

RHODE ISLAND DEPARTMENT OF HUMAN SERVICES

DATE: APRIL 30, 2009

NOTICE OF

PROPOSED ADOPTION OF RULES, REGULATIONS,  
POLICIES, PROCEDURES, AND OTHER MATERIALS  
RELATING TO THE ADMINISTRATION OF THE FOLLOWING PROGRAM(S):

In accordance with Title 42, Chapter 35, of the General Laws of the State of Rhode Island, notice is hereby given that the Department of Human Services (DHS) proposes to adopt rules, regulations, policies, procedures, and other materials relating to the following programs(s):

**FAMILY INDEPENDENCE PROGRAM (FIP) REPEAL**

The Family Independence Act (RIGL 40-5.1) was repealed effective July 1, 2008, and was replaced by The Rhode Island Works (RIW) Program (RIGL 40-5.2). Effective July 1, 2009, The Family Independence Program policies in Section 0800, et al, are repealed and replaced by the Rhode Island Works Program policies in Sections 1400, et al.

For all assistance units that were receiving cash assistance on October 1, 2008, without any break in eligibility through June 30, 2009, the RI Works time limits will take effect on July 1, 2009.

A Fiscal Note is available upon request. In the development of the rules and regulations, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information. (Complies with 42-35-3(3).) The health, safety, and welfare of the public preclude any economic impact that may be incurred as a result of these regulations.

Interested persons may inspect said proposed rules, regulations, policies, procedures, summary of policies, and other related materials on the R.I. Secretary of State's website at [www.sec.state.ri.us/ProposedRules/](http://www.sec.state.ri.us/ProposedRules/) or on the Department of Human Services website at [www.dhs.ri.gov](http://www.dhs.ri.gov), or in the Office of Policy Development, Department of Human Services, Louis Pasteur Building, Bldg. 57, Howard Avenue, Cranston, Rhode Island 02920, between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday.

Interested persons may submit data, views, or written arguments to the Office of Legal Counsel, Department of Human Services, Louis Pasteur Building, Bldg. 57, 600 New London Avenue, Cranston, Rhode Island 02920, within thirty (30) days of the date of this notice.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on these rules if requested by twenty-five (25) persons, or an agency, or by an

association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

## SCOPE OF CHANGE

The Family Independence Act (RIGL 40-5.1) was repealed effective July 1, 2008, and was replaced by The Rhode Island Works (RIW) Program (RIGL 40-5.2). Effective July 1, 2009, The Family Independence Program policies in Section 0800, et al, are repealed and replaced by the Rhode Island Works Program policies in Sections 1400, et al.

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## SUMMARY OF CHANGE

The Family Independence Act (RIGL 40-5.1) was repealed effective July 1, 2008, and was replaced by The Rhode Island Works (RIW) Program (RIGL 40-5.2). Effective July 1, 2009, The Family Independence Program policies in Section 0800, et al, are repealed and replaced by the Rhode Island Works Program policies in Sections 1400, et al.

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## ~~0812~~ ~~WORK POLICY AND PROCEDURES~~

### ~~0812.05~~ ~~PARTICIPATION REQUIREMENTS~~

~~REV:09/2006~~

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~~0812.05~~ ~~PARTICIPATION REQUIREMENTS~~ ~~REV:09/2006~~

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~~All parents, and caretaker relatives, who request and receive assistance are required to enter into an employment plan and participate, unless exempt, in appropriate work related activities. Caretaker relatives acting in loco parentis who are included in the cash assistance grant must also complete an employment plan, unless they are otherwise exempt.~~

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### ~~0812.05.05~~ ~~One Parent Family: First 24 Months~~

~~REV:01/2006~~

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~~0812.05.05~~ ~~One Parent Family: First 24 Months~~ ~~REV:01/2006~~

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~~During the first twenty four (24) months of the employment plan, the parent shall participate, for a minimum of twenty (20) hours per week for parents whose youngest child in the home is under the age of six~~

