

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY STATE ASSISTANCE PROGRAMS

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2577.) The Governor's Office authorized the notice to proceed through the rulemaking process on October 3, 2011.

[R11-195]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article I	New Article
R6-13-102	New Section
R6-13-103	New Section
R6-13-104	New Section
R6-13-105	New Section
R6-13-106	New Section
R6-13-107	New Section
R6-13-108	New Section
R6-13-109	New Section
R6-13-110	New Section
R6-13-111	New Section
R6-13-112	New Section
R6-13-113	New Section
R6-13-114	New Section
R6-13-115	New Section
R6-13-116	New Section
R6-13-117	New Section
R6-13-118	New Section
R6-13-119	New Section
R6-13-120	New Section
R6-13-121	New Section
R6-13-122	New Section
R6-13-123	New Section
R6-13-124	New Section
R6-13-125	New Section
R6-13-126	New Section
R6-13-127	New Section
R6-13-128	New Section
R6-13-129	New Section
R6-13-130	New Section
R6-13-131	New Section
R6-13-132	New Section
R6-13-133	New Section
R6-13-134	New Section
R6-13-135	New Section
R6-13-136	New Section

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R6-13-137	New Section
R6-13-138	New Section
R6-13-139	New Section
R6-13-140	New Section
R6-13-141	New Section
R6-13-142	New Section
R6-13-143	New Section
R6-13-144	New Section
R6-13-145	New Section
R6-13-146	New Section
R6-13-147	New Section
R6-13-148	New Section
R6-13-149	New Section
R6-13-150	New Section
R6-13-151	New Section
R6-13-152	New Section
R6-13-153	New Section
R6-13-154	New Section
R6-13-155	New Section
R6-13-156	New Section
R6-13-157	New Section
R6-13-158	New Section
R6-13-159	New Section
R6-13-160	New Section
R6-13-161	New Section
Article 9	Repeal
R6-13-902	Repeal
R6-13-903	Repeal
R6-13-904	Repeal
R6-13-905	Repeal
R6-13-906	Repeal
R6-13-907	Repeal
R6-13-908	Repeal
R6-13-909	Repeal
R6-13-910	Repeal
R6-13-911	Repeal
R6-13-912	Repeal
R6-13-913	Repeal
R6-13-914	Repeal
R6-13-915	Repeal
R6-13-916	Repeal
R6-13-917	Repeal
R6-13-918	Repeal
R6-13-919	Repeal
R6-13-920	Repeal
R6-13-921	Repeal
R6-13-922	Repeal

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 41-1954(A)(3) and 46-134(A)(12)

Implementing statutes: A.R.S. § 36-716

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 16 A.A.R. 932, June 11, 2010

Notice of Rulemaking Docket Opening: 17 A.A.R. 1313, July 15, 2011

Notice of Rulemaking Docket Opening: 17 A.A.R. 2503, December 16, 2011

4. The agency's contact person who can answer questions about the rulemaking:

Name: Beth Broeker

Address: Department of Economic Security
1789 W. Jefferson St., Site Code 837A

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Phoenix, AZ 85007

or

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

Telephone: (602) 542-6555
Fax: (602) 542-6000
E-mail: bbroeker@azdes.gov
Web site: <http://www.azdes.gov>

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Department is initiating this rulemaking in response to a five-year review report approved by the Governor's Regulatory Review Council on January 5, 2010, in order to update the Tuberculosis Control program rules in Chapter 13.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

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

Not applicable

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

Rulemaking pertaining to the Tuberculosis Control payments will affect individuals who have tuberculosis and are eligible for the payments. In fiscal year 2009, 15 people received Tuberculosis Control payments. The Family Assistance Administration issued \$10,301 in Tuberculosis Control payments in fiscal year 2009.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

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10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department does not plan to conduct an oral proceeding on the proposed rules unless a written request for an oral proceeding is submitted to the person named in item 4 within 30 days after this notice is published. The Department will accept written public comment on the rule until the Notice of Final Rulemaking is filed.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

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b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY
STATE ASSISTANCE PROGRAMS

ARTICLE 1. ~~RESERVED~~ TUBERCULOSIS CONTROL PROGRAM

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<u>R6-13-155.</u>	<u>Hearing Proceedings</u>
<u>R6-13-156.</u>	<u>Hearing Decision</u>
<u>R6-13-157.</u>	<u>Effect of the Decision</u>
<u>R6-13-158.</u>	<u>Further Administrative Appeal</u>
<u>R6-13-159.</u>	<u>Appeals Board</u>
<u>R6-13-160.</u>	<u>Judicial Review</u>
<u>R6-13-161.</u>	<u>Availability of TC Payments</u>

ARTICLE 9. ~~TUBERCULOSIS CONTROL~~ REPEALED

Section

<u>R6-13-902.</u>	<u>Age Repealed</u>
<u>R6-13-903.</u>	<u>Residence Repealed</u>
<u>R6-13-904.</u>	<u>Citizenship Repealed</u>
<u>R6-13-905.</u>	<u>Limitations on Value of Real and Personal Property Repealed</u>
<u>R6-13-906.</u>	<u>Transfer of Property Repealed</u>
<u>R6-13-907.</u>	<u>Employability Repealed</u>
<u>R6-13-908.</u>	<u>Receipt of Other Public Assistance Repealed</u>
<u>R6-13-909.</u>	<u>Institutional Status Repealed</u>
<u>R6-13-910.</u>	<u>Diagnosis and Treatment Repealed</u>
<u>R6-13-911.</u>	<u>Referral of Cases to the Department of Economic Security Repealed</u>
<u>R6-13-912.</u>	<u>Foster Home Care Repealed</u>
<u>R6-13-913.</u>	<u>Return of Nonresidents Repealed</u>
<u>R6-13-914.</u>	<u>Computing the Tuberculosis Control Grant Repealed</u>
<u>R6-13-915.</u>	<u>Termination of the Tuberculosis Control Grant Repealed</u>
<u>R6-13-916.</u>	<u>Termination of TC Grant with AFDC Grant Continuing in Household Repealed</u>
<u>R6-13-917.</u>	<u>Overpayment Repealed</u>
<u>R6-13-918.</u>	<u>Vendor Payments Repealed</u>
<u>R6-13-919.</u>	<u>Redeterminations Repealed</u>
<u>R6-13-920.</u>	<u>Available Services Repealed</u>
<u>R6-13-921.</u>	<u>Right of Appeal Repealed</u>
<u>R6-13-922.</u>	<u>Reporting Change of Status Repealed</u>

ARTICLE 1. ~~RESERVED~~ TUBERCULOSIS CONTROL PROGRAM

R6-13-101. Reserved

R6-13-102. Definitions

The following definitions apply to this Chapter:

1. "Administration" means the Family Assistance Administration of the Department.
2. "Adverse action" means that the Department has:
 - a. Denied an application for assistance.
 - b. Failed to take action to approve or deny an application within 30 days of the application file date.
 - c. Terminated or reduced assistance.
 - d. Determined that it overpaid a Tuberculosis Control (TC) payment recipient, or
 - e. Denied a request for a waiver of an overpayment.
3. "Applicant" means a person who has directly or through a representative filed an application for TC payments with the Department.

