

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 17. DEPARTMENT OF ECONOMIC SECURITY GENERAL ASSISTANCE PROGRAM

[R08-333]

PREAMBLE

- 1. Sections Affected**
R6-17-102
- Rulemaking Action**
Amend
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 46-1954(A)(3) and 46-134(A)(12)
Implementing statutes: A.R.S. §§ 46-231 and 46-233
- 3. The effective date of the rule:**
September 24, 2008

The Department respectfully requests that Council approve an immediate effective date for this rulemaking, under A.R.S. § 41-1032(A)(4). This rule provides a benefit to the public, and no penalty is associated with a violation of this rule. If Council approves an immediate effective date, the rule will become effective upon filing with the Secretary of State.
- 4. A list of all previous notices appearing in the *Register* addressing the final rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 2573, July 21, 2006
Notice of Proposed Rulemaking: 13 A.A.R. 1956, June 8, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Beth Broeker
Address: Department of Economic Security
P.O. Box 6123, Site Code 837A
Phoenix, AZ 85005
or
Department of Economic Security
1789 W. Jefferson St., Site Code 837A
Phoenix, AZ 85007
Telephone: (602) 542-6555
Fax: (602) 542-6000
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**
The Department of Economic Security is amending this rule to include a registered nurse practitioner in the definition of "acceptable medical source" for the General Assistance program. This will allow applicants, particularly those who reside in rural areas and do not have access to a licensed physician, to obtain a disability determination verified by a registered nurse practitioner. Under A.R.S. § 32-1601(15)(d)(v), a registered nurse practitioner is a professional nurse who has an expanded scope of practice that includes: "diagnosing, performing diagnostic and therapeutic procedures...".
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its**

evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. 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

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

The Department administers the General Assistance program on a statewide basis, as authorized by A.R.S. §§ 41-1954(A)(3) and 46-134(A)(12), and implemented under A.R.S. §§ 46-231 and 46-233. The purpose of this program is to provide interim cash assistance to disabled persons and caretakers of disabled persons, during the period an application has been filed and is pending with the Social Security Administration for federal disability benefits.

Funding for the General Assistance Program comes through the state general fund. Arizona's SFY 2007 annual cost of operating the General Assistance Program was \$4,714,588 including \$1,755,513 in administrative costs, and \$2,959,075 for participant benefits and all other costs. For SFY 2007, the General Assistance Program used a total of 69 FTEs.

The General Assistance Program reaches all of Arizona except the areas served by a Tribal General Assistance Program. Approximately 3,504 General Assistance recipients were served by the Arizona General Assistance Program in SFY 2007.

In SFY 2007, the Department received \$1,343,975.19 in SSI reimbursement dollars from the Social Security Administration for General Assistance recipients who became eligible for federal disability benefits.

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

Minor formatting changes were made at the recommendation of Council staff.

11. A summary of the comments made regarding the rule and the agency response to them:

The Department received no comments regarding this rule.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rule:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 17. DEPARTMENT OF ECONOMIC SECURITY GENERAL ASSISTANCE PROGRAM

ARTICLE 1. GENERAL ASSISTANCE PROGRAM; PURPOSE AND DEFINITIONS

Section

R6-17-102. Definitions

ARTICLE 1. GENERAL ASSISTANCE PROGRAM; PURPOSE AND DEFINITIONS

R6-17-102. Definitions

The following definitions apply to this Chapter:

1. "Acceptable medical source" means a registered nurse practitioner or a licensed physician, including a medical or osteopathic doctor; licensed psychologist; licensed optometrist; and licensed podiatrist, as applicable for the particular medical impairment.
2. "Administration" means the Family Assistance Administration of the Department.
3. "Adverse action" means any of the following:
 - a. The right to apply for assistance is denied;
 - b. An application for assistance is denied;
 - c. Action to approve or deny an application is not taken within 60 days of the application file date;

