relatives. The statute which authorizes the family benefit cap, A.R.S. § 46-292(C)(1)and (2), explicitly includes the clause "parent or other relative". A child is subject to the family benefit cap when the child is born to a parent who receives AFDC, or goes to live with a caretaker relative who receives AFDC. Under the family benefit cap, neither the parent's AFDC assistance unit, nor the AFDC assistance unit of a relative who assumes care and control of the child, will receive more benefits resulting from the birth of a child to a parent receiving AFDC. A "capped" child cannot move into another assistance unit in order to qualify for benefits.

The family benefit cap is designed to encourage parents to delay having children until they are financially able to support them. The family benefit cap encourages recipients to make responsible parenting decisions. Allowing another family to receive benefits for a "capped" child would contribute to the breakup of the family unit by encouraging parents to shuffle their children to other assistance units to receive benefits.

Another comment pertained to R6-12-308(D)(4). The commenter suggested the addition of the clause "including sexual assault occurring within a legally recognized marriage". Sexual assault is defined at A.R.S. § 13-1406(A). The Department will recognize any sexual assault which falls within the meaning of A.R.S. § 13-1406(A). The Department believes the statutory definition covers situations involving sexual assault occurring within a legally recognized marriage; therefore, there is no reason to specifically include the suggested language in the rule.

Another comment was raised regarding R6-12-308(D)(4)(c) which provides that a child is not subject to the family benefit cap if the child is born as a result of sexual assault or incest. The commenter suggested adding a statement regarding the amount of evidence the Department requires in order to rebut the claim that a child was conceived as a result of sexual assault or incest. The commenter suggested the addition of the clause "unless clear and convincing evidence" to the contrary exists.

The Department requires an applicant or recipient to certify in writing that her child was born as a result of sexual assault or incest. The applicant or recipient must provide verification to support the claim of sexual assault or incest. When no verification is available, the Department will accept the statement of the applicant or recipient. The applicant has the responsibility to provide verification necessary to establish eligibility for the child. It is not up to the Department to prove the claim is false. Rather, it is up to the applicant to establish the fact by furnishing appropriate verification.

The Department recognizes that in certain situations the applicant will lack necessary verification. When no verification is available, the Department will accept the applicant's statement, provided there is no contrary evidence which refutes the applicant's claim of sexual abuse or incest. The Department rejects the notion that it must set a clear and convincing standard of proof. Any reasonable proof which refutes the claim is acceptable since the burden of establishing the child's eligibility based on the claim of sexual abuse or incest rests with the applicant or recipient, and the Department is accepting the recipient's statement only because the recipient is unable to provide other verification to support her claim.

A question was raised about R6-12-308(F) which provides that the income and resources of a child who is ineligible for cash assistance due to the family benefit cap is countable when determining the amount of assistance for the other members of the assistance unit. The EMPOWER waiver terms and conditions provide that the capped child is included in the standard of need and is considered an AFDC recipient for other purposes except for receipt of the AFDC cash benefit. In Arizona's EMPOWER waiver application, the Department sought a waiver of 42 U.S.C. 602(a)(10) and (a)(38), and 45 CFR 206.10(a)(1)(vii) to exclude the needs, but not the income and resources, of the capped child. The ineligible child is a member of the family's assistance unit and receives AFDC supportive services based on the assistance unit's AFDC eligibility. Therefore, the income and resources of the entire assistance unit are taken into consideration.

A question was raised about the wisdom of R6-12-313(D)(2) which prohibits teenage parents from limiting their participation in the Job Opportunities and Basic Skills Training Program (JOBS) to 20 hours per week. Custodial parents age 20 or over may limit their participation in JOBS to 20 hours per week.

Federal regulations at 45 CFR 250.32(a)(1) give states the option of requiring full time participation in educational activities directed toward the attainment of a high school diploma or its equivalent. The Department believes education is important to the achievement of long-term self-sufficiency, especially for young parents. R6-12-313(D)(2) allows teenage custodial parents to participate more than 20 hours per week when such participation is necessary to complete a high school education or its equivalent.

Two commenters expressed concern with the 10-day window of opportunity to request an extension of the 24-month benefit limit. They also argued that a person should be able to request a extension even after benefits have already been reduced after the 24 eligible months.

The Department has decided to not grant extensions once the adult has received cash assistance for 24 months and has been removed from the assistance grant. An extension will not be granted unless the adult files for an extension while currently eligible for benefits. The Department has retained the 10-day window of opportunity but has added good cause reasons which will enable a recipient to file for an extension up until the last day of the 24th eligible month.

A commenter suggested the addition of language in R6-12-316(D) to clarify how the Department will determine the amount of income which equals the amount of the benefit that the recipient became ineligible to receive. R6-12-316(B) currently provides that the monthly earnings must equal the incremental benefit amount otherwise payable for the ineligible adult. The incremental

benefit amount is the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded form the benefit amount. Under the existing AFDC payment standards, the incremental difference is either $71 or $72 per month if an assistance unit incurs a rent or mortgage obligation on its place of residence, and $45 per month if an assistance lacks a shelter obligation. Computation of benefits is prescribed in Article 7.

The Department received a comment regarding the provision of R6-12-316(E)(1) which requires a recipient to make at least 3 employer contacts each month in order to qualify for an extension of the 24-month benefit limit. A comment was made that it is easier for a person who lives in a city to make 3 employer contacts than it is for a person who lives in a rural or remote area or who lacks reliable transportation.

The job search criteria prescribed in R6-12-316(C) are quite broad. Many different types of activities may constitute a work search effort. A person who lives in a remote area, or who lacks transportation, can still take appropriate steps to secure suitable employment. Three contacts per month is not an impossible task for a person who is willing to achieve self-sufficiency. Anyone, even if living in a very remote area, or without transportation, is expected to make a reasonable effort to find work.

A comment was received concerning the good cause provisions prescribed at R6-12-316(I) for not accepting an offer of employment, or not maintaining employment which provides gross monthly earnings equal to the amount the assistance unit lost due to imposition of the 24-month limit on assistance. The commenter suggested that the Department should add additional good cause reasons for situations where the costs necessary to the employment exceed the lost AFDC benefit amount, the offered wage was less than the minimum wage, the working conditions would involve undue risk to the parent's health or safety, the work lacked workers' compensation protection, or the employer discriminates on grounds prohibited by federal and state law.

The Department has added an additional good cause reason for lack of available and appropriate child care. (*See* the changes made to R6-12-316(I) above). The Department is not adding any other good cause reasons because the Department is limiting good cause to circumstances which are beyond the recipient's control. The Department believes there is no reason to consider the costs necessary to employment because the recipient must only seek or maintain employment which pays gross monthly earnings equal to the amount which the assistance unit lost due to imposition of the 24-month limit. This is currently only about $72 per month. Moreover, the Department is not adding good cause reasons for an offered wage of less than the minimum wage, for working conditions which involve undue risk to the parent's health or safety, for work which lacks workers' compensation protection, or for employer discrimination because there are existing labor laws which govern such practices.

The Department also received a comment about R6-12-404(J) regarding the lack of a provision for emergency withdrawals from an Individual Development Account (IDA). Laws 1994, Ch. 227, § 3(F) prescribes the reasons for which a recipient may withdraw IDA funds without the withdrawn funds counting against the AFDC and food stamp resource limitations. The funds may be withdrawn only for educational or training costs. The Department cannot promulgate a rule that would be broader than the allowed statutory grounds.

The Department received a comment about the definition of legal emancipation of a minor parent in R6-12-608(C)(2). The commenter wanted to include other factors such as the lack of parental objection to setting up a separate home, the minor's intentions not to return the parental home, the minor's ability to support herself, and the minor's age. A.R.S. § 46-296(B)(2) defines emancipation in reference to "the laws of this state". There is no statutory definition of emancipation in the Arizona Revised Statutes.

Therefore, the Department's emancipation criteria is drawn primarily from Attorney General Opinion No. 69-27, October 10, 1969, Tencza v. Aetna Casualty and Surety Company, 111 Ariz. 226, 527 P.2nd 97 (1974), and from federal law, as described below. Economic self-sufficiency and financial independence from the parent are integral components of emancipation. The Department is, however, deleting the provision regarding recipient of food stamp benefits from the definition. (*See* changes made to R6-12-608(C)(2)(iii) above).

The commenter also expressed a concern that the 12-month time frame to establish emancipation should be shortened. The Department's minor parent provisions are also based on the allowable state option for minor parents set forth in 45 CFR 233.107. Federal law allows states the option of denying benefits to unemancipated unwed minor parents under certain circumstances. The federal option defines emancipation as financial independence for at least 12 months Although Arizona elected to develop its own unwed minor parent provision under a waiver, rather than the federal option, Arizona has decided to follow the federal model for the 12-month time period. The 1-year requirement for living apart from the parent or guardian is prescribed in 45 CFR 233.107(a)(3)

The Department received several comments about the minor parent provisions of R6-12-608 regarding the role of the Department's Child Protective Services (CPS) when there is a threat to the well-being of the minor parent due to abuse or neglect. One commenter believes CPS lacks the necessary staff or resources to conduct consistently satisfactory assessments of abuse or neglect and believes the minor parent cases must therefore be assigned only to experienced and completely trained CPS professionals.

CPS is capable of conducting adequate investigations of alleged incidents of abuse or neglect affecting the minor parents or the minor parent's children. Competent CPS staff will investigate the minor parent claims of abuse or neglect and report the findings to FAA.

A commenter urged the Department to amend R6-12-608 to expressly provide for instances of abuse or neglect which first arise after a minor parent joins a household in which she can receive AFDC. This type of situation will be handled in the same manner as currently provided for in R6-12-608(C)(3). The FAA will refer the allegation of abuse or neglect to CPS for an assessment whether the abuse or neglect occurred before the minor parent extricated herself from an abusive or neglectful situation, or if the minor parent finds herself in an abusive or neglectful situation as result of her move into the home of a parent or other responsible adult.

A commenter expressed concern that CPS involvement could create negativity in an already dysfunctional situation. Another commenter expressed concern that a minor parent must prove that the parents are unfit, and that it will be a long drawn out process for the minor parent to prove, through a CPS investigation, that she would be subject to abuse or neglect if living in the parent's home.

Minors are safe because they are given the benefit of doubt. The Department will accept their claim (self-statement) of abuse or neglect before we pursue an investigation. The Department believes that CPS will play a vital role in keeping minor parents from situations involving abuse or neglect which threaten their health or safety. If a minor parent alleges abuse or neglect if she returns to the home of a responsible adult, CPS will investigate so that the minor parent is not placed in an abusive or neglectful environment. The minor parent is eligible for AFDC pending the CPS assessment of the allegations. *See* R6-12-608(C)(3)(f).

Another question involved privacy concerns during the hearing process when a minor parent is determined ineligible based on a CPS finding that the allegation of abuse or neglect is invalid, and the minor parent appeals the decision to terminate benefits on those grounds. A CPS worker will attend the hearing which will be conducted according to the hearing procedures set forth in Article 10. All information concerning the minor parent is subject to the confidentiality requirements set forth in R6-12-102. In addition, because the case involves a CPS investigation, the minor will have the added confidentiality protection of A.R.S. § 8-546.07.

There was a general concern that the EMPOWER minor parent provisions are directed at females who are quite often the victim of assault or sexual abuse. There was a concern that the EMPOWER minor parent provisions will not solve the problem but will instead force the problem to erupt elsewhere.

The Legislature made the decision to deny benefits to unwed minor parents under certain circumstances as a matter of state public policy. The Department must follow the law. Moreover, the Department believes that the EMPOWER minor parent provisions will help prevent teen pregnancies and promote parental responsibility. Requiring a school-age parent to live at home with her parents or another responsible relative is in the best interests of the minor parent and the minor parent's child. The minor parent provisions will help maintain and strengthen family life by creating disincentives for young parents to separate from their parents and to set up households where they lack the support and guidance of a responsible adult.

There were several general comments about minor parents having to live in the home of their parents in order to receive AFDC when the parents are unfit to manage the AFDC benefits. A commenter expressed concerns about who the payee will be for the minor parent's assistance unit. R6-12-608(C)(4)(b) requires the responsible adult to serve as the payee for the assistance grant when the minor parent moves into the home of a responsible adult who receives AFDC. There was a concern that the parent of the minor parent may be a drug addict or an alcoholic who will not give the minor parent enough money to care for her child.

The Department will pay the benefits to a protective payee when the recipient payee mismanages or misappropriates the benefits. If the caretaker relative is a drug addict or alcoholic who is unable to adequately serve as the payee for the minor parent's assistance unit, then the Department, with the assistance of the recipient, will select an appropriate payee. (*See* R6-12-806).

A related concern involved the emergency payee provisions in R6-12-807, and that drug addiction is not specifically mentioned. R6-12-806 is applicable to situations where the caretaker relative mismanages or misappropriates the AFDC benefits due to chemical dependence.

A comment was received regarding R6-12-901 which requires the assistance unit to report all changes in circumstances. The commenter stressed that it is important to ensure that the notice which advises the assistance unit of its reporting responsibilities is provided in language that is clear and comprehensible; that the print is large enough to read easily; and that the notice is available in Spanish when appropriate. The Department is adding a statement to R6-12-203(C)(4) which clarifies that the recipient is provided written information about the duties of the assistance unit to report any change of circumstances affecting eligibility or benefit amount. The FAA eligibility interviewer provides the applicant with a pamphlet which is available in either English or Spanish. The pamphlet explains the reporting responsibilities in clear, easily understandable language.

A question was raised concerning R6-12-902(G) and whether the Department must provide "adequate notice" or "adequate and timely notice" when the Department receives a written request for the voluntary withdrawal of a member from the assistance unit. Federal regulations at 45 CFR 205.10(a)(4)(ii)(B) require only adequate notice when the Department receives a clear written statement signed by a recipient requesting a reduction in benefits, and the recipient understands the consequences of that request. R6-12-902(G) addresses a situation where the assistance unit has submitted a written request for voluntary removal of a member. Adequate notice is appropriate.

Another comment pertained to R6-12-903 which explains how the Department determines benefits when adding a member to the assistance unit, or removing a member from the unit. A question was raised as to whether a new application for all members is required when adding a new member, or merely a single form for the new member. The commenter believes an entire new application is burdensome and unnecessary when verification is only needed for the new member.

The Department requires an add-on application when a new member is added to the assistance unit. The Department redetermines eligibility for the entire assistance unit when a new member is added to ensure that the entire family unit receives the correct amount of benefits.

The commenter also suggested that the determination made under R6-12-903(B) be made in a specific number of days. An add-on application is treated like any other review application, and the 45-day processing time frame prescribed in R6-12-209(A) applies.

A commenter suggested that R6-12-903(C)(3)(b) and (c) include adequate and timely notice. The recipient is provided adequate and timely notice when the benefits are reduced pursuant to R6-12-907. The assistance unit is always provided notice of an overpayment and is given an opportunity to appeal the existence of an overpayment or the amount of an overpayment. *See* R6-12-1001(A)(6).

A commenter raised an issue that R6-12-1002 is silent on the household's right to a hearing on the timeliness of the appeal. The Department has no objection to such an addition to the rule in general. However, the Department needs to avoid what could possibly be a never ending cycle of hearing requests on the timeliness issue. In addition, the disposition that an appeal is untimely will allow the recipient to request a hearing or review of that decision. Therefore, the Department did not add this provision to the rule.

A commenter suggested that R6-12-1006(D)(3) be modified to require a more specific explanation of the issues and legal citations on the hearing notice. The Department's hearing notice currently provides a summary of the issues involved in easily understand-

able language.

A commenter suggested that R6-12-1007(B) be revised to allow the assistance unit to seek a postponement of the hearing once, for any reason, even if the unit seeks a postponement less than 5 business days prior to the hearing. The Department believes that both parties should be bound by the 5-day rule. The 5-day time frame is reasonable and gives the appellant enough time in advance of the scheduled hearing to contact the hearing office if unable to attend the hearing.

The Department received a comment regarding the definition of "party" in R6-12-101(57), and the use of the term "party" in R6-12-1012(D), and R6-12-1014(A) and (B). The commenter alleges that the Department would be out of compliance with federal law if the Department allows itself to appeal an adverse decision.

The Department issues a determination it believes is appropriate. If the applicant or recipient disagrees, the Department action by definition is "adverse" to the applicant or recipient. Only the applicant or recipient, of course, may request a hearing from an adverse Department action. (*See* R6-12-101(66), ("Request for hearing" means a clear written expression by an applicant or recipient...), and R6-12-1001(A), describing adverse Department actions.)

Upon a request for a hearing by an applicant or recipient, the hearing officer in the Office of Appeals conducts the hearing and issues the decision. (*See* R6-12-1005). By federal law, the Department may not appeal an adverse hearing decision on a food stamp issue. (*See* 7 CFR 273.15(q)(2)). Federal law places no such restriction, however, on the Department's right to appeal adverse hearing decisions concerning AFDC claims. The federal regulations cited in the comment (45 CFR 205.25(16)) merely requires written notice be given to the claimant of any appeal rights the claimant has in AFDC cases. (*See* 45 CFR 205.25(17)). Because this regulation does not limit the appeal right of the Department, the Department's designation as a "party" in R6-12-101(57) is appropriate for administrative review (appeal) of AFDC hearing decisions described in R6-12-1014(A). The Department, therefore, can appeal an adverse hearing decision to the Appeals Board on any issue except one involving food stamps.

During the applicant or recipient's appeal to the Appeals Board from a hearing officer's decision, adverse action is stayed until the Board's determination. (*See* R6-12-1014(B)). Adverse agency action is also stayed if the claimant requests a hearing within 10 days of the initial adverse Department action. (*See* R6-12-1004).

A commenter urged that R6-12-1015 incorporate a time limit for the Appeals Board to issue a decision on AFDC cases. Neither federal nor state law imposes any time limit on the Appeals Board to issue a decision. The Appeals Board always tries to issue decisions as soon as possible. The timing is governed by the work load and the number of Appeals Board members authorized in statute.

A commenter suggested the Department should promulgate a rule regarding overpayments when the Department is recovering an overpayment from an assistance unit alleging liability for a pre-existing overpayment. The Department will assess this further and may open a rulemaking docket to promulgate such a rule if warranted.

A commenter raised a concern about R6-12-1202(C) which sets forth the contents of hearing waiver notice for an Intentional Program Violation (IPV). The commenter expressed concern that the hearing notice may be calculated to deter the average recipient from contesting the alleged IPV at a due process hearing. The Department disagrees. The Department's waiver notice, in combination with the notice of hearing, follows the requirements of 45 CFR 235.113. The notice gives the suspected violator an opportunity to waive the administrative hearing but is not calculated to induce the person to do so. The information included on the notice safeguards the rights of the person who is suspected of committing an IPV.

A commenter urged that Article 12 be revised to provide that IPV hearings will be held and decisions issued within the same time limits imposed for other types of hearings before an administrative law judge. A time frame for the adjudication of an IPV hearing is included in R6-12-1203(G). The Administrative Law Judge is required to issue the IPV decision no later than 90 days from the date of the notice of hearing.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

12. Incorporations by reference and their location in the rules:

45 CFR 233.20(a)(6)(iii) through (viii)	R6-12-101.
29 U.S.C. 142(2)	R6-12-101.
45 CFR 233.50	R6-12-305.
8 U.S.C. 1255a and 1160	R6-12-502.
8 U.S.C. 1255a and 1160	R6-12-605.