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4. "Assistance unit" means a group of persons whose needs, income, resources, and other circumstances the Department considers as a whole for the purpose of determining eligibility and benefit amount for Tuberculosis Control payments.
5. "CA" or "Cash Assistance" means temporary assistance for needy families paid to a recipient for the purpose of meeting basic living expenses under A.R.S. § 46-291 et seq.
6. "Collateral Verification" means the use of an agency, organization, or qualified individual who has knowledge of the requested eligibility information, and who the Department may use as a collateral contact when requested to do so or when documented verification is not available to the applicant.
7. "Countable Income" means income from every source minus income excluded under R6-13-118.
8. "Department" means the Arizona Department of Economic Security.
9. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility responsible for providing financial and nutrition assistance to eligible persons and determining eligibility for medical assistance.
10. "FAA Manual" means the policies and procedures used to determine an assistance unit's eligibility for TC payments.
11. "Homestead property" has the same meaning as A.R.S. § 46-101(14).
12. "In-kind income" means the value of goods or services received for work in lieu of the receipt of wages.
13. "Legal claim for support or care" means that the recipient has a duty under the law to look after or provide financially for the person with the legal claim for support or care.
14. "Lump-sum payment" means a single payment, such as retroactive monthly Social Security or other benefits, nonrecurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
15. "Notice of adverse action" means a written notice sent to a recipient when the Department denies, decreases, or terminates assistance under R6-13-141.
16. "Office of Appeals" means the Department's independent, quasi-judicial, administrative hearing body that includes hearing officers appointed under A.R.S. § 41-1992(A).
17. "Recipient" means a person who receives TC payments.
18. "Resources" means the assistance unit's real and personal property and liquid assets.
19. "TC" means Tuberculosis Control, a program administered by the Department that provides monetary assistance to an assistance unit that includes an adult who is certified by the state Tuberculosis Control Officer to have active tuberculosis or suspected tuberculosis, and that satisfies the eligibility requirements in this Chapter.
20. "Vendor payment" means a payment from a person or organization that is not a member of an assistance unit to a third party to cover an assistance unit's expenses.

R6-13-103. Individuals Who Qualify for Assistance

- A.** The following persons shall be eligible for TC payments only if they meet all financial and nonfinancial eligibility requirements:
1. An adult who is certified by the state Tuberculosis Control Officer to have active tuberculosis or suspected tuberculosis;
 2. Any person residing with the adult who has a legal claim for support or care from the adult, including:
 - a. The adult's spouse; and
 - b. A child, up to age 19 if attending a secondary school or a high school equivalency program;
 - c. A mentally or physically disabled child more than age 18; and
 - d. A child who is temporarily absent from the home because the child is attending school, as long as the child returns home at least once a year.
- B.** An individual may receive TC payments only if the individual is not eligible to receive cash assistance under Arizona Revised Statutes Title 46, Chapter 2, Article 5.

R6-13-104. Applicant Responsibilities at Initial Application

- A.** A person shall apply for TC payments by submitting an identifiable Department-approved application to an FAA office in person, by mail, fax, or electronic transmittal.
- B.** An identifiable application means an application that contains:
1. The legible name and address of the applicant; and
 2. The signature of the applicant, the applicant's representative, or if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
- C.** The application file date is the date an FAA office receives an identifiable application. If the applicant is eligible, the Department shall pay TC payments calculated from this date.

R6-13-105. Department Responsibilities at Initial Application

- A.** Upon receipt of an identifiable application, the Department shall:
1. Date stamp the application with the application file date, and

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2. Schedule an initial eligibility interview with the applicant at:
 - a. A location that ensures a reasonable amount of privacy, or
 - b. A homebound applicant's residence, or
3. Schedule a telephone initial eligibility interview.
- B.** The Department shall assist the applicant in completing the application if necessary. A completed application shall contain:
 1. The names of all persons living in the applicant's dwelling and their relationship to the applicant,
 2. A request to receive TC payments, and
 3. All financial and nonfinancial eligibility information requested on the application form.

R6-13-106. Applicant Responsibilities at the Initial Interview

- A.** The applicant shall attend the interview. A person of the applicant's choosing may also attend and participate in the interview with the applicant.
- B.** Missed Appointments.
 1. If the applicant misses a scheduled appointment for an interview, the applicant shall:
 - a. Request to reschedule the interview no later than close of business on the day of the missed appointment, and
 - b. Attend the second scheduled appointment.
 2. If the applicant fails to comply with the requirements in subsection (B)(1)(a) or (b) without good cause, the Department shall deny the application, and the applicant shall reapply in order to receive TC payments. Good cause for failure to comply with the requirements in subsection (B)(1)(a) or (b) is any unanticipated occurrence that, in the discretion of the Department, made it impossible or unreasonable for the applicant to attend the interview or contact the local office.
- C.** An applicant for assistance shall:
 1. Give the Department complete and truthful information;
 2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility that occur after the date of application for TC payments;
 3. Comply with Electronic Benefit Transfer (EBT) requirements; and
 4. Comply with any other procedural requirements contained in this Chapter or in state or federal law.
- D.** An applicant shall provide required verification of financial and nonfinancial eligibility information or request assistance from the Department in obtaining the information.
 1. An applicant shall provide the Department with all requested verification of financial and nonfinancial eligibility factors, or request the Department's assistance in obtaining the requested verification, within 10 calendar days from the date of a written request for such information.
 2. An applicant shall provide the Department with verification of financial and nonfinancial eligibility factors by submitting to the Department:
 - a. Documents originating from an agency, organization, or individual qualified to have knowledge of the provided information; or
 - b. When documents required in subsection (D)(2)(a) are not available to the applicant, the name, phone number, and address of an agency, organization, or individual qualified to have knowledge of the requested eligibility information that the Department may use as a collateral contact; or
 - c. When the items in subsections (D)(2)(a) and (b) are not available, a signed written statement from the applicant that describes facts specific to an eligibility factor. The Department shall not accept an applicant's signed written statement as acceptable verification of identity, relationship of household members, or expenses.

R6-13-107. Agency Responsibilities at the Initial Interview

- A.** During the interview, a Department representative shall:
 1. Discuss how the applicant and the other assistance unit members previously met their needs and why they now need financial assistance;
 2. Provide the applicant with written information explaining:
 - a. The terms, conditions, and obligations of the TC program;
 - b. Any additional required verification information that the Department requires the applicant to provide in order to conclude the eligibility evaluation;
 - c. The Department's practice of exchanging eligibility and income information through the State Verification and Exchange System (SVES);
 - d. The coverage and scope of the TC program;
 - e. Related services that may be available to the applicant;
 - f. The applicant's rights, including the right to appeal adverse action;
 - g. The requirement to report all changes, as specified in R6-13-138, within 10 calendar days from the date the change becomes known; and

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- D.** The Department shall retain a case record that contains an unpaid overpayment until:
1. The overpayment is paid in full, or
 2. The Department no longer requires the assistance unit to repay the overpayment.
- E.** The Department shall retain a case record that includes a disqualification imposed under A.R.S. § 13-3418, an Intentional Program Violation, or any other disqualification or sanction that prohibits the receipt of assistance.