~~(6), and for a minimum of thirty (30) hours per week for parents whose youngest child in the home is six (6) years of age or older, in one or more of the following work activities, as appropriate, in order to help the parent obtain stable full-time paid employment:~~

~~— \* Paid employment, (including on-the-job training);~~

~~— \* A community work experience in a program as specified in DHS Manual Section 0816.35;~~

~~— \* A training or work readiness program approved by the department and conducted at a job site if the program involves supervised participation in work at the site;~~

~~— \* During the first six (6) months of eligibility (or for a longer period if the department determines it necessary to prepare the parent to obtain stable full-time employment), successful participation in an approved work readiness program as defined in Section 816.25;~~

~~— \* During the first three (3) months of eligibility (or for a longer period if the department determines it necessary to prepare the parent to obtain stable full-time employment), participation in an approved rapid job placement program as defined in Section 0816.30;~~

~~— \* A supervised individual job search which meets the conditions set forth in Section 0816.45;~~

~~— \* For a parent under the age of twenty (20) without a high school diploma or the equivalent, successful participation on a full-time basis in a program to secure such diploma or the equivalent;~~

~~— \* For a parent age twenty (20) or older, without basic literacy or English literacy skills, successful participation on a full-time basis in a program to secure such skills; and~~

~~— \* For a parent age twenty (20) or older (and a parent under the age of twenty (20) who has a high school degree or the equivalent or a parent under the age of twenty (20) for whom attendance at a high school is determined to be inappropriate) successful participation in a vocational education, skills or job training program, including without limitation, a program of postsecondary education, which the department determines is likely to result in regular full-time employment at wages sufficient to eliminate eligibility for cash assistance under the Family Independence program.~~

~~— \* Up to 10 (ten) hours of a parent's required DCYF Service Plan activities can be counted toward meeting either the 20 (twenty)hour requirement for parents~~

~~with a child under age 6 (six), or 30 (thirty) hour requirement for parents if the youngest child is age 6 (six) or older. The DCYF Social Caseworker provides the actual number of hours of participation per week required in order for the parent to comply with their Service Plan. The FIP Social Caseworker then makes these hours part of the total hours required for compliance with the FIP Employment Plan. NOTE: This policy provision will sunset on December 31, 2007.~~

## **0812.05.10 One Parent Family: Beginning Month 25**

REV:09/2006

~~0812.05.10 One Parent Family: Beginning Month 25 REV:09/2006~~

~~Beginning with month twenty five (25) of the employment plan, the parent shall participate in one (1) or more of the following work activities for at least twenty (20) hours per week for parents whose youngest child in the home is under the age of six (6), and thirty (30) hours per week for parents whose youngest child in the home is six (6) years of age or older, and at least twenty (20) hours shall be in one or more of the following activities and the balance shall be in activities designed to help the parent obtain and maintain unsubsidized employment or increase the parent's earning potential:~~

~~\* Paid employment (including on the job training);~~

~~\* A community work experience program which satisfies the requirements of Section 0816.35;~~

~~\* A training program approved by the Department and conducted at a job site if the program involves supervised participation in work at the site.~~

~~\* A supervised individual or group job search or participation in an approved rapid job placement program, not to exceed four (4) consecutive weeks or six (6) total weeks in a twelve month period.~~

~~\* Up to 10 (ten) hours of a parent's required DCYF Service Plan activities can be counted toward meeting either the 20 (twenty) hour requirement for parents with a child under age 6 (six), or 30 (thirty) hour requirement for parents if the youngest child is age 6 (six) or older. The DCYF Social Caseworker provides the actual number of hours of participation per week required in order for the parent to comply with their Service Plan. The FIP Social Caseworker then makes these hours part of the total hours required for compliance with the FIP Employment Plan. NOTE: This policy provision will sunset on December 31, 2007.~~

~~In no case shall a parent be allowed to develop an employment plan which allots ten (10) hours to work activities, ten (10) hours to DCYF service plan activities and ten (10) hours to activities designed to help the parent obtain and maintain unsubsidized employment or increase the parent's earning potential. If the parent is required to comply with the thirty (30) hours of activity, twenty (20) of those hours must meet the work based activities described above.~~