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- d. Assistance is terminated or reduced;
 - e. A determination that an overpayment of assistance has been made; or
 - f. A request for a waiver of an overpayment is denied.
4. "AIMBIG" or "Arizona Integrated Manual Benefit Information Guide" means the policies and procedures used to determine an assistance unit's eligibility for General Assistance.
 5. "Appeals Board" means the Department's independent, quasi-judicial, administrative appellate body, established under A.R.S. § 23-672, and authorized to review administrative decisions issued by hearing officers as prescribed in A.R.S. § 41-1992(D).
 6. "Appellant" means an applicant or recipient who requests a hearing with the Office of Appeals to appeal an adverse action imposed by the Department.
 7. "Applicant" means a person who has directly, or through a representative, filed an application for GA with the Department.
 8. "Assistance 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.
 9. "Available income or resources" means income or resources that are actually available for use by the assistance unit. It includes 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.
 10. "CA" or "Cash Assistance" means temporary assistance for needy families paid to a recipient for the purpose of meeting basic living expenses, as defined in A.R.S. § 46-101.
 11. "Collateral contact" means an individual, agency, or organization the Department contacts to confirm information provided by the applicant or recipient.
 12. "Countable income" means the amount of income of the assistance unit that the Department considers to determine eligibility and compute a benefit amount under R6-17-601.
 13. "Day" means a calendar day unless otherwise specified.
 14. "Department" means the Arizona Department of Economic Security.
 15. "District Medical Consultant" means a licensed physician whom the Department employs to review medical records for the purpose of determining physical or mental incapacity.
 16. "EBT" or "Electronic Benefit Transfer" means the electronic disbursement of benefits to eligible recipients.
 17. "Equity value" means the fair market value of a resource minus any legal debt owed on the resource.
 18. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility responsible for providing financial and food stamp assistance to eligible persons and determining eligibility for medical assistance.
 19. "Fair consideration" means an amount that reasonably represents the fair market value of transferred property.
 20. "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.
 21. "Federal disability benefits" means SSI and SSDI.
 22. "GA" means General Assistance as provided in this Chapter.
 23. "GA caretaker" means a GA recipient who is receiving GA as a full-time care provider to a disabled person.
 24. "Hearing officer" means an individual appointed by the Department Director under A.R.S. § 41-1992(A) to conduct hearings when an appellant challenges an adverse action.
 25. "Homebound" means a person who is confined to the home because of physical or mental incapacity.
 26. "Homestead property" means:
 - a. A home that is owned and occupied by an applicant or recipient, or
 - b. A home that is co-owned by the applicant or recipient and a separated or divorced spouse of the applicant or recipient, and is occupied by the separated or divorced spouse.
 27. "Institution" means a facility such as a hospital or nursing home, but does not include a penal facility.
 28. "Income" means earned and unearned income combined.
 29. "In-kind income" means the value of goods or services received for work in lieu of the receipt of wages.
 30. ~~"Intentional Program Violation (IPV)"~~ "IPV" or "Intentional Program Violation" means an act committed by an applicant or recipient, for the purpose of establishing or maintaining eligibility for GA or for increasing or preventing a reduction in the amount of assistance, which is intended to mislead, misrepresent, conceal, or withhold facts or pro-pound a falsity.
 31. "Liquid asset" means cash or another financial instrument that is readily convertible to cash.
 32. "Local office" means an FAA office that is designated as the office in which GA applications and other documents are filed with the Department and in which eligibility and benefit amounts are determined.
 33. "Lump sum payment" means a single payment such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
 34. "Mailing date," when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:

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- 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.
35. "Net income" means the assistance unit's total gross income less applicable disregards, which is used to compute the benefit amount.
 36. "Notice date" means the date that appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.
 37. "Notice of adverse action" means a written notice sent to a recipient when the Department decreases or terminates assistance, as described at R6-17-805.
 38. "Office of Appeals" means the Department's independent, quasi-judicial, administrative hearing body, which includes hearing officers appointed under A.R.S. § 41-1992(A).
 39. "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.
 40. "Overpayment" means a financial assistance payment received by or for an assistance unit that exceeds the amount to which the unit is lawfully entitled.
 41. "Recipient" means a person, including a GA caretaker, who receives GA benefits.
 42. "Request for hearing" means a clear written or verbal expression by an applicant or recipient, or such person's representative, indicating a desire to present the case or issue to a higher authority.
 43. "Resident" means a person who meets the definition of A.R.S. § 46-292(A)(1).
 44. "Resources" means the assistance unit's real and personal property and liquid assets.
 45. "Review" means a review of all factors affecting an assistance unit's eligibility and benefit amount.
 46. "Social Disability" means any non-medical impairments or deficiencies which in combination with a medical disability further serve to limit employability. Non-medical impairments include the following:
 - a. Advanced age;
 - b. Language barriers;
 - c. Lack of education; and
 - d. Lack of employment history.
 47. "~~Social Security Disability Insurance (SSDI)~~" "SSDI" or "Social Security Disability Insurance" means disability benefits paid pursuant to 42 U.S.C. 401, et seq.
 48. "Spendthrift restriction" means a legal restriction on the use of a resource that prevents a payee or beneficiary from spending the resource.
 49. "~~Supplemental Security Income (SSI)~~" "SSI" or "Supplemental Security Income" means benefits paid pursuant to 42 U.S.C. § 1381, et seq.
 50. "Suitable work" means work for which a person is reasonably qualified.
 51. "SVES" means the State Verification and Exchange System, which is 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.
 52. "Underpayment" means a monthly benefit payment that is less than the amount for which the assistance unit is eligible, or the Department's failure to issue a benefit payment when such payment should have been issued.
 53. "Vendor payment" means a payment that a person or organization who is not a member of an assistance unit makes to a third party to cover assistance unit expenses.
 54. "~~Workforce Investment Act~~" or "WIA" or "Workforce Investment Act" means the program authorized by 29 U.S.C. 2801 et seq. that provides a comprehensive workforce investment system whose purpose is to increase financial productivity and reduce welfare dependency. WIA provides workforce investment activities designed to increase employment, employment retention and earnings, occupational skills, and the quality of the workforce. WIA replaces the former "Job Training Partnership Act" (JTPA) programs.