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 12. DEPARTMENT OF ECONOMIC SECURITY
AID TO FAMILIES WITH DEPENDENT CHILDREN

ARTICLE 1. GENERAL PROVISIONS

Section
R6-12-101. Definitions
R6-12-102. Confidentiality
R6-12-103. Case Record
R6-12-104. Manuals
R6-12-105. EMPOWER: Random Assignment Evaluation

ARTICLE 2. APPLICATION PROCESS AND PROCEDURES

Section
R6-12-201. Application
R6-12-202. Request for Benefits; Composition of the Assistance Unit
R6-12-203. Initial Eligibility Interview
R6-12-204. Disability Determination
R6-12-205. Verification of Eligibility Information
R6-12-206. Home Visits
R6-12-207. Withdrawal of Application
R6-12-208. Death of an Applicant
R6-12-209. Processing the Application; Denials; Approval
R6-12-210. Six-Month Review
R6-12-211. Reinstatement of Benefits

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

Section
R6-12-301. Non-financial Eligibility Criteria
R6-12-302. Applicant and Recipient Responsibility
R6-12-303. Application for other Potential Benefits
R6-12-304. Residency
R6-12-305. Citizenship and Alienage
R6-12-306. Eligible Persons
R6-12-307. 18-year Olds; School Attendance
R6-12-308. Ineligible Children; Family Benefit Cap
R6-12-309. Relationship
R6-12-310. Deprivation
R6-12-311. Assignment of Support Rights; Cooperation
R6-12-312. Good Cause for Non-cooperation with Child Support Enforcement
R6-12-313. Participation in JOBS; Good Cause Exceptions
R6-12-314. Social Security Number
R6-12-315. Duration of Assistance
R6-12-316. Extension of the 24-month Limit
R6-12-317. Extension of the 24-month Limit to Complete Education or Training

ARTICLE 4. FINANCIAL ELIGIBILITY; RESOURCES

Section
R6-12-401. Treatment of Resources; Limitations
R6-12-402. Treatment of Resources by Ownership Status; Availability
R6-12-403. Treatment of Resources; Exclusions
R6-12-404. Individual Development Accounts
R6-12-405. Resource Transfers; Limitations
R6-12-406. Resource Verification

ARTICLE 5. FINANCIAL ELIGIBILITY; INCOME

Section
R6-12-501. Treatment of Income
R6-12-502. Income Available to the Assistance Unit
R6-12-503. Income Exclusions
R6-12-504. Special Income Provisions; Child Support, Alimony, or Spousal Maintenance
R6-12-505. Special Income Provisions; Non-recurring Lump Sum Income
R6-12-506. Determining Monthly Income
R6-12-507. Methods to Determine Projected Monthly Income
R6-12-508. Income Verification

ARTICLE 6. SPECIAL AFDC CIRCUMSTANCES

Section
R6-12-601. Pregnant Women
R6-12-602. Caretaker Relative of SSI or Foster Care Child
R6-12-603. Sponsored Aliens
R6-12-604. Strikers
R6-12-605. Dependents with Ineligible IRCA Parents
R6-12-606. Dependents of Foster Children
R6-12-607. Stepparents
R6-12-608. Minor Parents
R6-12-609. Unemployed Parents in a 2-parent Household; (TPEP)
R6-12-610. TPEP; Education and Employment Requirements; Good Cause for Nonparticipation
R6-12-611. TPEP; Duration
R6-12-612. Transitional Child Care
R6-12-613. Transitional Child Care; Eligible Children
R6-12-614. Transitional Child Care; Duration
R6-12-615. Involuntary Termination of Transitional Child Care
R6-12-616. Guaranteed Child Care Benefits; Options
R6-12-617. Guaranteed Child Care; Eligible Children

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT PAYMENT AMOUNT

Section
R6-12-701. Need Standard
R6-12-702. Determining Eligibility
R6-12-703. Earned Income Disregards
R6-12-704. Disqualification From Earnings Disregards; Good Cause
R6-12-705. Determining Benefit Payment Amount; Prorating
R6-12-706. Notice of Eligibility Determination

ARTICLE 8. PAYMENTS

Section
R6-12-801. Benefit Payments
R6-12-802. Mailing of Payments
R6-12-803. Supplemental Payments
R6-12-804. Returned Payments
R6-12-805. Non-receipt of Payments; Replacement
R6-12-806. Protective Payee
R6-12-807. Emergency Payee

ARTICLE 9. CHANGES; ADVERSE ACTION

Section
R6-12-901. Reporting Changes
R6-12-902. Withdrawing a Member from the Assistance Unit
R6-12-903. Determining Benefits When Adding or Removing a Member
R6-12-904. Benefit Reduction or Termination
R6-12-905. Ineligibility Date for an Assistance Unit
R6-12-906. Ineligibility Date for an Individual Member of an Assistance Unit
R6-12-907. Notice of Adverse Action
R6-12-908. Referral for Investigation

ARTICLE 10. APPEALS

R6-12-1001. Entitlement to a Hearing
R6-12-1002. Request for Hearing; Form; Time Limits
R6-12-1003. Hearing Requests; Preparation and Processing
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ARTICLE 1. GENERAL PROVISIONS

R6-12-101. Definitions

The following definitions apply to this Chapter:

1. "Adequate notice" means a notice which explains the action the Department intends to take, the reason for the action, the specific authority for the action, the recipient's appeal rights and right to benefits pending appeal, and which is mailed before the effective date of the action.
2. "Adequate and timely notice" means a written notice which contains the information required for an adequate notice and is sent within the time frame provided for a timely notice.
3. "Adverse action" means one of the Department actions described in R6-12-1001(A), including action to terminate or reduce a benefit or assistance grant, or change the manner or form in which benefits are paid.
4. "AFDC" or "Aid to Families with Dependent Children" means a program administered by the Department which provides assistance to needy families with dependent children pursuant to 42 U.S.C. 601 *et seq.*
5. "AHCCCS" or "Arizona Health Care Cost Containment System" means a system established pursuant to A.R.S. § 36-2901 *et seq.* which consists of contracts with providers for the provision of hospitalization and medical care coverage to members.
6. "AHCCCSA" or "The Arizona Health Care Cost Containment System Administration" means the Arizona state government agency which administers the AHCCCS program.
7. "Alien" means a person who is not a United States citizen.
8. "Alien sponsor" or "sponsor" means an organization which, or a person who, has executed an affidavit of support or similar agreement on behalf of an alien who is not the child or spouse of the sponsor, as a condition of the alien's entry into the United States.
9. "Appellant" means an applicant or recipient of assistance who is appealing an adverse action by the Department.
10. "Applicant" means a person who has directly, or through an authorized representative or responsible person, filed an application for AFDC with the Department.
11. "Assistance unit" or "unit" means a group of persons whose needs, income, resources, and other circumstances are considered as a whole for the purpose of determining eligibility and benefit amount.
12. "Available income or resources" means income or resources which are actually available for use of the assistance unit, and income or resources in which the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.
13. "Benefit month" means the calendar month for which benefits are paid based upon the assistance unit's projected income and anticipated circumstances for that same month.
14. "Benefit payment" means a monetary amount which the Department pays to an assistance unit for a particular benefit month.

15. "Bona fide funeral agreement" means a prepaid plan that specifically covers only funeral-related expenses as evidenced by a written contract.
16. "Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.
17. "Calendar quarter" means one of the 4 consecutive 3-month periods of a calendar year beginning with either January 1, April 1, July 1, or October 1.
18. "Calendar year" means a period of 12 consecutive months beginning with January 1 and ending with December 31.
19. "Caretaker relative" means a parent or relative who maintains a family setting for a dependent child, and who exercises responsibility for the day-to-day physical care, guidance, and support of that child.
20. "Child welfare agency" means any agency or institution as defined at A.R.S. § 8-501(A)(1).
21. "Countable income" means the amount of gross income of the assistance unit which the Department considers to determine eligibility and compute a benefit amount.
22. "Day" means a calendar day unless otherwise specified.
23. "Department" means the Arizona Department of Economic Security.
24. "Dependent child" means a child as defined at A.R.S. § 46-101(5).
25. "Disregards" means those deductions which the Department applies to the assistance unit's gross countable income to determine eligibility and benefit amount.
26. "District Medical Consultant" means a licensed physician whom the Department employs to review medical records for the purpose of determining physical or mental incapacity.
27. "Earned income" means any gain to the assistance unit as defined in 45 CFR 233.20(a)(6)(iii) through (viii) (October 1994) which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
28. "Eligibility determination date" means the date the Department makes the decision described in R6-12-706 and issues the eligibility decision notice.
29. "EMPOWER project" means the Arizona welfare reform project approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315. Under the EMPOWER project, Arizona has federal approval to deviate from certain provisions of the federal law governing operation of the AFDC, Food Stamp, and JOBS programs.
30. "Encumbrance" means a legal debt.
31. "Equity value" means fair market value minus encumbrances.
32. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility, with responsibility for providing financial and food stamp assistance to eligible persons and determining medical eligibility.
33. "Fair consideration" means an amount which reasonably represents the fair market value of transferred property.
34. "Fair market value" means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts.
35. "Foster care maintenance payment" means a monetary amount which the Department pays to a foster parent for the expenses of a child in foster care.
36. "Foster child" means a child placed in a foster home or a child welfare agency.
37. "Homebound" means a person who is confined to the home because of physical or mental incapacity.
38. "Homestead property" means a home owned and occupied by an applicant or recipient, or which is co-owned and occupied by a separated or divorced spouse of an applicant or recipient.
39. "Income" means earned and unearned income combined.
40. "IEVS" or "Income Eligibility and Verification System" means a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, State Wage and Unemployment Insurance Benefit data files.
41. "JOBS" or "Job Opportunities and Basic Skills Training Program" means the program authorized by 42 U.S.C. 681 - 687 and A.R.S. §§ 41-2026 - 41-2027, which assists AFDC recipients to prepare for, obtain, and retain employment.
42. "Job Corps" means the program authorized by 29 U.S.C. 1691 *et seq.* which provides education, training, intensive counseling, and related assistance to economically disadvantaged young men and women.
43. "JTPA" or "Job Training Partnership Act" means the program authorized by 29 U.S.C. 1501 *et seq.* which prepares youth and unskilled adults for entry into the labor force and affords special job training.
44. "Liquid asset" means cash or another financial instrument which is readily convertible to cash.
45. "Local office" means an FAA office which is designated as the office in which AFDC applications and other documents are filed with the Department and in which eligibility and benefit amounts are determined.
46. "Lump sum income" means a single payment of earned or unearned income, such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
47. "Mailing date", when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:
    a. Shown on the postmark;
    b. Shown on the postage meter mark of the envelope, if there is no postmark; or
    c. Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
48. "Mandatory member" or "mandatory member of the assistance unit" means any natural or adoptive parent, and any blood-related or adoptive sibling, of a dependent child, if the parent or sibling lives in the same household with the dependent child and is otherwise eligible for assistance.
49. "Need standard" means the money value the state assigns to the basic and special needs deemed essential for applicants and recipients.
50. "Net income" means the assistance unit's total gross income, less applicable disregards, which is used to compute the benefit amount.
51. "NPCR" or "Non-parent caretaker relative" means a person, other than a parent, who is related by blood, marriage, or lawful adoption to the dependent child, and who maintains a family setting for the dependent child and exercises responsibility for the day-to-day care of the dependent child.

52. "Notice date" means the date which appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.
53. "OSI" or "Office of Special Investigations" means the Department office to which FAA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies, and other similar functions.
54. "Overpayment" means a financial assistance payment received by or for an assistance unit for a benefit month and which exceeds the amount to which the unit was lawfully entitled.
55. "Parent" means the lawful mother or father of a dependent child and includes only a birth or adoptive parent and excludes a stepparent.
56. "Participating in a strike" means engaging in any activity as defined at 29 U.S.C. 142(2), as amended through June 23, 1947, which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
57. "Party" means the Department and the applicant or recipient.
58. "Payment standard" means the amount of money from which net income is subtracted to calculate the monthly benefit amount.
59. "Physical or mental incapacity" means a physical or mental impairment which substantially precludes a parent from providing for the support or care of the parent's child.
60. "Projected income" means an estimate of income that an applicant or recipient reasonably expects to receive in a specific month, the actual amount of which is unknown but which is estimated from available and reliable information.
61. "Prospective eligibility" means an eligibility determination for a benefit month based on income and other circumstances as they actually exist, and are anticipated to exist, in that same month.
62. "Putative father" means a male person whom a birth mother has named as father of her child, but whose paternity has not been established as a matter of law.
63. "Prospective budgeting" means the computation of a benefit amount for a particular benefit month based on the Department's projected income and circumstances as they actually exist and are anticipated to exist for that same month.
64. "PWEP" or "Primary wage earning parent" means the parent in a 2-parent family who earned the greater amount of income in the 24-month period immediately preceding the month in which an application for benefits is filed.
65. "Recipient" means a person who is a member of an assistance unit.
66. "Request for hearing" means a clear written expression by an applicant or recipient, or such person's representative, indicating a desire to present the case or issue to a higher authority.
67. "Resident" means a person who meets the definition of A.R.S. § 46-292(A)(1).
68. "Resources" means the assistance unit's real and personal property.
69. "Review" means a review of all factors affecting an assistance unit's eligibility and benefit amount.
70. "Spendthrift restriction" means a legal restriction on the use of a resource, which prevents a payee or beneficiary from alienating the resource.
71. "Sponsored alien" means an alien whose entry into the United States was sponsored by a person who, or an organization which, executed an affidavit of support or similar agreement on behalf of the alien, who is not a child or spouse of the sponsor.
72. "Student" means a person who is attending a school, college, or university, or who is enrolled in a course of vocational or technical training designed to prepare the trainee for gainful employment, and includes a participant in Job Corps.
73. "Suitable work" means work in a recognized occupation for which a person is reasonably qualified.
74. "Support" means child support, alimony, spousal maintenance, or medical support.
75. "Timely notice" means a notice which the Department mails at least 10 days before the date on which the action described in the notice will occur or take effect, or, in circumstances of probable fraud, at least 5 calendar days in advance of the date such action is effective.
76. "Title IV-A of the Social Security Act" means 42 U.S.C. 601 - 617, the statutes establishing the AFDC program.
77. "Title IV-E of the Social Security Act" means 42 U.S.C. 670 - 679, the statutes establishing the foster care and adoption assistance programs.
78. "TPEP" or "2-Parent Employment Program" means the AFDC program which provides assistance for needy dependent children who are deprived of parental support because the primary wage-earning parent is unemployed.
79. "Underpayment" means a monthly benefit payment which is less than the amount for which the assistance unit is eligible, or the failure to issue a benefit payment when such payment should have been issued.
80. "Vendor payment" means a payment which a person or organization who is not a member of an assistance unit makes to a third-party vendor to cover assistance unit expenses.
81. "Warrant" means a payment instrument drawn on the Arizona State Treasury authorizing payment of a particular sum of money to an AFDC recipient.

R6-12-102. Confidentiality

A. Personally identifiable information.
   1. All personally identifiable information concerning an applicant or recipient in the possession of the Department is confidential, and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
   2. Personally identifiable information includes:
      a. Name, address, and telephone number;
      b. Social security number and date of birth;
      c. Unique identifying numbers such as a driver's license number;
      d. Photographs;
      e. Information related to social and economic conditions or circumstances;
      f. Medical data, including diagnosis and past history of disease or disability; and
      g. Any other information which is reasonably likely to permit another person to readily identify the subject of the information.

B. Release of information to applicants and recipients.

1. An applicant or recipient may review the contents of his or her own eligibility file at any time during the Department's regular business hours, provided that a Department employee is present during the review.
2. A dependent child may review a case file in which the child is included as a recipient, only with the written permission of the child's parent, or legal guardian or custodian.
3. The Department may withhold medical information which, if released, may cause physical or mental harm to the person requesting the information, until the Department contacts the person's physician and obtains an opinion that the Department can safely release the information.

C. Release of information to authorized persons and representatives.
1. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to another person or representative by executing a release form containing the following information:
   a. The specific information the Department is authorized to release;
   b. The name of the person to whom the Department may release information;
   c. The duration of the release, if limited; and
   d. Signature and date.

D. Release to persons and agencies for official purposes.
1. An official purpose is one directly related to the administration of a public assistance program and includes:
   a. Establishing eligibility;
   b. Determining the amount of an assistance grant;
   c. Providing services to applicants and recipients, including child support enforcement services;
   d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
   e. Evaluating, analyzing, overseeing, and auditing program operations.
2. The Department may release confidential information to the following persons and agencies to the extent required for official purposes:
   a. Department employees;
   b. Employees of the Social Security Administration;
   b. Public assistance agencies of any other state;
   d. Persons connected with the administration of child support enforcement activities;
   e. Arizona Attorney General's Office;
   f. Persons connected with the administration of federal or federally assisted programs which provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
   g. Government auditors when the audits are conducted in connection with the administration of any assistance program by a governmental entity which is authorized by law to conduct such audits;
   h. AHCCCSA, for eligibility purposes;
   i. Law enforcement officials for an investigation, prosecution, or civil or criminal proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program; and
   j. The Internal Revenue Service for the purpose of identifying improperly claimed tax exemptions by the absent parent of a child supported by AFDC.

R6-12-103. Case Record

A. The Department shall maintain a case record for every applicant for or recipient of assistance.

B. Except as otherwise provided in subsections (C) and (D) below, the Department shall retain the case record for a period of 3 years after the last date on which the applicant received an adverse determination of eligibility or the recipient last received a benefit payment.

C. The Department shall retain a case record which contains an unpaid overpayment until:
1. The overpayment is paid in full, or
2. The assistance unit is no longer obligated to repay the overpayment.

D. The Department shall retain a case record which includes a person determined to have committed an intentional program violation pursuant to Article 12 until:
1. The overpayment is paid in full, and
2. The disqualification sanction is satisfied.

E. The case record shall contain all documentation collected or prepared by the Department in evaluating and determining eligibility and benefit amount.

R6-12-104. Manuals

Each FAA office shall maintain and keep available for public inspection, and copying during regular business hours, a copy of the AFDC program manual.

R6-12-105. EMPOWER: Random Assignment Evaluation

A. The Department shall randomly assign AFDC applicants and recipients who are served by the Glendale, Peoria, 67th Avenue, and Chinle FAA local offices into experimental, non-experimental, and control groups for an evaluation of the EMPOWER project modifications approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315.

B. The control group shall consist of at least 1,500 AFDC cases which are active on November 1, 1995, and at least 1,500 new AFDC applicant cases which are approved thereafter.

C. The experimental and non-experimental groups are subject to the EMPOWER project provisions. The experimental and control groups will be used to evaluate the EMPOWER project.

D. The following rules do not apply to an applicant or recipient who is assigned to the control group:
1. R6-12-308,
2. R6-12-315,
3. R6-12-316,
4. R6-12-317, and
5. R6-12-404.

ARTICLE 2. APPLICATION PROCESS AND PROCEDURES

R6-12-201. Application

A. Any person may apply for AFDC by filing, either in person or by mail, a Department-approved application form with any FAA office.

B. The application file date is the date any FAA office receives an identifiable application. An identifiable application is one which contains, at a minimum, the following information:
1. The legible name and address of the person requesting assistance; and
2. The signature, under penalty of perjury, of the applicant or the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.

C. In addition to the identifiable information described in subsection (B), a completed application shall contain:
1. The names of all persons living in the applicant's dwelling, and the relationship of such persons to the applicant;
2. A request to receive cash benefits which complies with the requirements of R6-12-202; and

3. All other financial and non-financial eligibility information requested on the application form.

D. An application for AFDC is automatically treated as an application for AHCCCS medical benefits.

R6-12-202. Request for Benefits; Composition of the Assistance Unit

A. An applicant may request assistance for any person living in the applicant's home.

B. A request for assistance for a dependent child shall also include a request for benefits for the parents of the dependent child, and any siblings of the dependent child, who reside in the applicant's home.

C. An applicant who is the non-parent caretaker relative (NPCR) of a dependent child and who meets the requirements of R6-12-306(A)(4) may also request an award of AFDC benefits.

D. When one NPCR cares for step-siblings, or children who lack any sibling relationship, the NPCR and the children shall be included in the same AFDC grant.

E. Notwithstanding any other provision of this Chapter, no person shall receive AFDC in more than one assistance unit in Arizona in any calendar month.

F. If a person is required to be included in more than one assistance unit, the Department shall consolidate the assistance units.