R6-13-110. Confidentiality

The Department shall maintain the confidentiality of a TC applicant's or recipient's records and limit the release of safeguarded information to the Department of Health Services and as prescribed under 6 A.A.C. 12, Article 1 and 9 A.A.C. 6, Article 1.

R6-13-111. Manuals

The Department shall make the FAA Manual, as defined in R6-13-102, available to the public on the Department's web site, and each FAA office shall make the FAA Manual accessible for public inspection during regular business hours.

R6-13-112. Nonfinancial Eligibility Determination

- A.** Age. An applicant for TC payments shall be at least 18 years of age.
- B.** Identity. An applicant for TC payments shall provide the Department with verification that reasonably establishes the applicant's identity.
1. Verification that reasonably establishes identity includes:
 - a. A driver license or state-issued identification card that contains a photo of the applicant;
 - b. Documents such as the applicant's birth certificate, school identification card, citizenship and immigration documents, identification card from health benefits or other social service programs, wage stubs, work identification card, voter registration card, or other such documents; or
 - c. Collateral verification, as defined at R6-13-102, from an individual who shall not benefit from the applicant's receipt of TC payments.
 2. An applicant's written statement is not sufficient verification of identity.
- C.** Tuberculosis Certification. An applicant must be certified by the state Tuberculosis Control Officer to have active or suspected tuberculosis.

R6-13-113. Resource Limitations

- A.** An applicant is not eligible for TC payments if the applicant has resources in excess of the following, after applying the exclusions in subsection (B):
1. \$1000 for an assistance unit consisting of only the applicant.
 2. \$1400 for an assistance unit consisting of the applicant and the applicant's spouse.
- B.** The Department shall exclude the equity value of the resources listed below:
1. The homestead property of the assistance unit, as defined in R6-13-102, not to exceed a current equity of \$50,000;
 2. Household furnishings that the assistance unit uses in their residence and personal effects essential for day-to-day living;
 3. The current equity value up to \$1500 of one vehicle in the assistance unit. When two or more vehicles are owned, the Department shall apply the exclusion to the vehicle with the highest equity value. Jointly owned vehicles with ownership records containing the word "or" between the owners' names are available in full to each owner unless it can be proven by the assistance unit member that the vehicle is not available to them or not in their possession. When more than one owner is a member of an assistance unit, the equity value of the resource is counted only once;
 4. Funds established in connection with settling liability claims concerning Agent Orange death or disability; and
 5. Any other resource specifically excluded by law.

R6-13-114. Resource Verification

The Department shall verify all resources.

R6-13-115. Availability and Ownership of Resources

- A.** The Department shall consider a resource as countable to the assistance unit only when the resource is legally and physically available or in the possession of the assistance unit member.
- B.** The Department shall consider the availability of property to the assistance unit based on the type of ownership.
1. The sole and separate property of one spouse is available to the other spouse only when the spouse/owner makes the property available. A resource shall be considered sole and separate property only when obtained in one of the following manners:
 - a. Before the present marriage, or
 - b. At any time by gift or inheritance.
 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

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is not required when all owners are members of the assistance unit.

C. The Department considers the following resources unavailable to the assistance unit:

1. Any resource owned solely by a spouse who is receiving Supplemental Security Income (SSI) paid by Title XVI of the Social Security Act.
2. Resources disputed in divorce proceedings or in probate matters.
3. Real property situated on a Native American reservation.

R6-13-116. Nonrecurring Lump-Sum Payments

A. The Department shall count nonrecurring lump sum payments, as defined in R6-13-102, as a resource in the month received.

B. The Department shall count any part of a lump-sum payment that recurs in future months as income in the month received.

R6-13-117. Treatment of Income; Overview

A. "Income" shall include the following when actually received by the assistance unit:

1. Gross earned wages from public or private employment before any deductions;
2. In-kind income, as defined in R6-13-102;
3. For self-employed persons, the sum of gross business receipts minus business expenses;
4. Unearned monetary gains such as benefits or assistance grants, minus any deductions to repay prior overpayments or attorney fees; and
5. A prorated share of any Cash Assistance program benefit received by the applicant's spouse.

B. In determining eligibility, the Department shall consider all gross income available to the assistance unit, except those types of income excluded under R6-13-118.

R6-13-118. Income Exclusions

The Department shall not count the types of income in this Section when determining the income available to an assistance unit.

1. One-half of the countable income of the applicant's spouse;
2. One-half of the prorated share of any Cash Assistance program benefit received by the applicant's spouse;
3. Loans;
4. Educational grants or scholarships;
5. Income tax refunds;
6. The value of Nutrition Assistance (NA) program benefits and benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
7. Energy assistance payments or allowances provided under any federal, state, or local law, including Negative Rent Utility Payments issued by the Department of Housing and Urban Development for the purpose of energy assistance;
8. Vendor payments, as defined in R6-13-102;
9. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments that are not intended as wages;
10. Agent Orange payments;
11. Burial benefits that are dispersed solely for burial expenses;
12. Reimbursements for work-related expenses that do not exceed the actual expense amount;
13. Insurance payments issued to repay a specific bill, debt, or estimate that cannot be used to meet basic daily needs such as housing, food, or other personal expenses;
14. Attorney fees that are included in the gross payment of industrial compensation paid under the workers' compensation law or in legal settlements;
15. In-kind income, as defined in R6-13-102;
16. Earned income received from employment through the Workforce Investment Act (WIA), including earnings received from on-the-job-training; and
17. Any other income specifically excluded by applicable state or federal law.

R6-13-119. Determining Income Eligibility and a Cash Benefit Amount for an Assistance Unit

A. To determine the countable monthly income of an assistance unit, the Department shall:

1. Calculate a countable monthly gross income amount using the methods listed in R6-13-120, and
2. Calculate a countable monthly net income by subtracting the applicable earned income deduction in R6-13-123 from the countable monthly gross income.

B. The Department shall determine the cash benefit amount by subtracting the countable monthly net income from the TC Payment Standard for the number of eligible TC recipients in the assistance unit as shown in R6-13-124.

R6-13-120. Determining Monthly Gross Income

A. The Department shall calculate an assistance unit's countable monthly gross income by converting countable income

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received other than monthly into a monthly amount using the methods in R6-13-121.

- B.** The Department shall include in its calculation all gross income from every source available to the assistance unit as provided in R6-13-117, unless specifically excluded in R6-13-118 or by federal or state law.
- C.** The Department shall include in its calculation income that the assistance unit has received and reasonably expects to receive in a benefit month and that is based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and anticipated future circumstances.