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### ~~0812.05.15~~ ~~Deferral from Sec. 0812.05.10 Requirements~~

~~REV:01/1999~~

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~~The following parents shall be deferred from the participation requirements which begin in the twenty fifth (25th) month:~~

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~~\* A parent under the age of twenty (20) without a high school diploma or the equivalent who is successfully participating, on a full time basis, in a program to secure such diploma or the equivalent;~~

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~~\* A single parent age twenty (20) or older, without basic literacy or English language skills, who (1) is participating in a full time program but is unable to complete a literacy or language skills program during the first twenty four (24) months of his or her employment plan, or (2) who the department has determined is unable to secure paid employment without additional language or literacy skills, and who is successfully participating in a program to secure such skills.~~

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~~\* A parent age twenty (20) years or older, who is successfully participating in a vocational education, skills or job training program, including without limitation, a program of postsecondary education, which the department determines is likely to result in regular full time employment at wages sufficient to eliminate eligibility for cash assistance under the act; provided, however, that the parent began the program prior to the twenty fifth (25th) month of his or her employment plan; provided, further, however, that participation shall not be deemed a work activity after the thirty sixth (36th) month of the employment plan.~~

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~~Upon completion of any activity in the three (3) categories above prior to the thirty sixth (36th) month of the individual's employment plan, the formerly deferred parent shall be subject to the work activity requirements in Section 0812.05.10.~~

### ~~0812.05.20~~ ~~Exemption from Work Requirements~~

~~REV:01/1999~~

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~~A parent may qualify for a waiver from the work requirements due domestic violence as specified in Section 0814.10. In addition, the~~

~~requirements under Sections 0812.05.05 and 0812.05.10 shall not apply to a single parent if (and for so long as) the Department finds that he or she is:~~

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- ~~\_\_\_\_\_ \* \_\_\_\_\_ Unable to comply with the employment plan because of an illness which, on the basis of medical evidence, is serious enough to temporarily prevent work;~~
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- ~~\_\_\_\_\_ \* \_\_\_\_\_ Unable to comply with the employment plan because of a physical or mental impairment which, on the basis of medical evidence, either by itself or in conjunction with age, prevents work;~~
- ~~-~~
- ~~\_\_\_\_\_ \* \_\_\_\_\_ Unable to comply with the employment plan because s/he is providing full time in home care 1) to a minor child, who, due to illness or incapacity, requires full time in home care, or 2) to a mentally or physically incapacitated family member (e.g., a child's grandparent, aunt, uncle, or other relative) who lives in the home, who, due to illness or incapacity, requires such full time in home care;~~
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- ~~\_\_\_\_\_ \* \_\_\_\_\_ Caring for a child below the age of one (1) year, provided however, that a minor parent without a high school diploma or the equivalent and who is not married, shall not be exempt from the education participation provision in Section 0814.05.20 for more than twelve (12) weeks from the birth of the child;~~
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- ~~\_\_\_\_\_ \* \_\_\_\_\_ Sixty (60) years of age or older; or~~
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- ~~\_\_\_\_\_ \* \_\_\_\_\_ A pregnant woman in her third trimester.~~
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## **0812.05.25 Two Parent Family Requirements**

REV:09/2006

~~0812.05.25 Two Parent Family Requirements REV:10/2006~~

~~Notwithstanding the work requirements under Sections 0812.05.05 and 0812.05.10, in the case of a family consisting of two (2) parents, beginning seven (7) days following completion of the family financial plan and the individual employment plan(s), one (1) parent shall be engaged in work activities for at least thirty five (35) hours per week during the month, not fewer than thirty (30) hours per week of which are attributable to one (1) or more of the following activities:~~

- ~~\_\_\_\_\_ \* \_\_\_\_\_ Unsubsidized employment;~~
- ~~-~~
- ~~\_\_\_\_\_ \* \_\_\_\_\_ Subsidized private sector employment;~~
- ~~-~~
- ~~\_\_\_\_\_ \* \_\_\_\_\_ Subsidized public sector employment;~~
- ~~-~~
- ~~\_\_\_\_\_ \* \_\_\_\_\_ Work experience if sufficient private sector employment is not available;~~
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~~\* On the job training;~~