R6-12-203. Initial Eligibility Interview

A. Upon receipt of an identifiable application, the Department shall schedule an initial eligibility interview for the applicant at a location which assures a reasonable amount of privacy. Upon request, the Department shall conduct the interview at the residence of a person who is homebound.

B. The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.

C. During the interview, a Department representative shall:
1. Assist the applicant in completing the application form;
2. Witness the signature of the applicant or the applicant's authorized representative;
3. Discuss how the applicant and the other assistance unit members previously met their needs, and why they now need financial assistance;
4. Provide the applicant with written information explaining:
   a. The terms, conditions, and obligations of the AFDC program, including the requirement that the applicant obtain and provide a social security number to the Department;
   b. Any additional verification information as prescribed in R6-12-205(A) which the applicant must provide for the Department to conclude the eligibility evaluation;
   c. The Department's practice of exchanging eligibility and income information through the Income and Eligibility Verification System (IEVS);
   d. The coverage and scope of the AFDC program, and related services which may be available to the applicant, including child care benefits;
   e. The applicant's rights, including the right to appeal adverse action;
   f. The AHCCCS enrollment process;
   g. The requirement to report all changes within 10 calendar days from the date the change becomes known;
   h. The family planning services available through AHCCCS health plans;
5. Review the penalties for perjury and fraud, as printed on the application;
6. Explain to the applicant who is a mandatory member of the assistance unit, and whom the applicant may include as an optional member;
7. Review any verification information already provided;
8. Explain the applicant's duties to:
   a. Cooperate with the Division of Child Support Enforcement (DCSE) in establishing paternity and enforcing support obligations, unless the applicant can show good cause for not doing so;
   b. Transmit to the Department any support payments the applicant receives after the date the applicant is approved to receive AFDC; and
   c. Participate in the Job Opportunities and Basic Skills Training (JOBS) program, unless the applicant or recipient is determined to be exempt from such participation;
9. Photograph the applicant for identification purposes;
10. Review all ongoing reporting requirements, and the potential sanctions for failure to make timely reports, including loss of disregards; and
11. Inform the applicant of the opportunity to set aside funds in an individual development account as prescribed in R6-12-404 for educational or training purposes.

D. When the applicant misses a scheduled appointment for an interview, the Department shall schedule a second interview for later that same day, or for another day, only if the applicant so requests before close of business on the day of the missed appointment.

E. The Department shall deny the application when the applicant fails to request a second appointment as provided in subsection (D), or when the applicant misses a second scheduled appointment.

R6-12-204. Disability Determination

A. When an assistance unit is requesting AFDC due to the mental or physical incapacity of a parent, as provided in R6-12-310(G), the Department shall verify the existence of the disability.

B. The assistance unit shall demonstrate incapacity of a parent by providing a medical statement from a licensed physician. The statement shall include:
1. A diagnosis of the person;
2. A finding that the person has a physical or mental condition which prevents the person from working; and
3. An opinion concerning the duration of unemployability, or a date for re-evaluation of unemployability.

C. The local FAA office shall find disability, without further medical verification, when the applicant provides evidence that:
1. The Social Security Administration (SSA) has determined that the person is eligible for Retirement, Survivors, Disability Insurance (RSDI) benefits due to blindness or disability;
2. The SSA has determined that the person is eligible for Supplemental Security Income (SSI) due to blindness or disability;
3. The Veteran's Administration has determined that the person has at least a 50% disability;
4. The Department's Rehabilitation Services Administration has found the person eligible for vocational rehabilitation services and the person has an Individual Written Rehabilitation Plan;
5. The person's physician has released the person from the hospital and imposed work restrictions for a specified recuperation period;
6. The person's employer or physician has required the person to terminate employment due to the onset of a disability and the physician has specified a recuperation period;

7. The person's physician has determined that the person is capable of employment only in a sheltered workshop, for a specified period of time, and the person is so employed; or
8. A prior certification of disability is in the person's case record and is still valid to cover the period in which assistance is requested and will be received.

D. The District Medical Consultant shall determine incapacity for all persons not covered under subsections (B) or (C).

R6-12-205. Verification of Eligibility Information

A. The Department shall obtain independent verification or corroboration of information provided by the applicant or recipient when required by law, or when necessary to determine eligibility or benefit level.
B. The Department may verify or corroborate information by any reasonable means including:
   1. Contacting third parties such as employers,
   2. Making home visits as provided in R6-12-206,
   3. Asking the applicant or recipient to provide written documentation such as billing statements or pay stubs, and
   4. Conducting a computer data match through IEVS.
C. The applicant or recipient has the primary responsibility for providing all required verification. The Department shall offer to assist an applicant or recipient who has difficulty in obtaining the verification and requests help.
D. An applicant or recipient shall provide the Department with all requested verification within 10 calendar days from the notice date of a written request for such information. When an applicant does not timely comply with a request for information, the Department shall deny the application as provided in R6-12-209(B).
E. The application form shall contain a notice to advise the applicant that the Department may contact third parties for information. The applicant's signature on an application is deemed consent to such contact.

R6-12-206. Home Visits

A. The Department shall schedule a home visit:
   1. When it reasonably believes that such a visit will avoid an eligibility determination error; or
   2. To conduct an initial interview or an eligibility review when a homebound applicant or recipient so requests.
B. The Department shall mail the applicant or recipient written notice of a scheduled home visit at least 7 days before the date of the visit.
C. The Department may deny or terminate benefits if the applicant or recipient is not home for a scheduled visit for:
   1. An initial interview and has not timely rescheduled the visit pursuant to R6-12-203(D), or
   2. A 6-month review interview and has not timely rescheduled the visit pursuant to R6-12-210(D).
D. The Department may conduct unscheduled visits to gather information or to verify information previously provided by an applicant or recipient. The Department shall not deny an application or terminate assistance if the applicant or recipient is not home for an unscheduled visit.

R6-12-207. Withdrawal of Application

A. An applicant may withdraw an application at any time prior to its disposition by providing the Department with a written request for withdrawal signed by the applicant.
B. If an applicant makes an oral request to withdraw an application:
   1. The Department shall accept the oral request, provide the applicant with a written withdrawal form, and request that the applicant complete the form and return it to the Department. The Department shall inform the applicant of the consequences of not returning the withdrawal form within 10 days of the notice date.
   2. If the applicant fails to return the completed withdrawal form, the Department shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within 10 days of the date the Department provides the applicant a withdrawal form.
C. A withdrawal shall be effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
D. An application that has been withdrawn shall not be reinstated; an applicant who has withdrawn an application shall apply anew.

R6-12-208. Death of an Applicant

A. If an applicant dies while the application is pending, the Department shall deny the application and inform the person responsible for the dependent child that a new application may be filed.
B. If the new application is filed within 45 days from the date of the original application, and the child is found eligible, the Department shall pay benefits for the child from the date of the original application. If eligible, the new applicant shall receive benefits from the date of the new application.

R6-12-209. Processing the Application; Denials; Approval

A. The Department shall complete the eligibility determination within 45 calendar days of the application file date, unless:
   1. The application is withdrawn,
   2. The application is rendered moot because the applicant has died or cannot be located, or
   3. There is a delay resulting from a Department request for additional verification information as provided in R6-12-205(D).
B. The Department shall deny an application when the applicant fails to:
   1. Complete the application and an eligibility interview, as described in R6-12-203;
   2. Submit all required verification information within 10 days of the notice date of a written request for such verification; or
   3. Cooperate during the application process as required by R6-12-302.
C. When an assistance unit satisfies all eligibility criteria, the Department shall compute a benefit amount, approve the application, and send the applicant an approval notice. The approval notice shall include the amount of assistance and an explanation of the assistance unit's appeal rights.
D. The Department shall process an application for the purpose of determining medical assistance eligibility pursuant to R9-22-101 *et seq.*

R6-12-210. Six-month Review

A. The Department shall complete a review of all eligibility factors for each assistance unit at least once every 6 months, beginning with the 6th month following the 1st month of AFDC eligibility.
B. At least 30 days prior to the 6-month review date, the Department shall mail the recipient a notice advising of the need for a review. In response to such notice, the recipient shall file a request for a 6-month review and interview by the date specified on the notice.
C. The Department shall schedule and conduct a review interview in the same manner as an initial interview.
D. When the recipient misses a scheduled appointment for a 6-month review interview, the Department shall schedule a

second interview if the recipient so requests within 10 days of the missed appointment.

E. The Department shall terminate benefits when the recipient fails to request a second appointment as prescribed in subsection (D), or when the recipient misses a second scheduled appointment without good cause. Good cause shall include the following circumstances:
1. Lack of transportation on the day of the appointment,
2. Illness, or
3. Serious injury or accident involving an assistance unit member.

F. The Department shall verify the assistance unit's resources and income and any eligibility factors which have changed or are subject to change. The Department may verify other factors if Department experience suggests the need for additional verification.

R6-12-211. Reinstatement of Benefits

A. If the Department has terminated payment of benefits to an assistance unit, the Department shall not reinstate benefits unless the recipient files a new application and has a new interview.

B. Notwithstanding subsection (A), the Department shall reinstate benefits within 10 calendar days when:
1. Termination was due to Department error;
2. The Department receives a court order or administrative hearing decision mandating reinstatement; or
3. The recipient files a request for fair hearing as provided in R6-12-1002 within 10 days of the notice date of the termination notice, unless the request is for continuance of benefits past the 24-month limit set forth at R6-12-315, or the 6-month limit set forth at R6-12-611.

C. When the Department reinstates benefits to a recipient who missed a 6-month review due to the termination of benefits, the Department shall conduct the review at the earliest opportunity following reinstatement.

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

R6-12-301. Non-financial Eligibility Criteria

To qualify for AFDC, a person shall satisfy all applicable criteria set forth in this Article.

R6-12-302. Applicant and Recipient Responsibility

A. An applicant for or recipient of assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The applicant or recipient shall:
1. Give the Department complete and truthful information;
2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility or the amount of the assistance payment within 10 days from the date the change becomes known; and
3. Comply with all the Department's procedural requirements.

B. The Department may deny an application for assistance, reduce or terminate benefits, or change the manner of payment, if the applicant or recipient fails or refuses to cooperate without good cause. However, the Department shall not impose such sanctions for failure to comply with a procedural requirement about which the Department has not advised the applicant or recipient in writing.

R6-12-303. Application for Other Potential Benefits

As a condition of eligibility, a person shall apply for all other benefits for which the person may be eligible, except SSI.

R6-12-304. Residency

A. To qualify for AFDC, a person shall be an Arizona resident.

B. An Arizona resident is a person who:
1. Voluntarily resides and intends to make a permanent home in Arizona,
2. Lives in Arizona at the time of making application, and
3. Is not receiving public assistance from another state.

C. A person terminates Arizona residency by:
1. Leaving Arizona for more than 30 consecutive days, or
2. Leaving Arizona with the intent to live elsewhere.

D. The dependent child of a caretaker relative who is an Arizona resident is deemed an Arizona resident.

E. The Department shall verify Arizona residency.

R6-12-305. Citizenship and Alienage

A. To qualify for AFDC, a person shall be a United States citizen or a legal alien who satisfies the requirements of 45 CFR 233.50 (October 1994) which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.

B. The Department shall verify legal alienage by obtaining a person's alien registration documentation, or other proof of immigration registration, from the U.S. Immigration and Naturalization Service (INS), or by submitting a person's alien registration number and other related information to the INS.

C. An ineligible alien may serve as payee for the eligible members of an assistance unit, but the Department shall exclude the needs of the ineligible alien from the assistance grant.

R6-12-306. Eligible Persons

A. To qualify for AFDC, an otherwise eligible person shall be:
1. A dependent child under 18 years of age;
2. A dependent child age 18 and, as provided in R6-12-307, who is a full-time student in a secondary school, or the equivalent level of vocational or technical training school, and is reasonably expected to complete such education or training before turning age 19;
3. The parent of an eligible AFDC child; or
4. A non-parent caretaker relative of an eligible AFDC child when:
   a. The parent of the dependent child
      i. Does not live in the NPCR's home;
      ii. Lives with the NPCR but is also a dependent child; or
      iii. Lives with the NPCR but cannot function as a parent due to a physical or mental impairment;
   b. The NPCR provides the dependent child with physical care, support, guidance, and control; and
   c. The dependent child resides with the NPCR.

B. If otherwise eligible, the AFDC assistance unit shall include the following persons who are related to a dependent child for whom the applicant requests assistance:
1. Any natural or adoptive parent, and
2. Any natural or adopted brother or sister.

R6-12-307. 18-year Olds; School Attendance

A. As used in R6-12-306(A)(2), full-time school attendance means:
1. For high school, attendance which the school defines as full time;
2. For a trade or technical school involving shop practice, 30 hours per week; and
3. For a trade or technical school involving no shop practice, 25 hours per week.

B. The Department shall verify school attendance through school records establishing full-time status and expected date of graduation.

R6-12-308. Ineligible Children; Family Benefit Cap

A. Except as provided in subsection (D), a dependent child is not eligible for AFDC benefits if such child is born during a month

in which the parent or non-parent caretaker relative of the child is:

1. An eligible member of an AFDC assistance unit;
2. A mandatory member of an AFDC assistance unit who is ineligible for AFDC benefits due to noncompliance with an eligibility requirement, or failure to meet an eligibility requirement; or
3. Off AFDC for less than 60 months during the period between AFDC termination and AFDC reinstatement.

B. A child born during any period of time specified in subsection (A) is ineligible for AFDC for a 60-consecutive calendar month period as provided in this subsection:

1. The 60-month period of ineligibility for the child begins with the first calendar month the parent or non-parent caretaker relative is eligible for AFDC after November 1, 1995, and continues for 60 consecutive calendar months. A subsequent 60-month period begins the first eligible month following expiration of a prior 60-month period.
2. A child born during any period of time specified in subsection (A) may qualify for AFDC upon expiration of the 60-month period prescribed in subsection (B)(1), if otherwise eligible.

C. A dependent child who is ineligible pursuant to subsection (A) remains ineligible for the duration of the 60-month period prescribed in subsection (B) if the child subsequently lives with another parent or relative.

D. An assistance unit may receive benefits for an additional child that would otherwise be excluded under subsection (A) if:

1. The child is born within 10 calendar months of an initial eligibility determination made on or after November 1, 1995;
2. The parent or non-parent caretaker relative is an active AFDC participant on November 1, 1995, and the child is born within 10 months of the first eligibility redetermination thereafter;
3. The parent has not received AFDC for a minimum of 12 consecutive months, and the child is born:
   a. No earlier than the 22nd month after the parent left AFDC, and
   b. No later than the end of the 10th month after the parent returns to AFDC;
4. The child is the firstborn, including all children in the case of a multiple birth, such as twins or triplets, of a dependent child who is included in an AFDC assistance unit; or
5. The child is born as a result of an act of sexual assault or incest and the applicant or recipient satisfies the following requirements.
   a. The applicant or recipient shall file a written statement with the Department to certify that a child was conceived as a result of sexual assault or incest and shall provide supporting verification.
   b. Acceptable verification includes:
      i. Medical or law enforcement records in cases of sexual assault or incest; or
      ii. Birth certificate or Bureau of Vital Statistics Records in cases of incest.
   c. If the applicant or recipient is unable to provide evidence to support the claim of sexual assault or incest, the Department shall accept the written statement of the applicant or recipient as sufficient verification of sexual assault or incest unless evidence to the contrary exists.
   d. The FAA shall report allegations of sexual assault or incest to the Office of Special Investigations and, if the parent is a minor, to Child Protective Services. The Department shall not disclose the name, address, and any information concerning the sexual assault or incest to any person except those persons who require the information to investigate the allegations.

E. An assistance unit which includes a child who is ineligible due to the provisions of this Section may earn income up to the incremental benefit increase the assistance unit would otherwise receive for the ineligible child without any adverse affect on eligibility or benefit level. The Department shall disregard such income.

1. The disregard shall equal the difference between the benefit amount with the needs of the ineligible child included in the benefit computation, and the benefit amount with the needs of the ineligible child excluded from the benefit computation.
2. The Department shall apply the disregard after all other earned income disregards specified at R6-12-703 are first deducted.

F. The Department shall include a child who is ineligible for AFDC due to the provisions of this Section in the assistance unit's standard of need and shall count the income and resources of the ineligible child available to the assistance unit.

G. A child who is ineligible for AFDC due solely to the provisions of this Section may receive the following services, if otherwise eligible:

1. AHCCCS;
2. JOBS;
3. Title IV-A child care; and
4. Any other program or service for which AFDC recipients categorically qualify.

H. A parent or NPCR may receive AFDC for himself or herself when the only dependent child in the home is ineligible for assistance due to the provisions of this Section.

R6-12-309. Relationship

A. To qualify for AFDC, a dependent child shall reside with at least one of the following specified relatives:

1. A parent;
2. A stepmother, stepfather, stepbrother, or stepsister;
3. A person who is within the 5th degree of kinship to the dependent child, including: grandmother, grandfather, brother, sister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes "grand", "great", or "great-great", great-great-great grandparents, and first cousins once removed; or
4. A spouse of any person named in the above groups, even if the marriage has been terminated by death or divorce.

B. The Department shall not determine a child or NPCR ineligible solely for any of the following reasons:

1. The dependent child is under the jurisdiction of a court;
2. An agency or individual unrelated to the child has legal custody of the child;
3. The dependent child, or the child's parent or NPCR, is temporarily absent from the child's home because:
   a. The child is making a court-ordered visit to a non-custodial parent for a period not to exceed 3 consecutive months;
   b. The child is visiting a parent who has a legal order awarding joint custody of the child, and the child resides with the parent who is part of the child's assistance unit for the entire calendar month;
   c. The child is living in a Department-licensed shelter, which does not receive funding under Title IV-A or IV-E of the Social Security Act, and the child is expected to return to the home within 30 days of issuance of the first benefit payment;

d. During the month for which benefits are sought, the child is entering or leaving foster care funded by other than Title IV-E of the Social Security Act;
e. The child is temporarily hospitalized;
f. The child is visiting friends or other relatives for a period not to exceed 3 consecutive months; or
g. The child is attending school but returns home at least once a year.

C. The Department shall verify the requisite degree of relationship between the child and the child's parent or NPCR.

R6-12-310. Deprivation

A. No child shall receive AFDC unless the child is deprived of parental support or care due to the continued absence, death, incapacity, or unemployment of the child's parent.
B. A child suffers deprivation by continued absence when the following 3 conditions are met:
1. The child's natural or adoptive parent is out of the home for a minimum of 30 continuous days;
2. The absence interrupts or terminates the parent's ability to provide maintenance, physical care, or guidance to the child; and
3. The duration of the absence prevents the child from relying on the absent parent for support or care.
C. When the conditions listed in subsection (B) are met, the situations listed in this subsection may constitute deprivation by continued absence.
1. A parent is absent due to involuntary hospitalization, incarceration, or deportation.
2. A parent is a convicted offender who is living in the home while serving a sentence of unpaid public or community service; however, such parent shall not be considered part of the assistance unit for computation of the grant. The Department shall consider the parent to be out of the home for the purpose of deprivation.
3. A single parent has adopted a child.
4. The child's mother and putative father both dispute paternity, and there is no documentation to substantiate paternity.
5. The parents have joint legal or physical custody of the child, but the child resides with one parent more than 50% of the time.
D. When a child satisfies the conditions set forth in subsection (B), the following circumstances shall not automatically preclude a finding of deprivation:
1. A stepparent, substitute parent, parental co-habitant, or person other than the child's parent resides in the child's home;
2. The child's home is considered unsuitable because of neglect, abuse, or exploitation;
3. The parent or NPCR refuses to cooperate with the Department regarding child support enforcement or collection activities;
4. The absent parent visits the child; or
5. The mother and father of the child have some form of ongoing contact or relationship.
E. The circumstances listed in this subsection do not constitute deprivation by continued absence.
1. The parent is voluntarily absent to visit friends or relatives, to seek employment, to maintain a job, to attend school or training, so long as the parent in the home and the absent parent do not regard themselves as separated.
2. The parent is absent solely to serve active military duty.
3. The parents maintain separate dwellings but consider themselves part of a single home or family unit.
4. One parent is deliberately absent from home in order to qualify the remaining family members for benefits.
F. A child is deprived if either parent of the child is deceased and the child has not been adopted. The applicant or recipient shall provide the Department with documentation verifying a death.
G. A child is deprived if either parent has a physical or mental defect, illness, or impairment that:
1. Substantially decreases or eliminates the parent's ability to support or care for the child, and
2. Is expected to last for a minimum of 30 continuous days.
H. A child is deprived when the primary wage-earning parent is unemployed if the assistance unit meets all the requirements set forth in R6-12-609.