R6-13-121. Methods to Determine Monthly Income

- A.** The Department shall convert income received in a regular amount on an ongoing basis into a monthly amount as follows:
 - 1. Multiply weekly amounts by 4.3.
 - 2. Multiply biweekly amounts by 2.15.
 - 3. Multiply semimonthly amounts by two.
 - 4. Divide quarterly amounts by four.
 - 5. Divide semiannual amounts by six, and
 - 6. Divide annual amounts by 12.
- B.** Averaging income.
 - 1. The Department shall average income for an assistance unit that receives income:
 - a. Irregularly; or
 - b. Regularly, but from sources or in amounts that vary.
 - 2. 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.
- C.** Prorating income.
 - 1. Except as provided in subsection (C)(2), the Department shall prorate income when an assistance unit receives income from a fixed-term employment contract in the following manner:
 - a. Income is prorated over the number of months the contract is intended to cover, unless the contract specifies piecemeal or hourly income.
 - b. Applicable earned income disregards apply as if the assistance unit received the prorated amounts in each month of the contract.
 - 2. The Department shall count income in the month received using the income conversion methods in subsections (A) and (B) when the contract specifies that the assistance unit will receive income on a piecemeal or an hourly basis.
- D.** Actual income. The Department shall use the actual income of an assistance unit that:
 - 1. Receives or reasonably expects to receive less than a full month's income from a new source.
 - 2. Receives or reasonably expects to receive less than a full month's income from a terminated source of income, or
 - 3. Is paid daily.

R6-13-122. Income Verification

The Department shall verify all income as provided in R6-13-107 before determining eligibility and benefit amount.

R6-13-123. Earned Income Deduction

For the purpose of determining the countable monthly net income in R6-13-119(A)(2) and for use in the TC Payment Standard Test as provided in R6-13-124, the Department shall deduct a \$24 work expense deduction from the countable monthly earned income of each employed person in the assistance unit.

R6-13-124. Determining Income Eligibility and Cash Benefit Amount

- A.** To determine income eligibility for a TC cash benefit, the Department shall:
 - 1. Establish whether to use an A-1 Standard or an A-2 Standard shelter cost factor to complete the financial determination.
 - a. The Department shall use the A-1 Standard when:
 - i. The assistance unit pays, or has an obligation to pay, all or part of the shelter costs for the place in which assistance unit members reside. Shelter costs include rent, mortgage, and property taxes;
 - ii. The assistance unit members reside in subsidized public housing; or
 - iii. A member of the assistance unit works in exchange for rent.
 - b. The Department shall use the A-2 Standard:
 - i. For all circumstances not covered under subsection (A)(1)(a), or
 - ii. When an organization or a person who is not a member of the assistance unit pays shelter costs for three consecutive months or longer.
 - 2. Conduct a TC Payment Standard Test.
 - a. Using the size of the assistance unit and the applicable A-1 or A-2 Standard, the Department shall compare the countable monthly net income to the applicable Maximum TC cash benefit amount shown on the TC Payment Standard chart in subsection (A)(3).

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- b. If the countable monthly net income is at least one dollar less than the TC Maximum cash benefit amount, the household is eligible for TC benefits. If the countable monthly net income is equal to or greater than the TC Maximum cash benefit amount, the assistance unit is ineligible for TC benefits.

3. The TC Payment Standard Chart.

<u>Number of Individuals</u>	<u>Maximum Monthly TC Cash Benefit For A-1 Standard (Based on 0 Countable Income)</u>	<u>Maximum Monthly TC Cash Benefit For A-2 Standard (Based on 0 Countable Income)</u>
<u>1</u>	<u>\$173</u>	<u>\$108</u>
<u>2</u>	<u>\$233</u>	<u>\$145</u>
<u>3</u>	<u>\$293</u>	<u>\$183</u>
<u>4</u>	<u>\$353</u>	<u>\$220</u>
<u>5</u>	<u>\$412</u>	<u>\$258</u>
<u>6</u>	<u>\$472</u>	<u>\$295</u>
<u>Each additional</u>	<u>\$60</u>	<u>\$38</u>

B. To determine the amount of the cash benefit payment:

1. The Department shall deduct the countable monthly net income from the maximum cash benefit amount, as shown in the chart in subsection (A)(3), and round the difference down to the next whole dollar. The Department shall pay that amount to the assistance unit.
2. The Department shall prorate the initial month's benefits by the number of days remaining in the month from the application filing date.

R6-13-125. Benefit Payments

- A.** The Department shall pay benefits to an assistance unit for each month in which the Department determines it eligible.
B. The Department shall make benefits available no later than the 30th day following the date of application for the initial month, and on the first day of each month for which the assistance unit is eligible thereafter.

R6-13-126. Payment Method

The Department shall provide benefit payments by making direct deposits into:

1. An Electronic Benefit Transfer (EBT) account established for the assistance unit by the Department, or
2. A financial institution account established by the recipient.

R6-13-127. EBT Card Issuance

A. The Department shall authorize access to an EBT account to:

1. The recipient, or
2. An EBT Alternate Card Holder, as provided in R6-13-128.

B. The Department shall:

1. Provide the recipient with a brochure that explains EBT usage;
2. Inform the recipient that the EBT card will be issued to them by mail;
4. Provide the recipient with the EBT provider's Customer Service Hotline phone number in order for the recipient to obtain a Personal Identification Number (PIN) and to report EBT account problems; and
5. Inform the recipient about the availability of TC Direct Deposit into an open banking account and the process for establishing Direct Deposit.

R6-13-128. EBT Alternate Card Holder

A recipient may designate up to two EBT Alternate Card Holders who shall have full access to the TC benefit available in the EBT account. The EBT Alternate Card Holder shall:

1. Receive their own EBT card by mail, and
2. Contact the EBT provider's Customer Service Hotline phone number in order to obtain a Personal Identification Number (PIN).

R6-13-129. Change in Arizona Residency

When an assistance unit moves to another state, it is entitled to any benefits remaining in its EBT account. The assistance unit may obtain benefits by accessing the account with the EBT card before leaving Arizona or at an ATM displaying the QUEST symbol in the assistance unit's new state of residence.

R6-13-130. Replacing Lost, Stolen, or Damaged Cards

The assistance unit shall report a lost, stolen, or damaged EBT account access card as soon as possible, either by phone to the EBT 24-hour Customer Service Department or to the Department during normal business hours.

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1. Any funds removed from an EBT account prior to the assistance unit's reporting the card as lost or stolen will not be replaced.
2. When the client reports a lost, stolen, or damaged EBT account access card by phone to the EBT 24-hour Customer Service Department, the EBT 24-hour Customer Service Department shall deactivate the EBT account access card and shall issue a new card by mail.
3. The Department shall issue a replacement card when the recipient reports that they have not received a new EBT card by mail by the close of business on the fourth workday following the date the recipient requested a replacement card from the EBT 24-hour Customer Service Department.

R6-13-131. Inactive Accounts; Unused Benefits

The assistance unit shall retain the right to access the EBT account for one year from the original date of benefit availability, regardless of the status of the TC case.

1. If the assistance unit does not access an EBT account for 60 days, the Department shall notify the assistance unit in writing. The notice shall state that immediate access to the EBT account will terminate in 30 days unless the assistance unit contacts the Department or accesses the EBT account.
2. The assistance unit shall lose immediate access to any benefits in an EBT account that has been inactive for 90 days. To regain access to these benefits, the assistance unit shall contact the Department and request it to reinstate the assistance unit to the EBT account.
3. If the assistance unit has not accessed benefit payments in an EBT account for 365 days after the original date of availability, the Department shall recoup the benefits, and the assistance unit shall lose all rights to regain those benefits.
4. Upon the death of a TC payment recipient, the Department shall recoup from the EBT account any TC payments paid to the recipient after the month of the recipient's death.