R6-12-311. Assignment of Support Rights; Cooperation

A. To qualify for AFDC, an applicant shall assign, to the Department, all rights to a support obligation from any other person the applicant or recipient may have in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving AFDC, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.
B. A refusal to execute such an assignment is a refusal to complete the application and shall result in denial of the AFDC application.
C. An applicant or recipient shall cooperate with the Department to obtain support owing to the applicant or recipient, unless there is good cause for non-cooperation, as described in R6-12-312.
D. After being approved for AFDC, the recipient shall transmit all monetary support received to the Department.
E. At the time of the initial interview and at all review interviews, the Department shall explain:
1. The applicant's duty of cooperation;
2. Good cause and how to establish it;
3. The duty to send the Department any support the assistance unit members receive; and
4. The consequences for breach of the duties set forth in this Section.
F. Cooperation shall include:
1. Identifying and locating the parent of a child for whom aid is claimed;
2. Establishing the paternity of a child born out of wedlock, for whom aid is claimed;
3. Obtaining support payments, or other payments or property due the applicant or recipient for the benefit of the child; and
4. Any of the following actions, when relevant or necessary:
a. Appearing at a child support enforcement office to provide oral or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;
b. Appearing as a witness at a judicial or administrative hearing or proceeding;
c. Providing information, or attesting to the lack of information, under penalty of perjury; and
d. Paying to the Department any support payments received from the absent parent after the assignment of rights pursuant to subsection (A) has been made.
G. If the applicant or recipient fails to cooperate as required by subsection (F) without good cause, the Department shall:
1. Exclude the parent or NPCR from the assistance grant, and
2. Appoint a protective payee pursuant to R6-12-806.

R6-12-312. Good Cause for Non-cooperation with Child Support Enforcement

A. An applicant or recipient may establish good cause for non-cooperation with the Department. Good cause shall exist when:

1. Cooperation is reasonably likely to result in physical or emotional harm to the dependent child, parent in the home, or the NPCR, based on the factors identified in subsection (B);
2. Legal proceedings for adoption of the dependent child are pending before a court;
3. A public or private adoption entity is counseling the applicant regarding release of the dependent child for adoption, and such counseling has occurred for less than 3 months; or
4. The dependent child was conceived as a result of incest or rape.

B. As used in subsection (A)(1):
1. Physical harm means an impairment of the human body of a serious nature.
2. Emotional harm means an impairment that substantially affects the individual's ability to function.

C. In determining whether emotional harm will result for the purpose of subsection (A)(1), the Department shall consider:
1. The emotional state and psychological history of the person likely to suffer emotional harm,
2. The degree of cooperation required,
3. The extent of the individual's involvement in any cooperative efforts, and
4. The intensity and probable duration of the emotional impairment.

D. An applicant or recipient shall provide evidence to verify good cause within 20 days of filing a claim of good cause, or upon approval of the application, whichever last occurs. If the applicant or recipient can establish difficulty in obtaining verification, the Department may extend this time limit for up to 30 days or longer.

E. Acceptable verification shall be documentation which establishes the claim of good cause by a preponderance of evidence and may include:
1. Birth certificate or Bureau of Vital Statistics Records in cases of incest;
2. Medical or law enforcement records in cases of rape or incest;
3. Court records or other legal documents in cases of pending adoptions;
4. A written statement from a private or public adoption entity in cases of adoption counseling;
5. Court, medical, criminal, Child Protective Services, psychological, social services, or law enforcement records, in cases of physical or emotional harm; and
6. Sworn statements from friends, neighbors, clergy, or other persons with personal knowledge of circumstances that would substantiate a claim of good cause.

F. If the applicant or recipient is unable to provide the verification specified in subsection (E) above, the applicant or recipient shall furnish information which permits the Department's Office of Special Investigations to investigate the good cause circumstances.

G. The Department shall not deny, delay, or discontinue assistance pending a determination of good cause.

H. The Department shall determine whether or not good cause exists within 45 days from the date the applicant or recipient makes the good cause claim. The Department may extend this time limit if additional time is required to verify the claim.

I. If the Department finds that good cause does not exist, the applicant or recipient shall cooperate with the requirements of R6-12-311(F) within 10 days following the date the Department notifies the applicant or recipient of the good cause decision.

J. The Department shall redetermine a claim of good cause:
1. At each 6-month review, and
2. When circumstances change such that good cause no longer exists.

R6-12-313. Participation in JOBS; Exemptions; Good Cause Exceptions

A. As a condition of eligibility, a recipient of AFDC shall participate in the Job Opportunities and Basic Skills Training Program (JOBS) as prescribed in A.A.C. R6-10-101 through R6-10-121, unless FAA determines that the person is exempt.

B. The following persons are exempt from participation:
1. A child who is under age 16, except for a custodial parent or pregnant girl age 13 through age 15 who lacks a high school diploma, or its equivalent, and is not enrolled in high school, or an equivalent course of instruction;
2. Notwithstanding subsection (B)(1) above, a custodial parent or pregnant girl under age 16 who is assigned to the control group as prescribed in R6-12-105 is exempt;
3. A child who is age 16 or age 17, or age 18 if reasonably expected to complete school before reaching age 19, and a full-time student at an elementary, secondary, vocational, or technical school, so long as the educational or training program was not assigned as a JOBS activity;
4. A person age 60 or older;
5. A person who suffers from a physical or mental illness or infirmity which prevents the person from engaging in employment or training;
6. A person who is needed in the home because a member of the person's household is ill or incapacitated and unable to care for himself, and no one else is available to provide care;
7. A person who resides so remotely from a JOBS Program office or JOBS Program services that the round trip, exclusive of time required to transport any children to and from a child care provider, exceeds 2 hours by reasonably available public or private transportation, or, if other transportation is unavailable, by walking;
8. A person with a child under age 6 who is currently employed at least 20 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days, or a person with a child age 6 or older who is currently employed at least 30 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days. Any interruption in such employment shall not exceed 10 days;
9. A woman who is at least 3 months pregnant and who expects to deliver her child in the month in which participation would be required, or within the following 6 months;
10. A full-time volunteer serving in the Volunteers In Service To America (VISTA) program;
11. A Native American tribal member who resides in an area covered by a Tribal JOBS program; and
12. A parent or eligible caretaker relative who is personally providing care for a child under age 13 when the state cannot guarantee child care for the child.

C. A parent or eligible caretaker relative of a child under the age of one, who is personally providing full-time care for that child, may also be exempt, subject to the limitations set forth in this subsection.
1. Only one parent or eligible caretaker relative from the assistance unit may qualify for this exemption.

2. A custodial parent or pregnant girl who is age 13 through age 19 shall have a high school diploma, or its equivalent, or be enrolled in high school or an equivalency program to qualify for this exemption. A parent or pregnant girl who does not so qualify shall participate in JOBS.

D. A parent or eligible caretaker relative of a child aged 1 to 6 who is personally providing care for that child is not required to participate in JOBS for more than 20 hours per week.
1. The parent or caretaker may volunteer to participate additional hours.
2. This limitation does not apply to a parent who is less than 20 years old.

E. A person who is suffering from a temporary illness, or who is the only person available to care for a household member suffering from a temporary illness, may be temporarily exempt from participation. The FAA local office shall verify such illness and shall reevaluate such exemptions at least every 30 days.

F. Except as provided in subsection (E), all medical conditions shall be verified by a licensed physician. All psychological conditions shall be verified by a licensed physician or certified psychologist.

G. Exempt status shall terminate when the condition giving rise to the exemption terminates.

H. A person may establish good cause for a failure or refusal to participate in JOBS as provided in R6-10-119 and R6-10-120. The JOBS Administration shall determine if good cause exists.

I. If a person fails or refuses to participate in JOBS without good cause, the Department shall:
1. Appoint a protective payee pursuant to R6-12-806; and
2. Exclude the parent or NPCR from the assistance grant for the following periods:
   a. For the first such failure, until the person agrees to comply, or one month, whichever is longer, except if the person is a member of the control group as prescribed in R6-12-105, until the person agrees to comply;
   b. For the 2nd such failure, until the person agrees to comply, or 3 months, whichever is longer; and
   c. For any subsequent failure, until the person agrees to comply, or 6 months, whichever is longer.

R6-12-314. Social Security Number

A. To qualify for AFDC, a person shall furnish a social security number (SSN). If a member of an assistance unit lacks an SSN, the Department shall assist the person in applying for an SSN through procedures established between the Department and the United States Social Security Administration (SSA).

B. The Department shall obtain verification of social security numbers through contact with the SSA.

R6-12-315. Duration of Assistance

A. A person may receive AFDC benefits for no more than 24 months within any consecutive 60-month period, except that the 24-month limit shall not apply to a person who:
1. Is under 18 years of age;
2. Is 62 years of age or older;
3. Suffers from a physical or mental incapacity which prevents the person from engaging in employment or training as determined by a licensed physician or psychologist;
4. Is required to remain in the home on a continuous basis to give full-time care to another member of the household who suffers from a physical or mental incapacity as determined by a licensed physician or psychologist, and no other member of the household is available to provide the needed care; or
5. Works in a JOBSTART-subsidized placement pursuant to Article 13.

B. The Department shall remove the ineligible adult from the assistance grant at the end of the 24 eligible months but shall continue to provide benefits for other eligible assistance unit members.
1. The Department shall count the income and resources of the ineligible adult available to the assistance unit.
2. The ineligible adult may serve as the payee for the assistance unit.

C. The Department shall calculate the 24-month limit, and the 60-month period, beginning with the 1st day of the calendar month the recipient is first eligible for benefits but shall not include any month prior to November 1, 1995, in the calculation. A month in which an adult is ineligible due to noncompliance with an eligibility requirement is counted towards the 24-month limit.

D. The 24-month limit and 60-month period begin in the calendar month following the month the person reaches age 18.

E. Once the 60-month time period begins, it continues for 60 consecutive months. A subsequent 60-month period begins the first eligible month following expiration of a prior 60-month period.

F. The following shall not count against the 24-month limit:
1. A month of initial eligibility with a prorated benefit amount;
2. A month the assistance unit is eligible but receives no payment because the benefit amount is less than $10;
3. A retroactive benefit for any eligible month prior to November 1, 1995; or
4. A month for which a cancelled or expired warrant is not replaced.

G. An assistance unit which includes a person who is ineligible for AFDC due to the 24-month limit provisions of this Section may earn up to the incremental benefit amount otherwise payable for the ineligible person without any adverse affect on eligibility or benefit level. The Department shall disregard such income.
1. The disregard shall equal the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded from the computation.
2. The Department shall apply the disregard after all other earned income disregards specified at R6-12-703 are first deducted.

H. The Department shall conduct regular eligibility reviews as prescribed in R6-12-210 for an assistance unit which includes an adult who is ineligible because of the 24-month limit.

I. A person who is ineligible for AFDC due to the 24-month limit may receive the following services, if otherwise eligible:
1. AHCCCS,
2. JOBS,
3. Title IV-A child care, and
4. Any other program or service for which an AFDC recipient categorically qualifies.

J. The Department shall provide the assistance unit with written notice of the opportunity to apply for an extension at least 30 days prior to removing an ineligible adult from the assistance grant due to the 24-month limit.

R6-12-316. Extension of the 24-month Limit

A. A recipient may request an extension of the 24-month limit by filing a written request with the Department within 10 calendar days from the date of the notice prescribed in R6-12-315(J). The request shall include the reason for an extension. The Department shall consider the mailing date of the request to apply for an extension as the filing date.

1. The Department shall accept an extension request filed on or before the last day of the 24th eligible month, or last day of an eligible extension month, if the recipient establishes good cause for not filing the extension application within 10 calendar days from the notice date of the opportunity to apply for an extension.
2. For the purpose of this Section, the following circumstances shall constitute good cause:
   a. The recipient was ill or incapacitated;
   b. The recipient had a crisis, emergency, or death in the recipient's immediate family; or
   c. Other similar circumstances beyond the recipient's control which prevented the recipient from filing the extension application within the 10-day period.

B. The Department may grant an extension of the 24-month limit if the recipient demonstrates a good faith effort to find and accept employment with gross monthly earnings which are at least equal to the incremental benefit amount otherwise payable for the ineligible adult.

C. To qualify for an extension, the recipient shall establish that he or she has followed a course of action throughout the period of AFDC eligibility which is reasonably designed to result in employment, and which demonstrates a willingness to work. The Department shall determine good faith from the recipient's entire course of action and may consider the following actions as evidence of a good faith effort to secure employment:
1. Complying with the terms of the JOBS employability plan developed for the person;
2. Making application with employers who may reasonably be expected to have openings suitable for the person;
3. Responding to newspaper advertisements or other job listings for work which appear suitable for the person;
4. Applying for employment with former employers when the person terminated the employment in good standing;
5. Registering for suitable work with the Department's Job Service, a private employment agency, or an employer's placement facility;
6. Registering with a placement facility of a school, college, or university if one is available to the person in his or her occupation or profession;
7. Registering and continuing follow-up checking with the person's union hiring or placement facility;
8. Registering with a placement facility of the person's professional organization;
9. Making application or taking examination for openings in the civil service of a governmental unit; or
10. Other similar or comparable action which demonstrates an effective means of seeking work suitable to the person.

D. The recipient has the burden to prove the inability to earn income at least equal to the amount of the benefit that the recipient became ineligible to receive, despite a good faith effort to do so.

E. To qualify for an extension, the recipient shall:
1. Make at least 3 contacts, as prescribed in subsection (C) above, each month throughout the period of AFDC eligibility; and
2. Provide verification of the efforts taken to secure employment:
   a. At each 6-month eligibility review, and
   b. When an extension is requested.

F. In making the determination of a good faith effort to secure employment, the Department shall consider the customary methods of obtaining work in the person's usual occupation, or other work for which the person is reasonably suited, and the current condition of the local labor market.

G. A person is deemed to have failed to make a good faith effort to seek work if the person has willfully followed a course of action designed to discourage prospective employers from hiring the person for suitable work.

H. The Department shall not grant an extension to a person who:
1. Cannot demonstrate a good faith effort to find and accept employment as prescribed in subsections (C) and (E);
2. Refuses, without demonstrating good cause, to accept a bona fide offer of employment which would provide income at least equivalent to the portion of the AFDC grant for which the person is no longer eligible;
3. Cannot demonstrate or refuses to produce a good cause reason for not accepting an offer of employment that the Department is aware has been made, and which would provide income at least equivalent to the portion of the AFDC grant for which the person is no longer eligible;
4. Cannot demonstrate or refuses to produce a good cause reason for voluntarily quitting a job;
5. Is discharged from a job for reasons of misconduct as prescribed in 6 A.A.C. 3, Article 51;
6. Cannot demonstrate or refuses to produce a good cause reason for voluntarily acting to reduce employment earnings; or
7. Cannot demonstrate that the person has cooperated with the Department during the extension application process.

I. For the purpose of this Section, good cause is limited to the following circumstances which prevent the person from finding, accepting, or maintaining employment:
1. The person is ill or incapacitated;
2. The person could not report to the work site due to a lack of public or private transportation;
3. The person was incarcerated or ordered to make a court appearance, and the total circumstances were beyond the person's control;
4. The person had an emergency or death in the person's immediate family;
5. Severe weather conditions prevented the recipient and other persons similarly situated from traveling to or participating in the employment activity;
6. The person has been referred to a job or employment which is the subject of a strike, lockout, work stoppage, or other bona fide labor dispute;
7. The person lacks available and appropriate child care; or
8. Other similar circumstances beyond the person's control.

J. The Department shall grant an extension of eligibility for 6 months at a time, if the assistance unit continues to meet all AFDC eligibility requirements.

R6-12-317. Extension of 24-month Limit to Complete Education or Training

A. A recipient may receive a maximum of 2 4-month extensions of the 24-month limit to allow the recipient to complete an education or job training program designed to help the recipient become self-sufficient.

B. A recipient may request an extension to complete education or training by filing a written request with the Department within 10 calendar days from the notice date of the opportunity to apply for an extension provided to the recipient. The Department shall consider the mailing date of the request to apply for an extension as the filing date.
1. The request shall include the reason for an extension.
2. A separate request is required for each 4-month extension.

C. In order to qualify for an extension to complete education or training:
1. The person shall participate full time in:

a. A postsecondary education program of study offered by a university, college, or community college, which will result in an associate or bachelor degree;
b. A program or course of study offered by a vocational, technical, or recognized proprietary school which will result in a diploma or certificate for a job skill directly related to obtaining self-supporting employment in a recognized occupation; or
c. A job training or employment activity approved by JOBS which is consistent with the person's employability plan;
2. The educational or training program must have started before the end of the 24-month period;
3. The person must be expected to complete the education or training program during the extension periods;
4. The person shall demonstrate successful progress toward completion of the educational or training program;
a. Successful progress toward completion of an educational or training program means that the person is meeting, on a periodically measured basis of less than one year, such as quarterly, a consistent standard of progress based upon a written policy developed by the educational institution or training program in which the person is enrolled
b. Such standard includes both a qualitative measure of a person's progress, such as competency gains, Grade Point Average necessary to obtain a degree or certificate, or proficiency level, and a quantitative measure, such as a reasonable time limit for completion of the educational or training program; and
5. The assistance unit shall continue to meet all other AFDC eligibility requirements.

ARTICLE 4. FINANCIAL ELIGIBILITY: RESOURCES

R6-12-401. Treatment of Resources; Limitations

A. In determining eligibility, the Department shall include all resources available to the assistance unit, unless excluded by applicable law.
B. An assistance unit is ineligible for AFDC for any month in which the unit's resources exceed $1,000, after application of all available exclusions.

R6-12-402. Treatment of Resources by Ownership Status; Availability

A. The Department shall consider the resources belonging to the persons listed in this subsection available to the assistance unit.
1. An assistance unit member;
2. A mandatory member of the assistance unit who is ineligible for AFDC for failure to comply with an eligibility requirement;
3. A mandatory member of the assistance unit who is ineligible due to disqualification for Intentional Program Violation, as provided in Article 12;
4. A stepparent who makes resources available to the assistance unit;
5. The sponsor of an alien, as provided in R6-12-603.
B. The Department shall consider the resources of the persons listed in this Section unavailable to the assistance unit.
1. A non-parent relative who is not included in the assistance unit;
2. An SSI recipient, as to resources held as sole and separate property, or counted in the determination of SSI eligibility;
3. A dependent child for whom deprivation does not exist;
4. An ineligible alien sibling of a dependent child in the assistance unit;
5. An ineligible alien parent;
6. A dependent child who is not included in the assistance unit due to receipt of adoption assistance or foster care payments under Title IV-E of the Social Security Act.
C. The Department shall consider ownership in determining availability of the resources to the assistance unit.
1. The sole and separate property of one spouse is deemed unavailable to the other spouse, unless the owner spouse makes the property available to the other spouse.
2. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names are deemed available when all owners can be located and consent to disposal of the resource, except that such consent is not required if all owners are members of the assistance unit.
3. Jointly owned resources, with ownership records containing the word "or" between the owners' names are deemed available in full to each owner. When more than one owner is a member of an assistance unit, the equity value of the resource is counted only once.
D. The Department shall consider the following resources unavailable to the assistance unit:
1. Property subject to a spendthrift restriction. Such property may include:
a. Irrevocable trust funds;
b. Accounts established by the Social Security Administration, Veteran's Administration, or some other entity, which mandate that the funds in the account be used for the benefit of a person not residing with the assistance unit.
2. Resources being disputed in divorce proceedings or in probate matters.
3. Real property situated on a Native American reservation.