R6-13-132. Supplemental Payments

A. The Department shall correct underpayments of TC assistance by issuing the assistance unit a supplemental payment regardless of whether the underpaid individual 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.

R6-13-133. Overpayments; Date of Discovery; Collection

An overpayment exists when an assistance unit receives a TC payment that exceeds the amount the assistance unit was eligible to receive.

1. The Department shall pursue collection of all overpayments under A.R.S. § 46-213.
2. The Department shall send the recipient a notice of overpayment within 90 days of the date of discovery. The date of discovery is the date FAA has all of the information to accurately calculate a potential overpayment and writes an overpayment report to the Department's Office of Accounts Receivable and Collections.
3. If FAA suspects that fraudulent activity caused the overpayment, FAA shall refer the potential overpayment to the Department's Office of Special Investigations (OSI) for further investigation and potential prosecution. The overpayment report may be delayed pending the outcome of the OSI investigation.
4. The Department's failure to comply with the time-frame in subsection (2) shall not affect the validity or collection of the overpayment.

R6-13-134. Methods of Collection and Recoupment

A. When an overpaid assistance unit is currently receiving benefits, the Department shall seek recovery using one or more of the following repayment methods:

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

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

R6-13-135. Overpayment Calculation Date

When determining an overpayment amount, an assistance unit's overpayment period begins in one of the following:

1. The benefit month for which an initial TC payment is issued, when the assistance unit was ineligible for the amount of assistance paid; or
2. The first day of the second month following the month in which a change that caused the overpayment of the TC payment occurred.

R6-13-136. Completion of Treatment

When the Department of Health Services notifies FAA that an individual receiving TC payments has completed treatment for active or suspected tuberculosis, that individual is no longer eligible for TC payments.

R6-13-137. Eligibility Review

- A.** The Department shall complete a review of all eligibility factors for each assistance unit at least once every six months. The first eligibility review shall begin in the fifth month following the first month of TC eligibility.
- B.** The Department shall mail, or otherwise deliver as provided by law, the recipient a notice 30 days prior to the Department's review date advising the recipient of the need for a review. The recipient shall file an application and complete a review 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, as described at R6-13-106.
- D.** The Department shall verify the assistance unit's resources and income and any eligibility factors that have changed or are subject to change. The Department shall also verify with the state Tuberculosis Control Officer that the individual continues to have active or suspected tuberculosis and that the individual continues to receive treatment for that condition. The Department may verify other factors if current verification is not in the case file.

R6-13-138. Requirement to Report Changes

- A.** The assistance unit shall report, verbally or in writing, all changes that have the potential to affect eligibility or the benefit amount within 10 days from the date the change becomes known. This includes changes to any of the following:
 - 1. Residential address;
 - 2. Shelter expenses to establish the applicable A-1 or A-2 shelter cost factor used to complete the financial eligibility determination, as described in R6-13-124;
 - 3. Sources and amounts of income, financial assistance, or any assistance that provides help to the assistance unit in meeting their needs;
 - 4. Disability and employability status of the TC payment recipient;
 - 5. Approval or denial of federal disability benefits by the Social Security Administration;
 - 6. Individuals residing in the home; and
 - 7. Types, sources, and amounts of resources.
- B.** The assistance unit shall provide any verification of changes requested in writing by the Department on or before the verification due date specified on the Department's request for verification using the verification methods prescribed in R6-13-106.

R6-13-139. Agency Responsibilities for Processing Changes

- A.** The Department shall redetermine eligibility for TC benefits and, if applicable, recalculate a TC benefit amount when the assistance unit reports a change directly to the Department, when a third party reports a change, or if an automated system report reveals a change.
- B.** When a change results in either a decrease in the cash benefit or renders the assistance unit ineligible for TC payments, the Department shall effect the change within 10 days from the date the change was reported, when possible, using one of the following methods:
 - 1. Reduce the benefit or terminate eligibility for the first possible month allowing for notice of adverse action requirements prescribed in R6-13-141, without further verification, if there is sufficient and reliable information to effect the change; or
 - 2. Attempt to obtain verification by the 10th day from the date the change was reported when there is not sufficient information to effect the change without additional verification. The Department shall:
 - a. Send the assistance unit a written request for verification with a due date that is the 10th day from the date the verification is requested; and
 - b. Contact third parties to obtain the needed verification, when possible.
- C.** If the assistance unit fails to provide the requested verification by the due date and does not request assistance from the Department to obtain the verification, the Department shall terminate TC payments for the first possible month allowing for notice of adverse action requirements prescribed in R6-13-141.
- D.** When a reported change results in an increase in the cash benefit, the Department shall effect the increase only after the change has been verified. The Department shall send the assistance unit a written request for verification with a due date that is 10 days from the date of the written notice.
 - 1. When the assistance unit provides the requested verification on or before the due date, the Department shall increase the cash benefit for the first regular payment issued after the date the change is reported.
 - 2. When the assistance unit provides the requested verification after the due date, the Department shall increase the cash benefit for the first regular payment issued after the date the verification is received.
 - 3. When the assistance unit does not provide the requested verification, the Department shall not increase the cash benefit but shall continue issuing the current cash benefit amount.

R6-13-140. Reinstatement of Terminated Benefits

- A.** The Department shall reinstate terminated benefit payments within 10 calendar days when:
1. The Department terminated benefit payments in error.
 2. The Department receives a court order or administrative hearing decision mandating reinstatement, or
 3. The recipient timely files a request for fair hearing and requests continued benefits as provided in R6-13-146.
- B.** When a six-month review was not completed due to the termination of benefits, the Department shall conduct the review at the earliest opportunity following reinstatement.

R6-13-141. Notices of Adverse Action

- A.** A notice of adverse action shall contain:
1. The adverse action taken.
 2. The reason for the adverse action.
 3. The effective date of the adverse action.
 4. The name and phone number of the Administration office to contact for additional information.
 5. The phone number for free legal assistance, and
 6. The recipient's appeal rights.
- B.** Timely Notice of Adverse Action.
1. When the Department intends to reduce or terminate benefits, the Department shall provide the assistance unit with timely notice of adverse action, except when the reduction or termination is for one of the reasons in subsection (C).
 2. The Department shall mail the notice of adverse action first class, postage prepaid, or otherwise deliver as provided by law, to the last known residential address for the assistance unit or other designated address for the assistance unit so that the Department can reasonably expect the assistance unit to receive the notice at least 10 days prior to the first day of the effective month.
- C.** The Department may dispense with timely notice but shall mail, or otherwise deliver as provided by law, the notice of adverse action so that the Department can reasonably expect the assistance unit to receive the notice no later than the first day of the effective month when:
1. A recipient makes a written or verbal request for termination.
 2. A recipient is ineligible because they have been admitted to a facility where the recipient's needs are being met. This includes:
 - a. Incarceration.
 - b. Long-term hospitalization when the recipient is not expected to return to the home, and
 - c. Institutionalization in a skilled nursing care or intermediate care facility.
 3. The recipient's address is unknown.
 4. The Department has verified that another state has accepted the recipient for assistance, or
 5. An administrative tribunal or court of law has found the recipient committed an Intentional Program Violation (IPV).

R6-13-142. Entitlement to a Hearing; Appealable Action

- A.** An applicant or recipient who appeals an adverse action is entitled to request an administrative hearing to challenge the action as provided in this Article.
- B.** An adverse action resulting from a uniform change in federal or state law is not appealable unless the Department misapplies the law to the person seeking the hearing.

R6-13-143. Computation of Time

- A.** In computing any time period.
1. "Day" means a calendar day;
 2. "Workday" means Monday through Friday, excluding Arizona state holidays;
 3. The Department does not count the date of the act, event, notice, or default from which a designated time period begins to run as part of the time period; and
 4. The Department counts the last day of the designated time period unless it is a Saturday, Sunday, or Arizona state holiday.
- B.** The Department deems a document that the Department mailed as given to the addressee on the date mailed, or otherwise delivered as provided by law, to the addressee's last known address. The Department presumes that the mailing date is the date shown on the document unless the facts show otherwise.

R6-13-144. Request for Hearing; Form; Time Limits; Presumptions

- A.** A person who wishes to appeal an adverse action shall make a verbal or written request for a hearing with FAA within 30 days of the date on the notice or letter advising the person of the adverse action. FAA shall provide a form for this purpose and, upon request, shall help an appellant complete the form. If the person makes a verbal request for hearing, FAA shall reduce the appeal and the stated reasons for the appeal to writing, record the date of the verbal request, and forward the request to the Office of Appeals.

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- B.** An appellant shall include the following information in the request for hearing:
 - 1. Name, address, and telephone number of the individual subject to the adverse action;
 - 2. A description of the adverse action that is the subject of the appeal;
 - 3. The date of the notice of adverse action; and
 - 4. A statement explaining why the adverse action is unauthorized, unlawful, or an abuse of discretion.
- C.** The Department shall not fail to process an appeal solely because the request does not include all the information listed in subsection (B), as long as the request contains sufficient information for the Department to determine the identity of the appellant.
- D.** The Department deems a request for hearing filed on:
 - 1. The mailing date as shown by the postmark if the appellant sent the request first-class mail, postage prepaid, through the United States Postal Service to the Department; or
 - 2. The date the Department actually receives the request, if not mailed as provided in subsection (D)(1).
- E.** A document is timely filed if the sender of the document can demonstrate that any delay in submission was due to any of the following reasons:
 - 1. Department error or misinformation.
 - 2. Delay or other action by the United States Postal Service, or
 - 3. Delay due to the appellant's changing mailing addresses at a time when the appellant had no duty to notify the Department of the change.
- F.** When the Office of Appeals receives a request for a hearing that the appellant did not file timely, the Office of Appeals shall schedule a hearing to determine whether the delay in submission is excusable, as provided in subsection (E).
- G.** An appellant whose appeal the Office of Appeals denies as untimely is entitled to petition for review of this issue as provided in R6-13-160.

R6-13-145. Family Assistance Administration: Transmittal of Appeal

- A.** FAA shall notify the Office of Appeals of a request for hearing within two workdays of receipt of the request.
- B.** No less than 10 workdays before the scheduled hearing date, unless otherwise ordered, FAA shall send the Office of Appeals and the appellant a prehearing summary. The prehearing summary shall include, at a minimum:
 - 1. The appellant's name.
 - 2. The appellant's Social Security number.
 - 3. The local office that issued the adverse action under appeal.
 - 4. A brief summary of the facts leading to the adverse action, and
 - 5. The legal or Administration policy basis for the adverse action.

R6-13-146. Stay of Adverse Action Pending Appeal

- A.** The Department shall stay the implementation of the adverse action until the hearing officer renders a decision on the appeal, if the appellant makes a request to stay the adverse action within 10 days from the date the Department mails the notice, or otherwise delivers as provided by law, except in the following circumstances:
 - 1. The appellant expressly waives the delay of action;
 - 2. The adverse action is a result of a uniform change in federal or state law;
 - 3. The appellant is requesting continued benefits when the time period for which the Department has approved benefits has expired;
 - 4. The Department has denied the appellant's initial or renewal application;
 - 5. The appellant does not request that the Department stay the implementation of a separate pending or subsequent adverse action;
 - 6. The appeal challenges an action that is not appealable according to R6-13-142;
 - 7. The appellant withdraws the request for hearing; or
 - 8. The appellant fails to appear for the hearing without good cause.
- B.** The Department shall extend the 10-day time period in subsection (A) if the appellant establishes good cause. Good cause includes any unanticipated occurrence that, in the discretion of the Department, made it impossible or unreasonable for the appellant to make the request as specified in subsection (A).

R6-13-147. Hearings: Location: Notice: Time

- A.** The Office of Appeals shall schedule the hearing. The Office of Appeals may schedule a telephonic hearing or permit a witness, upon request, to appear telephonically.
- B.** Unless the parties stipulate to another hearing date, the Office of Appeals shall schedule the hearing no earlier than 20 days from the date the Department receives the appellant's request for hearing.
- C.** The Office of Appeals shall mail a notice of hearing to all interested parties at least 20 days before the scheduled hearing date.
- 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. A general statement of the issues involved in the case;
4. A statement listing the parties' rights as specified in R6-13-152; and
5. A general statement of the hearing procedures.

R6-13-148. Rescheduling the Hearing

- A.** A party may ask for postponement of a hearing by calling or writing the Office of Appeals and providing good cause as to why the Office of Appeals should postpone the hearing. Good cause exists if circumstances beyond the party's reasonable control make it unduly difficult or burdensome for the party or the party's counsel to attend the hearing on the scheduled date.
- B.** Except in emergency circumstances, the appellant shall ensure that the Office of Appeals receives the request for postponement at least five workdays before the scheduled hearing date. The Office of Appeals is entitled to deny an untimely request. Emergency circumstances mean circumstances:
 1. Beyond the reasonable control of the party.
 2. That did not arise until after the five-day period, and
 3. That the party could not reasonably anticipate.
- C.** When the Office of Appeals reschedules a hearing under this Section, the Office of Appeals shall mail the notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing.

R6-13-149. Hearing Officer: Duties and Qualifications

- A.** An impartial hearing officer in the Office of Appeals shall conduct all hearings.
- B.** The hearing officer shall:
 1. Administer oaths and affirmations;
 2. Regulate and conduct hearings in an orderly and dignified manner that avoids unnecessary repetition and affords due process to all participants;
 3. Ensure consideration of all relevant issues;
 4. Exclude evidence that is not competent, relevant, or material, or that is unduly repetitious from the record;
 5. Request, receive, and incorporate relevant evidence into the record;
 6. Subpoena witnesses or documents needed for the hearing upon compliance with the requirements of R6-13-151;
 7. Open, conduct, and close the hearing;
 8. Rule on the admissibility of evidence offered at the hearing;
 9. Direct the order of proof at the hearing;
 10. Upon the request of a party, or on the hearing officer's own motion, and for good cause shown, take action the hearing officer deems necessary for the proper disposition of an appeal, including the following:
 - a. Disqualify himself or herself from the case;
 - b. Continue the hearing to a future date or time;
 - c. Reopen the hearing to take additional evidence prior to the entry of a final decision;
 - d. Deny or dismiss an appeal or request for hearing in accordance with the provisions of this Article;
 - e. Exclude nonparty witnesses from the hearing room; and
 11. Issue a written decision resolving the appeal.