R6-12-403. Treatment of Resources; Exclusions

A. The Department shall exclude the equity value of the resources listed below, as provided in this Section.
1. The usual residence of the assistance unit members;
2. One burial plot for each member of the assistance unit;
3. Household furnishings used by the assistance unit members in their usual place of residence, and personal effects essential to day-to-day living;
4. Up to $1500 of the value of one bona fide funeral agreement, for each member of the assistance unit;
5. The value of one motor vehicle regularly used for transportation. If the unit owns more than one vehicle, the exclusion is applied to the vehicle with the highest equity value, and the equity value of all remaining vehicles is counted, subject to the limitations described in this section;
6. Any other resource specifically excluded by law.
B. In addition to the exclusion described in subsection (A)(5), the Department shall exclude the value of the following vehicles:
1. A vehicle used to produce income; and
2. When the household has a member who is an SSI recipient:
a. The value of any vehicle in which the SSI recipient has an ownership interest; and
b. The value of any vehicle used for medical treatment, employment, or transportation of a disabled child, and which is excluded by SSI for that reason.
C. When the assistance unit owns real property, other than the usual residence described in subsection (A)(1) above, and is making a good faith effort to dispose of it, the equity value shall be excluded for 6 months, subject to the conditions listed in this subsection.
1. The applicant shall sign an agreement to:
a. Dispose of the property; and

b. Repay the Department, from the net proceeds of disposal, the amount of any assistance the unit receives during the period of time the unit would otherwise have been ineligible because the property value exceeded resource limitations.

2. The amount repaid shall not exceed the net proceeds of disposal.

3. If the assistance unit does not dispose of the property within 6 months, the Department shall write an overpayment and the assistance unit shall repay any assistance received during that period.

R6-12-404. Individual Development Accounts

A. An individual development account (IDA) is a special savings account which allows a recipient of both AFDC and Food Stamp Program benefits to accumulate funds to achieve educational or training goals.

B. Financial institutions licensed by the Arizona State Banking Department shall administer IDAs.

1. IDAs shall earn the same interest rate as is offered to other bank customers for like accounts.

2. A financial institution may prescribe such terms and conditions relating to IDAs as are permissible under the laws of this state and federal banking law.

C. A member of an assistance unit that receives both AFDC and food stamp benefits may establish an IDA.

1. No assistance unit shall hold more than one IDA.

2. A person found to have committed an intentional program violation or fraud related to the AFDC, food stamp, or AHCCCS programs shall not hold an IDA.

D. An assistance unit member who establishes an IDA shall sign a document authorizing the financial institution to release account information to the Department.

E. The following persons can make deposits into an IDA:

1. The account holder;

2. A member of the account holder's assistance unit;

3. A person who is not a member of the account holder's assistance unit; or

4. A non-profit organization with a recognized tax exempt status under 26 U.S.C. 501(c)(3) or A.R.S. § 43-1201. A non-profit organization making deposits into an IDA:

a. Shall designate that such funds are intended solely for educational or training purposes; and

b. May set other terms and conditions regarding the withdrawal or use of the funds.

F. An applicant for assistance shall not place countable income or resources into an IDA for the purpose of qualifying for AFDC or Food Stamp Program benefits. Any money so deposited counts as a resource.

G. The Department shall exclude from the resource limitation set forth at R6-12-401(B) the balance held in an IDA which at any one time is $9,000 or less, except that any cumulative deposits over the life of an IDA which exceed $12,000 shall count against the resource limitation.

H. The Department shall disregard as countable income:

1. 50% of any earned income of the assistance unit which is deposited into an IDA, except that the Department shall not disregard more than $100 per month of earned income; and

2. All interest earned on an IDA.

I. An assistance unit which holds an IDA shall:

1. Report to the Department all income which is deposited into an IDA or withdrawn from an IDA, and

2. Submit account statements to the Department at each eligibility redetermination.

J. A recipient of both AFDC and food stamp benefits may withdraw funds from an IDA for:

1. Educational costs at an accredited institution of higher education; or

2. Training costs for an accredited, licensed, or certified training program.

K. As used in subsection (J), above:

1. Educational and training costs are limited to:

a. Tuition and other mandatory fees charged to all students, or to all students within a certain curriculum;

b. Books;

c. Transportation; and

d. Miscellaneous personal expenses necessary to pursue education or training.

2. An institution of higher education means a public or private educational institution defined at A.R.S. § 23-618.02.

3. A training program means a course of study offered by a vocational, technical, or recognized proprietary school which will result in a diploma or certificate for a job skill which is directly related to obtaining useful employment in a recognized occupation.

L. Withdrawals from an IDA for purposes other than those described in subsection (K) shall count as income to the assistance unit in the month of withdrawal, unless the money was previously counted as income to the assistance unit at the time of receipt.

M. If there is a break in AFDC or food stamp benefits of at least one full month, upon reapplication, the Department shall consider any remaining monies in an IDA as countable resources and shall not disregard any future deposits into an IDA.

N. The Department's Office of Special Investigations shall investigate allegations of fraud or abuse involving IDAs, including situations where there is evidence or reason to believe that a deposit to an IDA was made from:

1. Income which was available to the assistance unit but was not reported to the Department,

2. Individual contributions which should have been counted as income or child support, or

3. Proceeds from illegal activities.

O. The Department shall not disregard as income or resources any deposit made into an IDA from income sources described in subsection (N), or any deposit which is otherwise contrary to the provisions of this Section. The Department shall establish any resulting overpayment.

R6-12-405. Resource Transfers; Limitations

A. An applicant or recipient shall not transfer a resource with the intent to qualify or attempt to qualify for AFDC within one year prior to application or while receiving assistance, unless fair consideration was received.

B. Except as otherwise provided in this Section, when a applicant or recipient does not receive fair consideration for a transferred resource ("an improper transfer"), the assistance unit shall be ineligible for AFDC.

1. The period of ineligibility shall begin in the month in which the transaction occurred.

2. The Department shall compute the duration of ineligibility by subtracting the consideration actually received from the equity value of the transferred resource, and dividing that sum by the monthly need standard for the assistance unit. The resulting number shall be the number of months the unit is ineligible.

C. An improper transfer shall not affect eligibility when the equity value of the transferred resource, plus the value of the unit's other available resources, does not exceed the resource limitation.

D. The improper transfer of homestead property shall not affect eligibility if the property was transferred because the person cannot continue residing in the home for health reasons, as determined by a competent medical authority.

E. If an applicant or recipient disposes of homestead property, the Department shall count, as a resource, all proceeds of the sale not reinvested in homestead property, when the applicant or recipient:
1. Invests the proceeds in a resource other than homestead property,
2. Advises the Department that such proceeds will not be reinvested in other homestead property, or
3. Fails to purchase new homestead property within 90 days of the date of sale.

R6-12-406. Resource Verification
The Department shall verify all resources before determining income eligibility and benefit amount.

ARTICLE 5. FINANCIAL ELIGIBILITY: INCOME

R6-12-501. Treatment of Income: In General
A. In determining eligibility and benefit amount, the Department shall treat all income of the assistance unit in accordance with the provisions of this Article.

B. As used in this Section, the term "income" shall include the following, when actually received by the assistance unit:
1. Gross earned income from public or private employment, including in-kind income, before any deductions;
2. For self-employed persons, the sum of gross business receipts minus business expenses; and
3. Unearned income, such as benefits or assistance grants, minus any deductions to repay prior overpayments or attorneys' fees.

C. The Department shall consider all gross income available to the assistance unit in determining eligibility and benefit amount except for those types of income excluded under R6-12-503.

R6-12-502. Income Available to the Assistance Unit
A. The Department shall consider the income of the persons listed in this subsection available to the assistance unit.
1. An assistance unit member,
2. A mandatory member of the assistance unit who is ineligible for AFDC for failure to comply with an eligibility requirement,
3. A mandatory member of the assistance unit who is ineligible due to disqualification for Intentional Program Violation, as provided in Article 12,
4. A dependent child's parent who is excluded from the assistance unit for failure to meet an eligibility requirement,
5. The spouse of an NPCR if the NPCR is included in the assistance unit.

B. The Department shall deem the income of the persons listed in this subsection available to meet the needs of the assistance unit, pursuant to the applicable deeming procedures set forth in R6-12-603, R6-12-605, R6-12-607, and R6-12-608.
1. The sponsor of an alien;
2. A dependent child's parent who is an alien admitted to the United States pursuant to 8 U.S.C. 1255a or 1160, as amended through October 25, 1994, which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions, unless such parent is eligible for inclusion in the assistance unit pursuant to R6-12-305(A);
3. A stepparent who lives in the household with a dependent child, but who is not included in the assistance unit;
4. A parent of a minor parent who lives in the household with the minor parent and the dependent child.

R6-12-503. Income Exclusions
The Department shall not count the types of income listed in this Section when determining the income of an assistance unit.
1. Loans;
2. Educational grants or scholarships;
3. Income tax refunds, including any earned income tax credit;
4. Non-recurring cash gifts which do not exceed $30, per person in any calendar quarter;
5. Cash contributions from other agencies or organizations so long as the contributions are not intended to cover items which AFDC is intended to cover, specifically:
   a. Food;
   b. Shelter, including only rent or mortgage payments;
   c. Utilities;
   d. Household supplies, including bedding, towels, laundry, cleaning, and paper supplies;
   e. Public transportation fares for personal use;
   f. Basic clothing or diapers; or
   g. Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;
6. The face value of food stamp coupons;
7. The value of governmental rent and housing subsidies;
8. The value of energy assistance which is provided:
   a. Either in cash or in kind by a government agency or municipal utility, or
   b. In kind by a private non-profit organization;
9. Vendor payments;
10. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments which are not intended as wages;
11. Earnings from high school on-the-job training programs;
12. Reimbursements for JOBS Program training-related expenses;
13. Agent Orange payments;
14. Burial benefits which are dispersed solely for burial expenses;
15. Disaster assistance provided by the Federal Disaster Relief Act, or comparable assistance provided by state or local governments, or disaster assistance organizations;
16. Foster care payments;
17. Radiation exposure compensation payments;
18. Income received from VISTA which does not exceed the state or federal minimum wage;
19. Benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
20. Reimbursements for work-related expenses which do not exceed the actual expense amount;
21. Any other income specifically excluded by applicable state or federal law.

R6-12-504. Special Income Provisions: Child Support, Alimony, or Spousal Maintenance
A. The Department shall count child support, alimony, or spousal maintenance, received by a member of the assistance unit before the eligibility determination date, in excess of $50 per month, as income in the month received.

B. After the eligibility determination date, and if the application is approved, the Department shall count current child support, alimony, or spousal maintenance received by the Department's Division of Child Support Enforcement (DCSE), on behalf of an assistance unit member, in excess of $50 per month, as

income in the month received for the purpose of determining continued eligibility.

1. Such income is attributed to the assistance unit, and added to the unit's other income, to determine if the assistance unit meets the financial eligibility criteria.
2. If the unit continues to satisfy the financial eligibility criteria, the Department shall compute the assistance unit's benefit amount without regard to the support DCSE has collected, except that any collected funds which DCSE passes on to the assistance unit shall be treated as unearned income in the month received.

C. After the eligibility approval date, if an assistance unit member receives child support, alimony, spousal maintenance, or medical support after assigning to the Department the right to such support, and the member fails to turn over the support to the Department, the Department shall:

1. Count the support received directly by an assistance unit member, as provided above in subsection (A); and
2. Sanction the caretaker relative as provided in R6-3-12-311(G) by excluding that member's needs from the computation of the assistance grant and appointing a protective payee.

R6-12-505. Special Income Provisions: Nonrecurring Lump Sum Income

A. When an assistance unit receives nonrecurring income, in a lump sum, the Department shall determine eligibility and benefit amount as described below.

1. The Department shall take the lump sum income and apply any applicable disregards pursuant to R6-12-703.
2. If the remaining amount of the lump sum exceeds the need standard for an assistance unit of that size, the unit shall be ineligible for benefits for a period of months.
3. The Department shall compute the period of ineligibility by:
   a. Adding the amount from subsection (A)(2) to the assistance unit's other income for each corresponding budget month, and
   b. Dividing the amount from subsection (A)(3)(a) by the need standard applicable to the assistance unit.
4. The resulting number shall be the number of months the assistance unit is ineligible. Any remaining amount (that cannot be evenly divided) shall be treated as unearned income in the first month following the period of ineligibility.
5. The ineligibility period shall begin in the month in which the assistance unit received the lump sum income.

B. The Department shall recalculate the period of ineligibility as provided in subsection (C) below, when:

1. The need standard changes for all assistance units; or
2. The lump sum income becomes unavailable to the assistant unit for reasons beyond the control of the unit members; such reasons include, but are not limited to:
   a. Involuntary removal of the lump sum income;
   b. During the period of ineligibility, an assistance unit member incurs and pays for medical services provided or authorized by a licensed or certified health care practitioner or organization, which services are not covered by insurance or other third party benefits.

C. To recalculate the ineligibility period as provided in subsection (B), the Department shall subtract the unavailable portion of the income from the remaining portion, and then divide the remainder by the need standard applicable to the assistance unit.

R6-12-506. Determining Monthly Income

A. For each assistance unit, the Department shall calculate monthly income using the methods described in R6-12-507.

B. The projected income shall include income which the assistance unit has received and reasonably expects to receive in a benefit month and shall be based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and future circumstances.

C. The Department shall include in its calculation all gross income from every source available to the assistance unit unless specifically excluded in this Article or by the federal Social Security Act.

D. The Department shall convert income received more frequently than monthly into a monthly amount as follows:

1. Multiply weekly amounts by 4.3;
2. Multiply bi-weekly amounts by 2.15;
3. Multiply semi-monthly amounts by 2.

E. The Department shall determine a new calculation of projected income:

1. At each review, and
2. When there is a change in countable income.

R6-12-507. Methods to Determine Projected Monthly Income

A. The Department shall determine projected monthly income for an assistance unit by the methods described in this Section.

B. Averaging income.

1. When using this method, the Department shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
2. The Department shall average income for an assistance unit which receives income:
   a. Irregularly; or
   b. Regularly, but from sources or in amounts which vary.

C. Prorating income.

1. When using this method, the Department shall average income over the period of time the income is intended to cover.
2. The Department shall prorate income for an assistance unit which receives income which is intended to cover a fixed period of time.
   a. When a person receives income pursuant to a fixed-term employment contract:
      i. Income shall be counted in the month received, if received monthly or more often, throughout all months of the contract
      ii. Income shall be prorated over the number of months in the contract if payment is received before or during the time work is performed, but not as specified in subsection (i) above;
      iii. Income shall be prorated over the number of months in the contract if payment is received upon completion of the work;
      iv. For AFDC cases which fall within subsection (C)(2)(a)(iii) above, applicable earned income disregards shall apply as if the prorated amounts were received in each month of the contract. The resulting amounts for each month shall then be totaled and counted in the month received as a lump sum pursuant to R6-12-504(C).

D. Actual income.

1. When using this method, the Department shall use the actual amount of income received in a month and shall not convert the income to a monthly amount pursuant to R6-12-506(D).
2. The Department shall use actual income for an assistance unit which:
   a. Receives or reasonably expects to receive less than a full month's income from a new source,
   b. Has lost a source of income, or
   c. Is paid daily.

R6-12-508. Income Verification

The Department shall verify all income before determining eligibility and benefit amount.

ARTICLE 6. SPECIAL AFDC CIRCUMSTANCES

R6-12-601. Pregnant Women

A. Upon compliance with all other eligibility criteria and procedures, a pregnant woman with no other dependent children may be eligible for AFDC, as though the child was already born.
B. Only the pregnant woman may qualify for benefits under this Section.
C. Eligibility shall begin no earlier than 3 months before the predicted month of delivery and shall end no later than 2 months after the pregnancy terminates, and following written notice of adverse action.
D. If the child is miscarried, stillborn, or born prematurely, and the woman reports such event to the Department within 10 calendar days of the occurrence,
   1. The occurrence shall not effect the woman's original eligibility, and
   2. No overpayment shall result.
E. Following birth of the child, the mother may apply for benefits on behalf of the child as provided in this Chapter.

R6-12-602. Caretaker Relative of SSI or Foster Care Child

A. A parent or NPCR with only an SSI recipient child, or a child who is receiving federal, state, or local foster care maintenance payments, may be eligible for AFDC upon meeting the eligibility criteria specified in this Chapter, except as otherwise provided in this Section.
B. The Department shall consider the SSI recipient child, or foster care recipient child, as an assistance unit member for purposes of qualifying the unit for AFDC based on need.
C. If the assistance unit qualifies for AFDC pursuant to subsection (B), the Department shall not count the needs, resources, and income of the SSI recipient child, or foster care recipient child, when determining the benefit amount.
D. Notwithstanding the provisions of R6-12-311, the parent or NPCR of an SSI recipient child, or a foster care recipient child, need not assign to the Department any rights to child support but shall assign any right to receive alimony or spousal maintenance.

R6-12-603. Sponsored Aliens

A. An alien who is sponsored by a public or private agency or organization shall not qualify for AFDC for 3 years following the date of the alien's entry for permanent residence into the United States unless:
   1. The agency or organization ceases to exist during the 3 years; or
   2. The alien's 3-year sponsorship agreement with the agency or organization has expired.
B. An alien sponsored by an individual who seeks benefits shall obtain the cooperation of the sponsor as necessary to satisfy the eligibility criteria described in this Chapter.
C. The Department shall deem income and resources of an alien sponsor available to the sponsored alien for 3 years from the date of the alien's entry into the United States for permanent residence, according to the provisions of this Section.
D. Subject to the provisions of Article 4 concerning treatment of resources, the Department shall deem the total equity value of resources belonging to the sponsor and the sponsor's spouse, less $1,500, as available to the sponsored alien.
E. The Department shall deem income of the alien sponsor and the sponsor's spouse available to the alien pursuant to the formula described in this subsection. The Department shall:
   1. Determine the total earned income which is normally countable for AFDC;
   2. Disregard the lesser of 20% of the total from subsection (E)(1), or $175;
   3. Determine and add in the total unearned income which is normally countable for AFDC;
   4. Subtract the following disregards:
      a. An amount equal to the need standard for the sponsor and persons in the sponsor's family who could be claimed as tax dependents for federal income tax purposes; and
      b. Actual payments for spousal maintenance, child support, or support of dependents who reside outside the home but who can be claimed as dependents for federal income tax purposes; and
   5. Count the resulting figure as unearned income available to the alien.
F. When a person sponsors 2 or more aliens, the Department shall prorate income and expenses, deemed available, among the sponsored aliens.
G. When an assistance unit includes both a sponsored alien and other members, and the deeming provisions of this Section would render the assistance unit ineligible, the Department shall determine eligibility of the other members without considering the sponsored alien or the sponsor's income or resources.
H. The sponsored alien and the sponsor are jointly liable for any overpayment resulting from the sponsor's provision of incorrect or incomplete information, unless the sponsor had good cause, so as to make the alien solely liable. Good cause includes:
   1. The Department failed to inform the alien or the sponsor that the information was necessary; or
   2. Extenuating personal circumstances prevented the sponsor from providing necessary information.

R6-12-604. Strikers

A parent on strike, the parent's spouse, and the dependent children of the parent on strike are ineligible for the month in which the parent is participating in a strike on the last day of the month.

R6-12-605. Dependents with Ineligible IRCA Parents

The income of an ineligible alien parent who is an alien admitted to the United States pursuant to 8 U.S.C. 1255a or 1160, as amended through October 25, 1994, which is incorporated by reference and on file with the Office of the Secretary of State and not including any later amendments or editions, unless such parent is eligible for assistance pursuant to R6-12-305(A), is deemed available to meet the needs of the alien parent's dependent child after application of the following disregards:
   1. The first $90 of the alien parent's gross earned income;
   2. An amount equal to the AFDC need standard for the number of persons whom the alien parent could claim as dependents, including the alien parent, but excluding:
      a. Persons receiving AFDC, and
      b. Persons who would be receiving AFDC but for a sanction due to failure to cooperate;

3. Actual amounts paid to persons not living in the home who could be claimed as dependents for federal income tax purposes; and
4. Actual payments of spousal maintenance or child support to persons not living in the alien parent's home.