R6-13-150. Change of Hearing Officer; Challenges for Cause

- A.** A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit that shall include:
 1. The case name and number.
 2. The hearing officer assigned to the case, and
 3. The name and signature of the party requesting the change.
- B.** The party requesting the change shall file the affidavit with the Office of Appeals and send a copy to all other parties at least five days before the scheduled hearing date.
- C.** A party shall request only one change of hearing officer unless that party is challenging a hearing officer for cause under subsection (E).
- D.** A party may not request a change of hearing officer once the hearing officer has heard and decided a substantive motion except as provided in subsection (E).
- E.** At any time before a hearing officer renders a decision, a party may challenge a hearing officer on the grounds that the hearing officer is not impartial or disinterested in the case.
- F.** A party who brings a challenge for cause shall file an affidavit as provided in subsection (A) and send a copy of the affidavit to all other parties. The affidavit shall explain the reason why the assigned hearing officer is not impartial or disinterested.
- G.** The hearing officer being challenged for cause may hear and decide the challenge unless:
 1. A party specifically requests that another hearing officer make the determination, or

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2. The assigned hearing officer disqualifies himself or herself from the decision.
- H.** The Office of Appeals shall transfer the case to another hearing officer when:
1. A party requests a change as provided in subsections (A) through (D), or
 2. The hearing officer is removed for cause, as provided in subsections (E) through (G).
- I.** The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

R6-13-151. Subpoenas

- A.** A party who wishes to have a witness testify at a hearing or to offer a particular document or item in evidence shall first attempt to obtain the witness or evidence by voluntary means. Department documents are available to the appellant as prescribed in R6-13-152(2).
- B.** If the party cannot procure the voluntary attendance of the witness or production of the evidence, the party may ask the hearing officer assigned to the case to issue a subpoena for a witness, document, or other physical evidence or to otherwise obtain the requested evidence.
- C.** The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
1. The case name and number;
 2. The name of the party requesting the subpoena;
 3. The name and address of any person to be subpoenaed, with a description of the subject matter of the witness's anticipated testimony;
 4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item;
 5. A statement about the expected substance of the testimony or other evidence as well as the relevance and importance of the requested testimony or other evidence; and
 6. A description of the party's efforts to obtain the witness or evidence by voluntary means.
- D.** A party who wants a subpoena shall ask for the subpoena at least five days before the scheduled hearing date.
- E.** The hearing officer shall deny the request if the witness's testimony or the physical evidence is not relevant to an issue in the case or is cumulative.
- F.** The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their jobs, by regular mail, hand-delivered mail, electronic mail, or interoffice mail.

R6-13-152. Parties' Rights

The claimant and the Department have the following rights:

1. The right to request a postponement of the hearing as provided in this Article;
2. The right to copy before or during the hearing any documents in the Department's file on the appellant and documents the Department might use at the hearing, except documents shielded by the attorney-client or work-product privilege or as otherwise prohibited by federal or state confidentiality laws;
3. The right to request a change of hearing officer as provided in A.R.S. § 41-1992(B) and R6-13-150;
4. The right to request subpoenas for witnesses and evidence as provided in R6-13-151;
5. The right to present the case in person or through an authorized representative, subject to any limitations on the unauthorized practice of law in the Rules of the Supreme Court of Arizona, Rule 31;
6. The right to present evidence and to cross-examine witnesses; and
7. The right to further appeal, as provided in R6-13-158 and R6-13-160 if dissatisfied with a decision reached by the Office of Appeals.

R6-13-153. Withdrawal of an Appeal

- A.** An appellant may withdraw an appeal at any time prior to the time the hearing officer renders a decision.
1. An appellant may withdraw an appeal verbally, either in person or by telephone. The Department may record the audio of the withdrawal.
 2. An appellant may withdraw an appeal by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.
- B.** The Office of Appeals shall dismiss the appeal upon receipt of a withdrawal request signed by the appellant or the appellant's representative, or upon receipt of a statement of withdrawal made on the record when the hearing officer has accepted the withdrawal.

R6-13-154. Failure to Appear; Default; Reopening

- A.** If an appellant fails to appear at the scheduled hearing, the hearing officer shall:
1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
 2. Rule summarily on the available record; or
 3. Adjourn the hearing to a later date and time.

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- B. The hearing officer shall not enter a default if the appellant notifies the Office of Appeals before the scheduled time of hearing that the appellant cannot attend the hearing because of good cause and still desires a hearing or wishes to have the matter considered on the available record.
- C. A party who did not appear at a scheduled hearing date may file, no more than 10 days after a dismissal date, a request to reopen the proceedings. The request shall be in writing and shall demonstrate good cause for the party's failure to appear.
- D. The hearing officer shall set the matter for a hearing to determine whether the appellant had good cause for failing to appear.
- E. If the hearing officer finds that the party had good cause for nonappearance, the hearing officer shall reopen the proceedings and schedule a de novo hearing with notice to all interested parties as prescribed in R6-13-147.
- F. 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. Good cause also exists when the nonappearing party demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. "Excusable neglect" has the meaning applied to "excusable neglect" as that term is used in Arizona Rules of Civil Procedure, Rule 60(c).

R6-13-155. Hearing Proceedings

- A. The hearing is a de novo proceeding. The Department has the initial burden of going forward with evidence to support the adverse action being appealed.
- B. To prevail, the appellant shall prove, by a preponderance of the evidence, that the Department's action was unauthorized, unlawful, or an abuse of discretion.
- C. The Arizona Rules of Evidence do not apply at the hearing. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 23-674(D).
- D. The Office of Appeals shall record all hearings. The Office of Appeals need not transcribe the proceedings unless a transcription is required for further administrative or judicial proceedings.
- E. The Office of Appeals charges a fee of 15¢ per page for providing a transcript. A party may obtain a waiver of the fee by submitting an affidavit stating that the party cannot afford to pay for the transcript.
- F. A party may, at his or her own expense, arrange to have a court reporter present to transcribe the hearing, provided that such transcription does not delay or interfere with the hearing. The Office of Appeal's recording of the hearing shall constitute the official record of the hearing.
- G. The hearing officer shall call the hearing to order and dispose of any prehearing motions or issues.
- H. With the consent of the hearing officer, the parties may stipulate to factual findings or legal conclusions.
- I. Upon request and with the consent of the hearing officer, a party may make opening and closing statements. The hearing officer shall consider any statements as argument and not evidence.
- J. A party can testify, present evidence, and cross-examine adverse witnesses. The hearing officer can also take witness testimony or admit documentary or physical evidence on his or her own motion.
- K. The hearing officer shall keep a complete record of all proceedings in connection with an appeal.
- L. The hearing officer may require the parties to submit memoranda on issues in the case if the hearing officer finds that the memoranda would assist the hearing officer in deciding the case. The hearing officer shall establish a briefing schedule for any required memoranda.

R6-13-156. Hearing Decision

- A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
- B. The hearing decision shall include:
 - 1. Findings of fact concerning the issue on appeal.
 - 2. Citations to the law and authority applicable to the issue on appeal.
 - 3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions.
 - 4. The name of the hearing officer.
 - 5. The date of the decision, and
 - 6. A statement of further appeal rights and the time period for exercising those rights.
- C. The Office of Appeals shall mail a copy of the decision to each party's representative or to the party if the party is unrepresented.