R6-12-606. Dependents of Foster Children

A. The dependent child of an ineligible foster child may be eligible for AFDC.
B. To determine eligibility and benefit amount, the Department shall count all income and resources of the foster child and the dependent child, other than the foster care payment, as otherwise provided in this Chapter.

R6-12-607. Stepparents

The income of a stepparent who does not receive AFDC or SSI is deemed available to meet the needs of a dependent child who resides with the stepparent, after application of the following disregards:

1. The first $90 of the stepparent's gross earned income;
2. An amount equal to the AFDC need standard for the number of persons whom the stepparent could claim as dependents, including the stepparent, but excluding:
   a. Persons receiving AFDC, and
   b. Persons who would be receiving AFDC but for a sanction due to failure to cooperate;
3. Actual amounts paid to persons not living in the home whom the stepparent could claim as dependents for federal income tax purposes; and
4. Actual payments of spousal maintenance or child support the stepparent makes to persons not living in the stepparent's home.

R6-12-608. Minor Parents

A. A minor parent means a person who:
   1. Is less than 18 years of age;
   2. Has never married; and
   3. Is either the natural parent of a dependent child living in the same household, or is pregnant and eligible for assistance under R6-12-601.
B. An assistance unit headed by a minor parent is not eligible for AFDC, except as provided in subsection (C) below.
C. A minor parent may receive assistance when:
   1. The minor parent has no living or locatable:
      a. Parent,
      b. Legal custodian who is related to the minor parent to the degree specified at R6-12-309(A), or
      c. Legal guardian.
   2. The minor parent is legally emancipated.
      a. A minor parent is emancipated if the minor parent's parent, adult specified relative as defined in R6-12-309(A), or legal guardian has relinquished all control and authority over the minor parent and no longer provides financial support to the minor parent.
      b. A minor parent shall qualify as an emancipated person if the minor parent:
         i. Has lived apart from the parent, adult specified relative, or legal guardian for at least one year before the application for AFDC;
         ii. Has demonstrated financial independence from the parent, adult specified relative, or legal guardian for at least one year before the application for AFDC; and
         iii. Has not received AFDC benefits for each of the 12 consecutive months immediately preceding the month the minor parent applies for AFDC.
      c. The minor parent shall provide evidence to establish emancipation. Acceptable verification may include:
         i. Rent receipts or other living arrangement statements which establish independent living apart from the parent, adult specified relative, or legal guardian;
         ii. Income statements or income tax records which establish financial independence from the parent, adult specified relative, or legal guardian; or
         iii. Written statements from a parent, relative, or guardian which establish the independent status of the minor parent.
   3. The physical or emotional health or safety of the minor parent, or the minor parent's child, would be at risk if the minor parent and the minor parent's child resided in the home of the minor parent's parent, legal custodian who is related to the minor parent to the degree specified in R6-12-309(A), or legal guardian.
      a. The minor parent shall file a written statement of abuse or neglect with the Department.
         i. Abuse means any behavior defined at A.R.S. § 8-546(A)(2).
         ii. Neglect means any behavior defined at A.R.S. § 8-546(A)(6).
      b. The written statement shall include the following information regarding the allegations of abuse or neglect:
         i. The name of the victim,
         ii. The name of the perpetrator,
         iii. The dates of the alleged abuse or neglect,
         iv. The nature of the alleged abuse or neglect, and
         v. Whether or not other children living in the home are subject to the abuse or neglect.
      c. The FAA shall report all allegations of abuse or neglect to Child Protective Services.
      d. The FAA shall accept the minor parent's written statement of abuse or neglect as sufficient evidence that the health or safety of the minor parent, or minor parent's child, would be at risk pending the outcome of a Child Protective Services assessment, unless evidence to the contrary exists.
      e. If Child Protective Services determines the allegation of abuse or neglect is valid, the minor parent and the minor parent's child may receive AFDC if otherwise eligible under this Chapter.
      f. If Child Protective Services is unable to confirm or refute the allegation of abuse or neglect, the minor parent shall remain eligible based on the minor parent's written statement.
      g. If Child Protective Services determines the allegation of abuse or neglect is invalid:
         i. The Department shall inform the minor parent of the determination and allow the minor parent 60 days to return to the home of the parent, custodian, or legal guardian;
         ii. The Department shall terminate AFDC effective the first month following expiration of the 60-day period; and
         iii. No overpayment shall result for assistance paid based on the minor parent's written statement of alleged abuse or neglect.
   4. The minor parent lives with the minor parent's parent, adult specified relative as defined in R6-12-309(A), or legal guardian who either:

a. Is determined needy according to the income calculation procedures set forth at subsection (D) below; or
b. Has AFDC eligible children. If so, the Department shall combine all eligible children into one assistance unit. The parent, adult specified relative, or legal guardian shall serve as the payee.

D. For the purpose of determining if a minor parent may receive assistance pursuant to subsection (C)(4)(a) above:
1. The Department shall count all income received by the minor parent's parent, adult relative, or legal guardian, except for AFDC, SSI, and other sources of income excluded under R6-12-503, and shall apply the following disregards, if appropriate:
a. The first $90 of the gross earned income of each employed parent, adult relative, or legal guardian;
b. An amount equal to the AFDC need standard for the number of persons living in the home who could be claimed as dependents for federal income tax purposes, including the minor parent's parent, adult relative, or legal guardian, but excluding:
i. The minor parent and the minor parent's child; and
ii. Persons who would be receiving AFDC but for a sanction due to failure to cooperate;
c. Actual amounts paid by the minor parent's parent, adult relative, or legal guardian to persons not living in the home who could be claimed as dependents for federal income tax purposes; and
d. Actual payments of spousal maintenance or child support to persons not living in the home of the minor parent's parent, adult relative, or legal guardian.
2. The amount remaining is subtracted from the AFDC payment standard for an assistance unit comprised of the minor parent and the minor parent's child. If the resulting figure is at least 1¢, the minor parent may receive assistance.
a. If the minor parent lives with a parent, the Department shall count the income available to the assistance unit when determining the benefit level.
b. If the minor parent lives with a non-parent caretaker relative or legal guardian, the Department shall not count the income available to the assistance unit when determining the benefit level.

E. A minor parent, and the minor parent's child, who are ineligible for AFDC solely due to the provisions of this Section, may receive the following services, if otherwise eligible:
1. AHCCCS,
2. JOBS,
3. Title IV-A child care, and
4. Any other program or service for which AFDC recipients categorically qualify.

F. The provisions of this Section shall not apply to a parent who is under 18 years of age ("an underage parent") and who is married or has been married except, if the underage parent resides with his or her own parent, the income of the parents of the underage parent is deemed available to the underage parent pursuant to the procedures set forth in subsection (D) above.

G. The provisions of this Section shall not apply to an applicant or recipient who is assigned to the control group as prescribed in R6-12-105, except that the income of the parents of a minor parent is deemed available to the minor parent pursuant to the procedures set forth in subsection (D) above.

R6-12-609. Unemployed Parents in a 2-parent Household; (TPEP)

A. An assistance unit with a needy child deprived of parental support because the primary wage earning parent ("PWEP") is unemployed shall receive AFDC through the 2-parent Employment Program (TPEP) if the assistance unit meets the eligibility criteria listed in R6-12-609, R6-12-610, R6-12-611, and all other applicable AFDC eligibility criteria.

B. The child's mother and father shall both reside with the child.

C. Neither parent shall have a physical or mental defect, illness, or impairment that:
1. Substantially decreases or eliminates the parent's ability to support or care for the child, and
2. Is expected to last for a minimum of 30 continuous days.

D. The PWEP shall not refuse a bona fide offer of employment or training for employment without good cause, within 30 days prior to application. Good cause for refusal is limited to the following circumstances:
1. The offered wage was less than minimum wage;
2. The parent lacked the physical or mental ability to do the work;
3. The parent's lack of public or private transportation prevented the parent from reporting to the job;
4. The parent lacked suitable day care;
5. The parent was personally providing care for a child under the age of 2 at the time of the refusal;
6. The working conditions would involve undue risk to the parent's health or safety;
7. The work lacked workers' compensation protection;
8. The commuting time to and from work would normally exceed 2 hours, round trip;
9. The parent could not accept the job due to illness of the parent or another family member;
10. The offered position was vacant due to a labor strike or lockout;
11. The parent was incarcerated or making a required court appearance;
12. Inclement weather prevented the parent from accepting the job or reporting for work; or
13. The parent was laid off but is expected to return to the prior place of employment within 30 days of the date of the job offer;

E. The PWEP shall have:
1. Worked 6 or more quarters during the 13-calendar-quarter period ending within one year prior to the date of application for TPEP benefits; or
2. Received, or been eligible to receive, unemployment compensation at any time during the 1-year period prior to the date of application for TPEP benefits.

F. An applicant or recipient who is assigned to the control group as prescribed in R6-12-105 shall not qualify for TPEP unless the PWEP is unemployed for at least 30 days prior to the month of receipt of benefits. As used in this subsection, "unemployed" shall mean:
1. A lack of work for compensation or remuneration;
2. Regular employment of less than 100 hours in a calendar month; or
3. Employment of less than 100 hours in each month of the 2 months prior to the current month, and anticipated to be less than 100 hours during the following month.

R6-12-610. TPEP: Education and Employment Requirements; Good cause for Nonparticipation

A. Each TPEP parent shall participate in an education, training, or employment activity, unless:
1. Such parent is exempt because the parent:
a. Is 60 years of age or older;

b. Is at least 3 months pregnant and expects to deliver her child in the month in which participation would be required, or within the following 6 months;
c. Is incapacitated for a period of more than 3 days and which is not expected to last for more than 30 days;
d. Resides so remotely from the work program provider that a round trip (exclusive of time for transporting children to and from child care) would exceed 2 hours by reasonably available public transportation, usable private conveyance, or, if other transportation is unavailable, by walking;
e. Has a bona fide offer of full-time employment to begin within 30 days;
f. Is personally providing care for a child under age 1, or for an incapacitated family member; however, only 1 of the 2 parents in the assistance unit may be exempt for this reason; or
g. Is personally providing care for a child age 1 through 5; however, only 1 of the 2 parents in the assistance unit may be exempt for this reason, and the exemption shall not cover the first 20 hours of participation; or

2. Such parent has a good cause reason for non-participation pursuant to R6-10-119.

R6-12-611. TPEP: Duration

No assistance unit may receive TPEP benefits for longer than 6 months in a 12-month period.

R6-12-612. Transitional Child Care

A. In accordance with the provisions of this Section, the Department, through its Child Care Administration (CCA), may provide transitional child care benefits for assistance unit members, including members excluded from the assistance grant for:
1. Non-compliance with JOBS;
2. Failure to provide an SSN; or
3. Ineligibility due to the provisions of R6-12-308, R6-12-315, or R6-12-608.

B. To qualify for transitional child care, the assistance unit shall:
1. Become ineligible for AFDC because of:
a. Increased hours of employment;
b. Increased earnings from employment; or
c. Expiration of the $30 plus 1/3 or $30 earned income disregards described in R6-12-703;
2. Have received AFDC or TPEP in at least 3 of the 6 months immediately preceding the first month of AFDC ineligibility;
3. Cooperate in establishing paternity and enforcing support obligations as provided in R6-12-311;
4. Apply to CCA and provide information as requested by CCA in accordance with R6-5-5103;
5. Need such care due to employment in accordance with R6-5-5104(D)(1)(a);
6. Pay any required co-payment; and
7. Meet CCA's income eligibility requirements. Countable and excluded income criteria, and computation of income criteria as prescribed in R6-5-5104(E)(2), R6-5-5104(E)(3), and R6-5-5104(E)(4) shall apply.

C. The notification requirements prescribed in R6-5-5102 shall apply.

R6-12-613. Transitional Child Care: eligible children

A. Care is available for a child who was included in the assistance unit and is:
1. Under age 13;
2. Age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a licensed physician or psychologist;
3. Age 13 through 17 and the subject of a court order which mandates that the child receive adult supervision;
4. Receiving SSI and would otherwise be a dependent child; or
5. Receiving Title IV-E foster care.

B. A child born or entering the household after the assistance unit begins receiving child care benefits is eligible for child care if:
1. Such child is deprived of parental support pursuant to R6-12-310, and
2. Such child would otherwise have been included in the AFDC or TPEP assistance unit at the time such benefits terminated.

C. A child becomes ineligible if the child's non-disabled absent parent returns to the household.

R6-12-614. Transitional Child Care: Duration

A. Except as provided in subsection (B), the assistance unit may receive transitional child care benefits during the 24 consecutive months immediately following the last month for which the assistance unit received AFDC or TPEP.
1. Benefits may begin in any month during the 24-month period.
2. If the assistance unit reestablishes eligibility for AFDC or TPEP during the initial 24-month period, and subsequently loses this eligibility, the assistance unit:
a. May qualify for a new 24-month child care eligibility period if it satisfies all eligibility criteria;
b. May qualify for child care for any months remaining in the initial 24-month period if it does not satisfy all eligibility criteria.

B. An assistance unit that is assigned to the control group as prescribed in R6-12-105 may receive transitional child care for no more than 12 consecutive months immediately following the last month for which the assistance unit received AFDC or TPEP.

R6-12-615. Involuntary Termination of Transitional Child Care

A. Child care benefits shall terminate if:
1. The caretaker relative fails to cooperate in establishing paternity or enforcing support obligations as provided in R6-12-311, or
2. The employed person terminates employment without good cause.

B. In this Section, good cause shall exist when:
1. The employed person needs care for a child or an incapacitated household member; such care is unavailable; and the Department fails to provide such care;
2. The employer discriminates against the employed person on the basis of race, age, sex, race, creed, color, or national origin;
3. The work site conditions violate applicable health and safety standards;
4. The regular work site is located more than 2 hours away, round trip, by reasonably available public transportation, usable private conveyance, or, if other transportation is unavailable, by walking;
5. The employed person cannot reach the work site due to a unavoidable breakdown in transportation arrangements, and no other transportation is readily available;
6. The employed person is incarcerated or required to make a court appearance which precludes him from reporting for work;

7. The employed person lacks the physical or mental ability to perform the work;
8. The employment is unavailable due to a strike or lockout;
9. Inclement weather prevents the employed person from traveling to and from the work site;
10. The employed person quits to accept a job with equal or better compensation; or
11. Other similar circumstances.

R6-12-616. Guaranteed Child Care Benefits: Options

A. The Department shall provide child care benefits to an assistance unit member who requires such care to:
   1. Accept employment,
   2. Continue employment, or
   3. Participate in JOBS.

B. Guaranteed child care benefits are available to the assistance unit for the duration of time that the assistance unit member:
   1. Remains employed or continues to be a JOBS participant, and
   2. Continues to provide information as requested by CCA to determine the need for services in accordance with R6-5-5103(A)(3).

C. The notification requirements prescribed in R6-5-5102 shall apply.

D. Except as otherwise provided in this Section, the household may choose from the following benefit options:
   1. CCA shall directly pay the child care provider;
   2. The Department shall apply a child care disregard in accordance with R6-12-703(1); or
   3. A combination of direct payment and disregard when the assistance unit:
      a. Chooses direct payments and incurs dependent care costs which are not covered by the direct payment, and
      b. Paid for dependent care prior to applying for child care under this Section.

E. The total benefit shall not exceed $613.80, per child, per month.

R6-12-617. Guaranteed Child Care: Eligible Children

Guaranteed child care benefits are available for a dependent child in the assistance unit, including a child who is ineligible for AFDC due to the provisions of R6-12-308, R6-12-315, or R6-12-608, who is:

1. Under age 13;
2. Age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a licensed physician or psychologist;
3. Age 13 through 17 and the subject of a court order which mandates that the child receive adult supervision;
4. Not a member of the assistance unit due solely to the child's receipt of SSI; or
5. Not a member of the assistance unit due solely to the child's receipt of Title IV-E foster care funds.

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT PAYMENT AMOUNT

R6-12-701. Need Standard

A. The AFDC need standard is 100% of the 1992 federal poverty level, adjusted for a shelter cost factor as prescribed in subsections (B) and (C), and the number of persons in the assistance unit.

B. To determine eligibility, as described in R6-12-702, the Department shall use 100% of the need standard appropriate to the size of the assistance unit when:
   1. The assistance unit pays, or is obligated to pay, all or part of the shelter costs for the place in which assistance unit members reside; shelter costs include rent, mortgage, or taxes;
   2. The assistance unit members reside in subsidized public housing;
   3. A member of the assistance unit works in exchange for rent; or
   4. A non-parent relative who is excluded from the assistance grant:
      a. Charges the dependent child rent, or
      b. Uses a portion of the dependent child's assistance grant to pay household expenses.

C. For all circumstances not covered under subsection (B), including those when shelter costs are paid for 3 consecutive months or longer by a person who is not a member of the assistance unit, the Department shall use 63% of the need standard appropriate for the size of the assistance unit.

R6-12-702. Determining Eligibility

A. The Department shall determine eligibility for a specific benefit month based on its best estimate of all non-financial, resource, and financial criteria that exist, and are expected to exist, for that month.

B. An assistance unit is eligible for AFDC when the Department finds that the unit:
   1. Satisfies the nonfinancial eligibility criteria described in this Chapter;
   2. Does not exceed the resource limits described in Article (4) of this Chapter; and
   3. Satisfies the following income eligibility requirements:
      a. The unit is not rendered ineligible under R6-12-505 by a lump sum income distribution;
      b. The unit's gross income, after application of the income disregards described in subsection (C) does not equal or exceed 185% of the applicable need standard (the 185% test); and
      c. The unit's gross income, less applicable disregards as described R6-12-703, is at least 1¢ less than the applicable need standard.

C. For the 185% test, the Department shall disregard the following income of dependent children who are members of the unit:
   1. All earned income of full-time students, for up to 6 months per calendar year;
   2. All income derived from participation in the Job Training Partnership Act (JTPA), for up to 6 months per calendar year; and
   3. All unearned income derived from participation in JTPA.

R6-12-703. Earned Income Disregards

For the purpose of determining income eligibility as provided in R6-12-702(B)(3)(c), the Department shall disregard the following income:

1. Income of dependent children, as described below:
   a. All earned income of full-time students,
   b. All earned income of part-time students who also work part time,
   c. All earned income derived from JTPA participation, for up to 6 months per calendar year,
   d. All unearned income derived from JTPA participation, and
   e. All income derived from the Summer Youth Employment and Training Program (SYETP);
2. A $90 work expense allowance for each employed person whose needs are included in the assistance unit's budget;

3. For each wage-earning member of the unit, $30, plus 1/3 of any earned income not already disregarded, but only for a period of 4 consecutive months; provided, however, that after this disregard has been applied for 4 consecutive months, the Department shall not apply it again until the wage earner has not been a recipient of AFDC for 12 consecutive months; and
4. For each wage-earning member of the unit, $30 for each of the 8 calendar months immediately following the 4-month period described in subsection (3).
5. An amount for the care of each dependent child or incapacitated adult member of the unit who is receiving AFDC, determined as follows:
   a. If the wage earner works full time, the actual cost of care, up to $175, or, if the child requiring care is less than age 2, up to $200; or
   b. If the wage earner works part time, the actual cost of care, up to $88, or, if the child requiring care is less than age 2, up to $100;
6. For an assistance unit with an adult who is ineligible pursuant to R6-12-315, an amount equal to the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded from the computation.
7. For an assistance unit with a child who is excluded from the assistance unit pursuant to R6-12-308, an amount equal to the difference between the benefit amount with the needs of the ineligible child included in the computation and the benefit amount with the needs of the ineligible child excluded from the computation.

R6-12-704. Disqualification from Earnings Disregards; Good Cause

A. The Department shall not apply the earned income disregards set forth at R6-12-703(2) through R6-12-703(5) to the earned income of an assistance unit member for a particular benefit month when the assistance unit member, without good cause:
   1. Terminates employment or reduces the hours of employment within the 30 days preceding the benefit month;
   2. Refuses to accept a bona fide offer of employment offered through JOBS, or by any other employer, within the 30 days preceding the benefit month; or
   3. Fails to make a timely report of income pursuant to R6-12-901.

B. Good cause.
   1. For circumstances applicable to subsections (A)(1) or (A)(2), good cause is limited to:
      a. The circumstances described at A.A.C. R6-10-119(B); or
      b. The circumstances described at A.A.C. R6-10-120(A) and (C), if the person is a TPEP parent.
   2. For circumstances applicable to subsection (A)(3), good cause is limited to the following:
      a. The assistance unit reports and verifies that sickness, accident, or other family hardship prevented the unit from reporting timely; or
      b. The mailing date of the change report is timely as prescribed in R6-12-901.

R6-12-705. Determining Benefit Payment Amount; Prorating

A. The Department shall determine the amount of the assistance grant by subtracting all non-exempt income, following application of all appropriate income disregards, from 36% of the need standard for the number of persons in the assistance unit, and rounding down the resulting figure to the next whole dollar.
B. If the benefit amount is less than $10, the Department shall not pay benefits; the assistance unit remains eligible for AFDC for all other purposes.
C. The Department shall pay benefits for the month of application only from the filing date of the application. The benefit amount is prorated based on the number of days remaining in the month after the date of application.

R6-12-706. Notice of eligibility determination

A. If the Department finds that the unit satisfies all eligibility criteria as specified in this Chapter, the Department shall approve the assistance grant and send notice of approval to the applicant.
B. If the Department finds that the unit does not satisfy one or more of the eligibility criteria specified in this Chapter, the Department shall send a denial notice to the applicant's last known address. The notice shall describe the action taken, the specific authority for the action, and the individual's right to request a hearing to challenge the action.

ARTICLE 8. PAYMENTS

R6-12-801. Benefit Payments

A. The Department shall pay benefits to an eligible assistance unit only during a month for which the unit is eligible for a payment.
B. The Department shall make benefit payments in the form of a state warrant, payable directly to the eligible recipient, or to a protective payee, emergency payee, legal guardian, or vendor.
C. The warrant shall bear a statement which shall require the payee to confirm continuing eligibility for benefits when endorsing the warrant for payment.

R6-12-802. Mailing of Payments

A. The Department shall mail the payment warrant to the assistance unit's residential address of record, and not to a separate mailing address unless the assistance unit so requests and provides a valid reason for doing so. Valid reasons include, but are not limited to:
   1. A rural address,
   2. Lack of a mail receptacle, or
   3. Residence in a housing area with a high rate of mail theft.
B. The Department may mail the warrant to an address outside the state of Arizona for the lesser of:
   1. One benefit month, or
   2. Until the assistance unit meets the eligibility requirements for assistance in another state.
C. The Department shall not mail a warrant outside the United States.

R6-12-803. Supplemental Payments

A. The Department shall correct underpayments by issuing the assistance unit a supplemental payment, regardless of whether the individual who was underpaid is eligible on the date the supplemental payment is issued.
B. The Department shall not count such supplemental payments as a resource or as income.

R6-12-804. Returned Payments

When the U.S. Post Office returns a warrant as undeliverable, the Department shall compare the address to the unit's address of record.
   1. If the warrant was incorrectly addressed, the Department shall immediately correct the address and remail the warrant, or give it to the assistance unit.

2. If the warrant was correctly addressed, the Department shall send the unit a notice to contact the Department within 10 calendar days.
   a. If the unit does not respond to the 10-day notice, the Department shall terminate benefits.
   b. If the unit does not respond to the notice within 10 days, but does respond by the last day of the benefit month, or by the last day of the following month if the 10-day period expires in the following benefit month, the Department shall make the warrant available to the unit.
   c. The Department shall cancel any warrant that is not claimed or replaced within the time period specified in subsection (2)(b) above.

R6-12-805. Non-receipt of Payments; Replacement

A. If a recipient reports nonreceipt of a benefit payment, the Department shall replace the payment within 3 work days from the date of the report, when all the following conditions are met:
   1. Four postal work days have elapsed since the mailing date of the warrant;
   2. The recipient has signed an affidavit attesting to nonreceipt, loss, or theft of the warrant and avowing:
      a. That neither the recipient, nor someone acting on behalf of the recipient, has received or cashed the warrant;
      b. That the recipient understands the consequences and penalties for fraud;
      c. That the recipient understands that the unit is liable for an overpayment if the unit cashes both the original and a replacement warrant; and
      d. That the recipient will return the original warrant to the Department if the unit later finds or receives it; and
   3. The Department requests a stop payment on the original warrant.

B. If the Department replaces the original warrant, and it is nonetheless cashed, the recipient shall sign a statement avowing that the recipient has reviewed a copy of the endorsement on the original warrant and believes the endorsement was forged.
   1. If the recipient refuses to sign the statement and admits cashing the original warrant but has not cashed the replacement warrant, the recipient shall return the replacement warrant to the Department for cancellation.
   2. If the recipient fails or refuses to sign the statement, or refuses to return the replacement warrant, the Department shall refer the matter to the Department's Office of Special Investigations.

R6-12-806. Protective Payee

A. The Department shall pay benefits to a protective payee who is not a member of the assistance unit:
   1. On behalf of all unit members when a state or tribal protective service agency notifies FAA that the recipient is mismanaging or misappropriating benefits; or
   2. On behalf of all unit members other than the designated recipient when:
      a. The recipient fails, without good cause, to cooperate in obtaining support as required by R6-12-311(C); or
      b. The recipient, without good cause, fails to participate in JOBS, terminates employment, refuses a bona fide offer of employment, or reduces earnings.

B. The Department, with the assistance of the recipient, shall select a protective payee, who may be any adult, other than the following:
   1. The Department's director,
   2. A Department eligibility interviewer,
   3. An employee in the Department's Office of Special Investigations,
   4. A Department employee who handles fiscal processes related to the AFDC program, and
   5. A vendor of goods or services who deals directly with the recipient.

C. Except in cases of mismanagement, the Department shall continue paying benefits to the recipient if the Department cannot locate a suitable payee, after exhausting reasonable efforts to do so.

D. Protective payments shall terminate:
   1. In cases of mismanagement, upon a determination by the protective services agency that such payments are no longer required to avoid further mismanagement; and
   2. In all other cases, when the recipient cooperates with the requirement that caused the onset of protective payments.

R6-12-807. Emergency Payee

A. The Department may pay benefits to a person acting as representative for, or on behalf of, a caretaker relative who was receiving benefits for a dependent child, when the relative:
   1. Dies,
   2. Abandons or deserts the child,
   3. Is incarcerated, or
   4. Is committed to a hospital for the mentally ill.

B. The Department can make payments to the emergency payee for 90 days, or until a case plan is developed for the dependent child, whichever first occurs.

ARTICLE 9. CHANGES; ADVERSE ACTION

R6-12-901. Reporting Changes

A. As a condition of eligibility, the assistance unit shall advise the Department of all changes in income, resources, or other circumstances which may affect eligibility or benefit amount, within 10 days from the date the change becomes known.

B. A change report is considered timely if the mailing date is the 10th day from the date the change becomes known.

R6-12-902. Withdrawing a Member from the Assistance Unit

A. A caretaker relative may request that an assistance unit member be removed from the unit by filing, with the Department, a written request which shall identify the member to be withdrawn, the reason for the request, and the date the request is effective.

B. The Department shall acknowledge receipt of a withdrawal request and advise the unit in writing within 10 days of receipt of the withdrawal request of the effect of the request, as specified below.

C. If the request does not identify a specific member, the Department shall apply the request to the entire assistance unit, and terminate benefits.

D. If the person being withdrawn is a mandatory member of the assistance unit, the Department shall deem the entire assistance unit ineligible and terminate benefits.

E. If the person being withdrawn is not a mandatory member of the assistance unit, the Department shall redetermine eligibility and benefits in accordance with the provisions of this Chapter.

F. If the request does not specify an effective date, the Department shall take appropriate action effective the 1st month after the month in which the Department receives the request.

G. Department action taken in response to a request for withdrawal of a member does not require a notice of adverse action but does require adequate notice and is appealable.

R6-12-903. Determining Benefits when Adding or Removing a Member

A. When the Department receives a request to add a member to the assistance unit, or is required to add a mandatory member, the assistance unit shall file an application.

B. Upon receipt of an application, the Department shall redetermine eligibility for the unit, including the new member.
   1. If the new member renders the unit ineligible, and is not a mandatory member, the Department shall advise the unit of the consequences and permit the unit to withdraw its request to include the new member.
   2. If the new member renders the unit ineligible, and is a mandatory member, the unit is ineligible. The Department shall provide adequate and timely notice.
   3. If the unit remains eligible, the Department shall add the new member, effective the month the application is filed, and include the new member's income in the budget.

C. In the month a new member is added, the assistance unit may be eligible for an additional benefit amount or liable for an overpayment. To determine the unit's entitlement or liability, the Department shall:
   1. Recalculate the unit's benefit amount with the new member, as provided in R6-12-704;
   2. Subtract the current benefit amount (without the new member) from the new benefit amount; and
   3. Take the resulting amount:
      a. If above 0, prorate it as provided in R6-12-704(C), to determine the benefit amount due the unit;
      b. If 0, pay no benefit; or
      c. If below 0;
         i. Write an overpayment for the month of application, if the member is mandatory; or
         ii. If the member is not mandatory, allow the unit to add the member the following month, so as to avoid an overpayment for the current month.

R6-12-904. Benefit Reduction or Termination

A. Any change in any factor which the Department considers when determining eligibility or benefit amount may result in reduction or termination of benefits, consistent with the provisions of this Chapter.

B. The Department shall terminate benefits if the assistance unit fails to complete the 6-month review required by R6-12-210.

R6-12-905. Ineligibility Date for an Assistance Unit

An assistance unit's ineligibility begins at the time described below:
   1. On the first day of the same month in which any of the following events occurs:
      a. Acquisition of resources in excess of the resource limitations specified in Article 4,
      b. Violation of the labor strike restrictions specified in R6-12-604,
      c. Receipt of lump sum income as set forth in R6-12-505,
      d. Receipt of income in excess of the 185% income maximum as specified in R6-12-702, or
      e. The addition of a mandatory assistance unit member;
   2. On the 1st day of the 1st month benefits can be terminated following timely notice of adverse action for failure to comply with a 6-month eligibility review;
   3. On the 1st day of the 1st month in which the assistance unit is not eligible on the date AFDC benefits are paid when the unit is rendered ineligible for reasons not specified in subsections (1) or (2) above.

R6-12-906. Ineligibility Date for an Individual Member of an Assistance Unit

Ineligibility for an individual member of an assistance unit begins at the time described below:
   1. On the 1st day of the 1st month the member can be removed after timely notice of adverse action, but no later than the 2nd month following noncompliance with the following requirements:
      a. Participation in JOBS pursuant to R6-12-313; or
      b. Cooperation with support enforcement efforts pursuant to R6-12-311.
   2. On the 1st day of the 1st month in which the member is not eligible on the date AFDC benefits are paid when the member is rendered ineligible for reasons not specified in subsection (1) above.

R6-12-907. Notice of Adverse Action

A. When the Department plans to take adverse action against an assistance unit, the Department shall provide the unit with adequate and timely notice, except as provided in subsection (C) below.

B. The Department shall mail such notice, 1st class, postage prepaid, to the last known residential address for the unit, or other designated address for the unit as allowed pursuant to R6-12-802(A).

C. In addition to the information listed in R6-12-101(1), the notice shall contain the following information:
   1. The date the adverse action is effective;
   2. The names of the eligible and ineligible persons in the unit, if changed by the intended action; and
   3. Any effect the intended action may have on the unit members' AHCCCS medical eligibility.

D. The Department may dispense with timely notice but shall provide adequate notice of adverse action when:
   1. A recipient or payee dies and no emergency payee is available;
   2. A recipient makes a written request for termination;
   3. A recipient is ineligible due to incarceration, hospitalization, or institutionalization in a skilled nursing care or intermediate care facility;
   4. The recipient's address is unknown;
   5. The Department has verified that the recipient has been accepted for assistance in another state;
   6. An AFDC child is legally removed from home or voluntarily placed in foster care by the child's parent or legal guardian; or
   7. The recipient furnishes information which results in reduction or termination of assistance and indicates in writing an understanding of the consequences that may result from furnishing such information.

R6-12-908. Referral for Investigation

FAA shall refer a case to OSI for investigation when:
   1. An applicant or recipient refuses to cooperate as required pursuant to R6-12-302;
   2. An applicant or recipient refuses to sign a statement attesting to forgery of a signature on a cashed warrant;
   3. The Department has valid reason to suspect that an act has been committed for the purpose of deception, misrepresentation, or concealment of information relevant to a determination of eligibility or the form or amount of a benefit payment; or
   4. The FAA suspects the commission of theft or fraud related to AFDC, or any conduct listed in A.R.S. § 46-215.

ARTICLE 10. APPEALS

R6-12-1001. Entitlement to a Hearing

A. An applicant for or recipient of AFDC is entitled to a hearing to contest the following Department actions:
   1. Denial of the right to apply for assistance;
   2. Complete or partial denial of an application for assistance or for supplemental benefits;
   3. Failure to make an eligibility determination on an application within 45 days of the application date;
   4. Suspension, termination, reduction, or withholding of benefits except as provided in subsection (B).
   5. The existence or amount of an overpayment attributed to the unit, or the terms of a plan to repay the overpayment;
   6. Changing the manner or form of payment including naming a protective payee to receive the benefit payment; or
   7. Denial or termination of child care benefits.

B. Applicants and recipients are not entitled to a hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Department has incorrectly applied such law to the individual seeking the hearing.

R6-12-1002. Request for Hearing; Form; Time Limits

A. A person who wishes to appeal an adverse action shall file a written request for a fair hearing with a local FAA office, within 20 days of the adverse action notice date.

B. A request for a hearing is deemed filed:
   1. On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
      a. As shown by the postmark;
      b. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
      c. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
   2. On the date actually received by the Department, if not sent through the mail as provided in subsection (B)(1).

C. The submission of any document shall be considered timely if the appellant proves that delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.

D. Any document mailed by the Department shall be considered as having been given to the addressee on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date shown on the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure, as published in Volume 16 of the A.R.S. printed by the West Publishing Company.

E. The Office of Appeals shall deny any request that is not timely filed. A party may request an appeal on the timeliness of an appeal.

R6-12-1003. Hearing Requests; Preparation and Processing

A. The Department shall advise the appellant of any free legal services available to assist the appellant in completing the request for appeal. If the appellant so requests, the Department shall assist the appellant in preparing the request.

B. Within 2 working days of receiving a request for appeal, the local FAA office shall notify the Office of Appeals of the hearing request.

C. Within 10 days of receiving a request for appeal, the local FAA office shall prepare, and forward to the Office of Appeals, a prehearing summary which shall include:
   1. The appellant's name (and case name, if different);
   2. The appellant's SSN (or case number, if different);
   3. The local office responsible for the appellant's case;
   4. A brief summary of the facts surrounding, and the grounds supporting, the adverse action;
   5. Citations to the specific provisions of the Department's AFDC manual which support the Department's action; and
   6. The decision notice and any other documents relating to the appeal.

D. The local office shall mail the appellant a copy of the summary.

E. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearing as prescribed in R6-12-1006.

R6-12-1004. Stay of Adverse Action Pending Appeal; Exceptions

A. If an appellant files a request for appeal within 10 calendar days of the adverse action notice date, the Department shall stay imposition of the adverse action and continue benefits at the current level unless:
   1. The appellant specifically waives continuation of current benefits,
   2. The appeal results from a change in federal or state law which mandates an automatic grant adjustment for all classes of recipients and does not involve a misapplication of the law,
   3. The appellant is requesting continuation of TPEP benefits for longer than 6 months within a 12-month period, or
   4. The appellant is requesting continuation of benefits for longer than 24 months within any consecutive 60-month period.

B. The adverse action shall be stayed until receipt of an official written decision in favor of the Department, except in the following circumstances:
   1. At the hearing and on the record, the hearing officer finds that: the sole issue involves application of law, and the Department properly applied the law and computed the benefits due the appellant;
   2. A change in eligibility or benefit amount occurs for reasons other than those being appealed, and the assistance unit receives and fails to timely appeal a notice of adverse action concerning such change;
   3. Federal or state law mandates an automatic grant adjustment for classes of recipients;
   4. The appellant withdraws the request for hearing; or
   5. The appellant fails to appear for a scheduled hearing without prior notice to the Office of Appeals, and the hearing officer does not rule in favor of the appellant based upon the record.

C. Upon receipt of decision in favor of the Department, the Department shall write an overpayment for the amount of any benefits the unit received in excess of the correct benefit amount, while the stay was in effect.

D. If the appellant files a request for appeal more than 10 days after, but within 20 days of, the adverse action notice date, the Department may take the adverse action while the appeal is pending. If the Office of Appeals then rules in favor of the appellant, the Department shall issue a supplemental payment to the appellant to cure any underpayment within 10 days from the date of the hearing decision.

R6-12-1005. Hearing Officer; Qualifications; Duties; Subpoenas

A. An impartial hearing officer in the Department's Office of Appeals shall conduct all hearings.

B. The hearing officer shall:
   1. Administer oaths and affirmations;

2. Regulate and conduct the hearing in an orderly and dignified manner, which avoids undue repetition and affords due process to all participants;
3. Ensure that all relevant issues are considered;
4. Exclude irrelevant evidence from the record;
5. Request, receive, and incorporate into the record all relevant evidence;
6. Order, when relevant and useful to a resolution of the issue in a case, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the Department;
7. Upon compliance with the requirements of subsection (C), subpoena witnesses or documents needed for the hearing;
8. Open, conduct, and close the hearing;
9. Rule on the admissibility of evidence at a hearing;
10. Direct the order of proof at the hearing;
11. For good cause shown, and upon the request of an interested party, or on the hearing officer's own motion, take such action as the hearing officer deems necessary to the proper disposition of an appeal, including, without limitation, the following:
    a. Recuse or disqualify himself from the case;
    b. Continue the hearing to a future time or date;
    c. Prior to entry of a final decision, reopen the hearing to take additional evidence;
    d. Deny or dismiss the appeal or request for hearing in accordance with the provisions of this Article;
    e. Exclude non-party witnesses from the hearing room; and
12. Issue a written decision deciding the appeal.

C. Subpoenas.
1. A party who wishes to subpoena a witness, document, or other physical evidence shall make a written request which shall describe:
    a. The case name and number;
    b. The party requesting the subpoena;
    c. The name and address of any person to be subpoenaed, with a description of the subject matter of the witness's anticipated testimony; and
    d. A description of any documents or physical evidence to be subpoenaed, and the name and address of the custodian of the document or physical evidence.
2. The party requesting the subpoena shall make the request at least 5 work days before the scheduled hearing date.
3. The hearing officer shall deny the request if the witness's proposed testimony is not relevant to the issues in the hearing.
4. The Office of Appeals shall prepare all subpoenas and serve them by certified mail, return receipt requested.

D. An appellant may request a change in hearing officer if the appellant so requests at least 10 days prior to the hearing. The appellant is limited to one request.