R6-13-157. Effect of the Decision

- A. If the hearing officer affirms the adverse action against the appellant, the adverse action is effective as of the date of the initial determination of adverse action by the Department. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer's decision.
- B. If the hearing officer vacates, sets aside, or reverses the Administration's decision to take adverse action, the Administra-

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tion shall not take the action or shall reverse any adverse action taken unless and until the Appeals Board, under A.R.S. § 23-672, or Arizona Court of Appeals issues a decision affirming the adverse action.

R6-13-158. Further Administrative Appeal

- A.** A party can appeal an adverse decision issued by a hearing officer to the Department's Appeals Board as prescribed in A.R.S. § 41-1992(C) and (D) by filing a written petition for review with the Office of Appeals within 15 days of the mailing date of the hearing officer's decision.
- B.** The petition for review shall:
 - 1. Be in writing.
 - 2. Describe why the party disagrees with the hearing officer's decision, and
 - 3. Be signed and dated by the party or the party's representative.
- C.** The party petitioning for review shall mail a copy of the petition to all other parties.
- D.** The Appeals Board may not be obligated to have the proceedings of the hearing transcribed.

R6-13-159. Appeals Board

- A.** The Appeals Board shall conduct proceedings in accordance with A.R.S. §§ 41-1992(D) and 23-672.
- B.** Following notice to the parties, the Appeals Board may receive additional evidence or hold a hearing if the Appeals Board finds that additional information would help in deciding the appeal. The Appeals Board may also remand the case to the Office of Appeals for rehearing, specifying the nature of the additional evidence required or any further issues for consideration.
- C.** The Appeals Board shall decide the appeal based solely on the record of proceedings before the hearing officer and any further evidence or testimony presented to the Appeals Board.
- D.** The Appeals Board shall issue and mail to all parties a final written decision affirming, reversing, setting aside, or modifying the hearing officer's decision. The decision of the Appeals Board shall specify the parties' rights to further review and the time for filing a request for review.

R6-13-160. Judicial Review

Any party adversely affected by an Appeals Board decision may seek judicial review as prescribed in A.R.S. § 41-1993.

R6-13-161. Availability of TC Payments

The availability of TC payments is subject to budgetary restrictions.

ARTICLE 9. TUBERCULOSIS CONTROL REPEALED

R6-13-902. Age Repealed

A Tuberculosis Control grant will not be issued if the person certified as tubercular is a minor, unless authorized by the district Public Assistance Program Manager.

R6-13-903. Residence Repealed

- ~~**A.** The Department of Health Services is responsible for determination of residence.~~
- ~~**B.** Inter-county transfers are permitted.~~
- ~~**C.** Assistance may be granted out-of-state with Department of Health Services approval.~~

R6-13-904. Citizenship Repealed

There is no citizenship requirement.

R6-13-905. Limitations on Value of Real and Personal Property Repealed

The following resource limitations apply:

- 1. Household furnishings used in the usual place of residence;
- 2. Wearing apparel and necessary personal effects;
- 3. A home in which the recipient resides and land contiguous thereto which has a gross market value not in excess of \$25,000;
- 4. An automobile with a gross retail market value of \$1,200 or less. If such value exceeds \$1,200 the excess value shall be counted against other property or assets specified in subsection (6);
- 5. Tools of trade;
- 6. Other property or assets having a total gross market value of \$1,000 for a single recipient or \$1,400 for a recipient and spouse, or two or more recipients in a single household;
- 7. Real and personal property shall be valued at their gross market value.

R6-13-906. Transfer of Property Repealed

Transfer of property does not affect eligibility.

R6-13-907. Employability Repealed

Employability is determined by the Department of Health Services.

R6-13-908. ~~Receipt of Other Public Assistance Repealed~~

When a recipient with dependents is eligible for AFDC as well as TC:

- ~~1. The maximum allowable from the AFDC program will be granted.~~
- ~~2. Any unmet need will be provided by a TC grant up to 100% of allowable need.~~

R6-13-909. ~~Institutional Status Repealed~~

- ~~A. A TC grant will be made for personal care expense to eligible recipients receiving care in an institution.~~
- ~~B. Department of Health Services approval is required.~~
- ~~C. The amount of the grant will be according to the assistance standard.~~

R6-13-910. ~~Diagnosis and Treatment Repealed~~

- ~~A. The physician treating the case is responsible to determine whether contagious tuberculosis exists.~~
- ~~B. Decisions of eligibility for care and treatment are made by the Department of Health Services.~~

R6-13-911. ~~Referral of Cases to the Department of Economic Security Repealed~~

- ~~A. The local Department of Health Services initiates referrals for Tuberculosis Control financial assistance.~~
- ~~B. After acting on an application for TC, the local DES office will notify the Department of Health Services of the decision reached.~~
- ~~C. When the Department of Health Services refers the case and it is shown that the patient resides at home, no other approval is required for home care.~~
- ~~D. Approval for institutional care must be given by the Department of Health Services.~~

R6-13-912. ~~Foster Home Care Repealed~~

Placement of the children of tubercular parents or relatives in Foster Care is a Social Services Bureau program.

R6-13-913. ~~Return of Nonresidents Repealed~~

The Tuberculosis Control Officer of the Department of Health Services will contact DES, other agencies, or relatives when a tuberculosis patient is to be sent outside of the state.

R6-13-914. ~~Computing the Tuberculosis Control Grant Repealed~~

The assistance grant shall be equal to the budgetary need amount, minus countable income. An Eligible Recipient means the medically eligible person and the person's legal dependents who reside in a home maintained by the family, regardless of whether the medically eligible person is present in the home, providing such dependents do not have their total needs met from another source or from another assistance grant.

R6-13-915. ~~Termination of the Tuberculosis Control Grant Repealed~~

When the Department of Health Services notifies the local DES office that a TC grant is to be stopped, it will be stopped in the specified month.

R6-13-916. ~~Termination of TC Grant with AFDC Grant Continuing in Household Repealed~~

Incapacity must be established if AFDC is to be continued.

R6-13-917. ~~Overpayment Repealed~~

In the Tuberculosis Control Program, overpayments will be reported but not collected unless repaid voluntarily.

R6-13-918. ~~Vendor Payments Repealed~~

A vendor payment will be made only when transportation is furnished.

R6-13-919. ~~Redeterminations Repealed~~

Tuberculosis Control cases must be review each six months.

R6-13-920. ~~Available Services Repealed~~

Basic services in the Tuberculosis Control program are:

- ~~1. Meeting financial need of eligible persons;~~
- ~~2. Services related to treatment and home supervision are the responsibility of the Department of Health Services.~~

R6-13-921. ~~Right of Appeal Repealed~~

An applicant or recipient who is dissatisfied with a decision on the applicant's or recipient's case has the right to appeal.

R6-13-922. ~~Reporting Change of Status Repealed~~

An applicant or recipient shall report, within 10 days from the date the change occurs, all changes in current income, resources, and any other circumstances which may affect eligibility or the amount of the assistance payment.