R6-12-1006. Hearings: Location; Notice; Time

A. The Office of Appeals shall schedule the hearing at the office location most convenient to the interested parties.
B. The Office of Appeals shall schedule the hearing at least 20 days, and no more than 45 days, from the date the appellant files the request for hearing with the local office.
C. The Office of Appeals shall issue all interested parties a notice of the first hearing at least 10 calendar days before the hearing. The appellant may waive the 10-day notice period or request a continuance.
D. The notice of hearing shall be in writing and shall include the following information:
1. The date, time, and place of the hearing;
2. The name of the hearing officer;
3. The issues involved in the case;
4. A statement listing the appellant's rights, as follows:
    a. To appear in person or by telephone;
    b. To have a representative present the case;
    c. To copy, at a reasonable time prior to the hearing, or during the hearing, any documents in the appellant's case file which are relevant to the issues being heard, and all documents the Department may use at the hearing;
    d. To obtain assistance from the local FAA office to prepare for the hearing; and
    e. To obtain, from the local FAA office, information on available community legal resources who may be able to represent the appellant.

R6-12-1007. Rescheduling the Hearing

A. An appellant may request a continuance of the hearing by calling or writing the Office of Appeals and providing good cause as to why the hearing should be postponed.
B. The Office of Appeals must receive the request at least 5 work days before the scheduled hearing date and may deny an untimely request or a request which fails to establish good cause.
C. When a hearing is rescheduled, the Office of Appeals shall provide appropriate notice to all interested parties.

R6-12-1008. Hearings Concerning Disability Determinations

A. A person who appeals an adverse determination of disability may ask to receive another medical examination before the hearing.
B. Upon receipt of such a request, the FAA local office shall schedule the examination with a licensed physician, psychologist, or psychiatrist. If the appellant does not designate a particular examiner, the Department may choose.
C. At any time prior to issuing a decision, the hearing officer may ask the District Medical Consultant to schedule the appellant for a special diagnostic evaluation by a specialist.
D. Upon receipt of a report on the special evaluation, the hearing officer may, but is not required to, have the District Medical Consultant evaluate the report and render an opinion on the appellant's disability and employability.
E. The hearing officer may consider, but is not bound by, the Medical Consultant's opinion, which shall qualify as an expert medical opinion.
F. In deciding the appeal of a disability determination, the hearing officer shall consider:
1. All medical, social, and vocational reports which are relevant to the issue of disability; and
2. The appellant's testimony as to the appellant's physical and medical condition or symptomatology.

R6-12-1009. Group Hearings

The Department may conduct a single group hearing on individual requests for a hearing, under the following circumstances:
1. The sole issue in each case is interpretation of the same question of federal or state law or policy.
2. Each appellant may present or have an authorized representative present his or her own case.
3. Any appellant may withdraw from the group hearing and obtain an individual hearing.

R6-12-1010. Withdrawal of Appeal; Default

A. An appellant may voluntarily withdraw an appeal at any time prior to the scheduled hearing, by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.

B. An appellant may involuntarily withdraw an appeal by failing to appear at the scheduled hearing.
   1. Except as provided in subsection (C), the hearing officer may enter a default decision dismissing the appeal if the appellant fails to appear at a scheduled hearing.
   2. When the appellee fails to appear at the hearing, the hearing officer may rule summarily on the available record or may adjourn the hearing to a later date and time.
   3. If, within 10 days of the scheduled hearing date at which the appellant failed to appear, the appellant files a written request to reopen the proceedings and establishes good cause for non-appearance, the hearing officer shall reopen the proceedings and reschedule the hearing with notice to all interested parties.
   4. Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party.

C. The hearing officer shall not enter a default if the appellant gives notice, prior to the scheduled time of hearing, that the appellant is unable to attend the hearing, due to good cause, and still wishes the hearing or to have the matter considered on the available record.

R6-12-1011. Hearing Proceedings

A. Standard of review and burden of proof.
   1. The hearing is a de novo proceeding. To prevail on appeal, the appellant must prove eligibility or entitlement to benefits by a preponderance of the evidence.
   2. The Department has the initial burden of going forward with presentation of the evidence.

B. Appearance by parties and representatives.
   1. An appellant may appear by telephone or submit a written statement under oath, instead of appearing personally at the hearing. The appellant shall file the personal statement, with all other witness statements and documents the appellant wishes to offer in evidence, with the Office of Appeals before the time of the hearing.
   2. The FAA worker, FAA supervisor, or FAA hearing specialist, or another appropriate person may testify for the Department at the hearing.

C. Evidence and argument.
   1. The appellant may testify, present evidence, cross-examine witnesses, and present arguments.
   2. The hearing officer shall exclude from the record any irrelevant evidence.

D. The record.
   1. The hearing officer shall keep a full and complete record of all proceedings in connection with an appeal. The appellant or the appellant's designated representative may inspect the record on appeal at any reasonable time.
   2. The Department need not transcribe the record unless it is required for further proceedings.
   3. If the record is transcribed, the appellant is entitled to receive a copy at no charge.

R6-12-1012. Hearing Decision; Time Limits; Form; Contents; Finality

A. No later than 90 days after the date the appellant files a request for appeal, the hearing officer shall render a written decision based solely on the evidence and testimony produced at the hearing, and applicable federal and state law. The time limit is extended for any delay caused by the appellant.

B. The decision shall include:
   1. Findings of facts pertinent to the issue;
   2. Citations to the law and authority applicable to the case;
   3. A statement of conclusions derived from the controlling facts and law, and the reasons for the conclusions; and
   4. A statement of further appeal rights available to the appellant and the time period for exercising those rights.

C. The Office of Appeals shall mail or deliver a copy of the decision to each interested party or such party's attorney of record.

D. The hearing officer's decision is the final decision of the Department, unless a party files a timely request for reconsideration or further appeal.

R6-12-1013. Implementation of the Decision

A. If the decision requires a local office to take further action, such action shall occur within 10 calendar days of the date of the decision.

B. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or the date stated by the hearing officer in the written decision.

C. If the decision affirms the Department's decision to take adverse action, the Department shall treat any resulting overpayment as a client-caused, non-fraud overpayment.

R6-12-1014. Further Appeal and Review of Hearing Decisions; Stay of Adverse Action

A. A party may appeal an adverse hearing decision to the Department's Appeals Board.
   1. The party shall file a written petition for review with the Office of Appeals within 15 calendar days of the mailing date of the hearing officer's decision.
   2. The petition shall state the grounds for review and be signed and dated.
   3. The petition is deemed filed:
      a. On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
         i. As shown by the postmark;
         ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
         iii. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
      b. On the date it is hand-delivered to the Office of Appeals.

B. When a party timely appeals a hearing decision, the Department shall stay implementation of the adverse action until the Appeals Board issues a decision and treat any resulting overpayment as a client-caused, non-fraud overpayment.

R6-12-1015. Appeals Board Proceedings and Decision

A. Upon receipt of a request for further review, the Office of Appeals shall transcribe the record of hearing and transfer the record to the Appeals Board.

B. The Appeals Board may decide the appeal based solely on the record of proceedings before the hearing officer, or if the Board is unable to decide the appeal on the available record, the Board may remand the case for rehearing, specifying the nature of any additional evidence required or any further issues for consideration, or conduct a hearing at the Appeals Board to take additional evidence.

C. The Appeals Board shall issue, and mail to all parties, a final written decision affirming, reversing, or modifying the hearing decision and specifying the parties' right to seek further review.

ARTICLE 11. OVERPAYMENTS

R6-12-1101. Overpayments: Date of Discovery; Collection; Exceptions

A. Except as provided in subsection (E), the Department shall pursue collection of all overpayments.

B. The Department discovers an overpayment on the date the Department determines that an overpayment exists.

C. The Department shall write an overpayment report within 90 days of the discovery date.

D. If the FAA office suspects that an overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.

E. The Department shall not attempt to recover an overpayment from a person who is not a current recipient when the overpayment was not the result of an intentional program violation or fraud, and:

1. The total overpayment is less than $35; or
2. The Department has exhausted reasonable efforts to collect an overpayment of $35 or more and has determined that it is no longer cost effective to pursue the claim.

R6-12-1102. Overpayments: Persons Liable

A. The Department shall pursue collection of an overpayment from:

1. The assistance unit which was overpaid;
2. Any assistance unit of which a member of the overpaid unit has subsequently become a member; or
3. Any individual member of the overpaid assistance unit, even if that member is not currently receiving benefits.

B. The Department shall seek recovery from the caretaker relative, or the caretaker relative's current assistance unit, first. If the caretaker relative is unavailable due to death or disappearance, or was not a member of the overpaid assistance unit, the Department shall seek recovery from the other members of the overpaid assistance unit, or the other members' current assistance units.

R6-12-1103. Methods of Collection and Recoupment

A. When an overpaid assistance unit is currently receiving benefits, the Department shall permit the unit to choose one of the following repayment methods:

1. Offset against any underpayment due the unit;
2. Cash payments;
3. Reduction in current benefits, in an amount not to exceed 10% of the unit's monthly payment, unless the unit desires a larger reduction;
4. A combination of the above methods.

B. If the repayment reduces the unit's benefits to 0, the unit shall remain eligible for AFDC for all other purposes.

C. If the assistance unit is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

ARTICLE 12. INTENTIONAL PROGRAM VIOLATION

R6-12-1201. Intentional Program Violations (IPV); Defined

A. An intentional program violation (IPV) is an action by an individual, for the purpose of establishing or maintaining the family's eligibility for AFDC or for increasing or preventing a reduction in the amount of the grant, which is intentionally:

1. A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
2. Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

B. For the purpose of imposing sanctions as prescribed in R6-12-1204, a person is considered to have committed an IPV if:

1. The person signs a waiver of an administrative disqualification hearing,
2. The person is found to have committed an IPV by an administrative disqualification hearing, or
3. The person is convicted of IPV or fraud in a court of law.

R6-12-1202. IPV Disqualification Proceedings; Hearing Waiver

A. The Department shall initiate an administrative disqualification proceeding, or a referral for prosecution, upon receipt of sufficient documentary evidence substantiating that an assistance unit member has committed an IPV.

B. When the Department initiates a disqualification proceeding, the Department shall mail the assistance unit member suspected of an IPV written notice of the right to waive the disqualification hearing.

C. The waiver notice shall include the following information:

1. The charges against the suspected violator and a description of the evidence supporting the charges;
2. An explanation of the disqualification sanctions imposed for intentional program violations;
3. A warning that the administrative proceeding does not preclude other civil or criminal court action;
4. The date that the signed waiver notice must be received by the Department should the suspected violator wish to avoid the hearing;
5. Signature lines for the suspected violator and the suspected violator's current caretaker relative if the suspected violator is not the caretaker relative;
6. A statement that the caretaker relative must also sign the waiver if the suspected violator is not the caretaker relative;
7. A statement of the suspected violator's right to remain silent concerning the charge;
8. A warning that anything said, written, or signed by the suspected violator concerning the charge may be used against the suspected violator in administrative proceedings or a court of law;
9. A warning that any waiver of the hearing establishes an IPV, eliminates the right to further administrative appeal, and will result in disqualification and a reduction in benefits for other assistance unit members for the period of disqualification;
10. Statements providing the suspected violator an opportunity to admit to the facts supporting disqualification or waive the hearing without admitting to the facts;
11. The name, address, and telephone number of a Department representative who the suspected violator may contact for further information;
12. A list of persons or organizations which may provide the suspected violator with free legal advice regarding the IPV; and
13. A warning that the Department shall hold any remaining household members responsible for repayment of any overpayment arising from the IPV.

D. For the purpose of imposing sanctions as prescribed in R6-12-1204, a signed waiver notice shall have the same effect as an administrative adjudication that an IPV occurred.

R6-12-1203. Disqualification Proceedings; Hearing

A. If the suspected violator does not sign and return the waiver notice by the return date set in the waiver notice, the Office of Appeals shall send the suspected violator a notice of hearing. The Office of Appeals shall send the notice by certified mail, return receipt requested, no later than 30 days before the scheduled hearing date.

B. The notice of hearing shall include the following information:

1. The date, time, and place of the hearing;
2. The charges against the suspected violator;
3. A summary of the evidence supporting the charges;
4. The location where the suspected violator may examine the supporting evidence before the hearing;
5. A warning that the hearing officer shall render a decision based solely on the evidence which the Department offers if the suspected violator does not appear for the hearing;
6. An explanation of the suspected violator's right to show good cause for a failure to appear at the hearing and the procedure for doing so;
7. An explanation of the sanctions the Department shall impose if the hearing officer finds that the suspected violator committed an IPV;
8. A listing of the suspected violator's procedural rights;
9. A warning that the pending administrative hearing does not preclude other civil or criminal court action;
10. A statement advising of any free legal advice which may be available;
11. A statement explaining how to obtain a copy of the Department's published hearing procedures; and
12. A statement that the suspected violator may have the hearing postponed by contacting the hearing officer at least 10 days before the hearing date and asking for a postponement.

C. The hearing officer shall postpone a hearing for up to 30 days if the suspected violator files a written request for postponement with the hearing official no later than 10 days before the scheduled hearing date. Any such postponement days shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (G) below.

D. At the start of the disqualification hearing, the hearing officer shall advise the suspected violator or representative of the right to remain silent during the hearing, and the consequences of exercising that right.

E. A hearing officer, as prescribed in R6-12-1005, shall conduct the disqualification hearing pursuant to the procedures set forth in R6-12-1006, R6-12-1007, and R6-12-1011, except as prescribed in this subsection.
1. The suspected violator does not need to request a hearing as prescribed in R6-12-1006(B).
2. The standard of proof is clear and convincing.
3. So long as the Department sent an advance notice of hearing as provided in subsections (A) and (B) above, the hearing officer shall conduct the disqualification hearing even if the suspected violator or representative cannot be located or fails to appear at the hearing without good cause.

F. The Department shall prove by clear and convincing evidence that the household member committed an IPV.

G. No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the suspected violator a written decision which shall conform to the requirements of R6-12-1012 and shall include the information described at R6-12-1204(C).

R6-12-1204. Disqualification Sanctions; Notice

A. A person found to have committed an IPV is disqualified from program participation for 6 months for the 1st violation; 12 months for the 2nd violation; and permanently for the 3rd violation.

B. The Department shall not include the needs of the disqualified person in the assistance unit but shall count the income and resources of the disqualified person available to the unit.

C. Upon a determination of IPV, the Department shall notify the violator of the pending disqualification. The notice shall:
1. Inform the violator of the decision and the reasons for the decision;
2. Provide the beginning date and duration of the disqualification, including an explanation of any deferment of disqualification; and
3. Explain the consequences of the disqualification on household members other than the violator.

R6-12-1205. Disqualification Hearings; Appeal

A. A person found to have committed an IPV through an administrative disqualification hearing may appeal the decision to the Department's Appeals Board as prescribed in R6-12-1014.

B. Upon a determination of IPV through a signed waiver of a disqualification hearing, the violator has no right to further administrative appeal.

R6-12-1206. Honoring Out-of-state IPV Determinations and Sanctions

The Department shall honor sanctions imposed against an applicant or recipient by the Title IV-A agency of another state and shall consider prior violations committed in another state when determining the appropriate sanction.

ARTICLE 13. JOBSTART

R6-12-1301. Scope

The Department shall operate the JOBSTART demonstration project in geographic areas served by the Eloy, Casa Grande, and Coolidge FAA local offices under authority granted pursuant to Laws 1994, Ch. 301, §§ 2 to 17 and 19.

R6-12-1302. Definitions

The following definitions apply to this Article unless the context requires otherwise:
1. "Adjusted gross monthly wages" means the gross monthly wages a person receives from a JOBSTART subsidized placement after deductions for federal and state income taxes, and Federal Insurance Contributions Act (FICA) contributions.
2. "Subsidized placement" means a job with a public or private sector employer for which the Department reimburses the employer for the wages paid to the participant with the cash value of the participant's AFDC and Food Stamp Program benefits.
3. "Wage pool" means a pool of diverted AFDC and Food Stamp Program benefits which are used to reimburse an employer for the monthly wages paid to a participant for up to 40 hours per week at the federal minimum wage.

R6-12-1303. Referral for Participation

FAA shall refer AFDC recipients who reside within the JOBSTART project area to JOBS for participation, unless the recipient is exempt from JOBS pursuant to R6-12-313(B).

R6-12-1304. Diversion of Benefits to Wage Pool

A. When JOBS notifies FAA that JOBS has assigned a recipient to a JOBSTART subsidized placement, FAA shall redirect the recipient's AFDC and Food Stamp Program benefits to the JOBSTART wage pool to reimburse the participant's employer for wages paid to the participant.

B. The reimbursement shall equal the combined cash value of the AFDC and Food Stamp Program benefits which the recipient would otherwise be eligible to receive but shall not exceed the recipient's gross monthly earnings from the JOBSTART subsidized placement, calculated as total hours worked times the participant's hourly wage rate. The reimbursement shall not exceed 40 hours per week at the federal minimum wage.

C. The Department shall divert the AFDC and Food Stamp Program benefits to the wage pool beginning with the calendar month following the month the participant first receives wages from the subsidized placement and shall continue diverting the benefits until the participant stops holding a subsidized placement.

R6-12-1305. Treatment of Income

A. The Department shall exclude as income the participant's gross monthly wages received from the subsidized job placement, except that JOBSTART wages in excess of 40 hours per week at the federal minimum wage, and income from other sources, shall count pursuant to Article 4.

B. The Department shall exclude as income any child support collections passed through to the assistance unit.

R6-12-1306. Supplemental Payments

A. Advance supplemental payments.
   1. The Department shall provide an advance supplemental payment to a JOBSTART participant if the adjusted gross wages the participant is expected to receive in a benefit month are less than the combined cash value of the AFDC and Food Stamp Program benefits which the participant is eligible to receive for that month.
   2. Each month the Department shall determine the need for a supplemental payment, and the amount of the payment, using prospective budgeting based on anticipated family composition and wages of 40 hours per week during the month at the adjusted gross monthly wage the participant is expected to receive.
   3. The supplemental payment shall equal the cash value of the combined AFDC and Food Stamp Program benefits the participant is eligible to receive for the month minus the anticipated adjusted gross monthly wages from the subsidized placement.

B. Emergency supplemental payments.
   1. The Department shall provide an emergency supplemental payment to a JOBSTART participant if the adjusted gross wages the participant is expected to receive in a benefit month, plus any supplemental payments already made for that month, are less than the cash value of the monthly food stamp allotment for the participant's household. The Department shall provide an emergency payment no later than 10 days after the date:
   2. The participant requests an emergency payment; or
   3. The Department receives information from the employer which indicates the need for an emergency payment.

C. Reconciliation supplemental payments.
   1. The Department shall provide a reconciliation supplemental payment to a JOBSTART participant who receives less in adjusted gross wages in a benefit month than the cash value of the combined AFDC and Food Stamp Program benefits which the participant is eligible to receive for that month due to a reduction in available work hours by the employer.
   2. The Department shall issue the reconciliation supplemental payment no later than the 10th day of the month following the benefit month.
   3. The reconciliation supplemental payment, plus the adjusted gross wages and any other supplemental payments already received for the benefit month, shall not exceed the cash value of the combined AFDC and Food Stamp Program benefits the participant was eligible to receive for the benefit month.

R6-12-1307. Sanctions

A. If a recipient fails or refuses to comply with JOBSTART participation requirements without good cause, the Department shall:
   1. Decrease the AFDC grant by 50% for a minimum of one month; and
   2. Bar the recipient from further JOBSTART participation.

B. Good cause is limited to the following circumstances:
   1. The participant has been referred to a job or employment which is the subject of a strike, lockout, work stoppage, or other bona fide labor dispute;
   2. The job requires the participant to join a company union or to resign or refrain from joining a bona fide labor organization;
   3. The participant was incarcerated or ordered to make a court appearance;
   4. Severe weather conditions prevented the participant and other persons similarly situated from traveling to or participating in the employment activity;
   5. The participant or the participant's dependent child suffers a debilitating illness or incapacity; or
   6. The participant has a family crisis, such as:
      a. Catastrophic loss of home to fire, flood, or other natural disaster; or
      b. Death of an immediate family member.

C. JOBS shall determine if good cause exists.

D. The Department shall apply the 50% benefit reduction against the monthly AFDC benefit amount the assistance unit is entitled to receive for the month the sanction is applied.

E. The 50% benefit reduction shall continue until the person complies with JOBS requirements or becomes exempt from JOBS participation.