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~~\* A supervised individual or group job search or participation in an approved rapid job placement program, not to exceed four (4) consecutive weeks or six (6) total weeks in a twelve month period.~~

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~~\* Community service program;~~

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~~\* Vocational educational training (not to exceed twelve (12) months) for any individual; or~~

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~~\* The provision of child care services to an individual who is participating in a community service program.~~

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~~\* Up to 10 (ten) hours of a parent's required DCYF Service Plan activities can be counted toward meeting the 35 (thirty five) hour requirement. The DCYF Social Caseworker provides the actual number of hours of participation per week required in order for the parent to comply with their Service Plan. The FIP Social Caseworker then makes these hours part of the total hours required for compliance with the FIP Employment Plan. NOTE: This policy provision will sunset on December 31, 2007.~~

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~~In a two parent family in which one (1) parent is engaged for at least thirty five (35) hours per week in the work activities specified above, the other, second, parent must also participate in and have an assessment completed. The second parent must sign the employment plan. That second parent's "FIP clock" or the tally of receipt of cash assistance toward the FIP time limit (see Section 0806.50) is deemed to have begun when the employment plan is completed.~~

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~~Moreover, in a two parent family in which one (1) parent is engaged for at least thirty five (35) hours per week in the work activities listed above, if the family requests child care, and the second parent is not disabled or caring for a severely disabled child, and the second parent elects to complete an employment plan, s/he must participate in work activities during the month for at least twenty (20) hours per week in one (1) or more of the following activities:~~

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~~\* Unsubsidized employment;~~

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~~\* Subsidized private sector employment;~~

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~~\* Subsidized public sector employment;~~

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~~\* Work experience if sufficient private sector employment is not available;~~

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~~\* On the job training; or~~

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~~\* Community service program.~~

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~~\* Up to 10 (ten) hours of a parent's required DCYF Service Plan activities can be counted toward meeting the 35 (thirty five) hour requirement. The DCYF Social Caseworker provides the actual number of hours of participation per week required in order for the parent to comply with their Service Plan. The FIP Social Caseworker then makes these hours part of the total hours required for compliance with the FIP Employment Plan. NOTE: This policy provision will sunset on December 31, 2007.~~

~~\* Housing Search, if the family is homeless (or about to become homeless) as defined in section 0816.25.05. This may be approved for the second parent in a two-parent family, provided that participation in this activity overlaps with the work hours of the employed parent. Housing search is not to exceed one hundred and eighty (180) days.~~

### **0812.05.30 Exemptions for Two-Parent Families**

REV:01/1999

~~The work requirements in Section 0812.05.25 shall not apply:~~

~~\* To a parent who is ill and the agency representative determines on the basis of medical evidence that the illness is serious enough to temporarily prevent entry into employment or engaging in the activities specified in Section 0812.05.25 or to provide care for her/his children; or~~

~~\* To a parent who is incapacitated by a physical or mental impairment which the agency representative has determined on the basis of medical evidence either by itself or in conjunction with age, prevents the individual from engaging in employment or training or providing care for his or her children; or~~

~~\* To a parent who is providing full time in home care 1) to a minor child or to the other parent in the home, who, due to illness or incapacity, requires full time in home care, or 2) to a mentally or physically incapacitated family member (e.g., a child's grandparent, aunt, uncle, or other relative) who lives in the home, who, due to illness or incapacity, requires such full time in home care; or~~

~~\* If otherwise authorized by the Department for good cause.~~

### **0812.10 REFERRAL PROCESS**

REV:05/1997



~~Referral to the appropriate Family Independence Program personnel for assessment and development of an individual's employment plan takes place for applicants during the screening process at or before Intake; recipients undergo assessment at request for services and/or employment planning, redetermination, or at other times as appropriate.~~

~~Recipients may self refer who are already attending or plan to attend a particular program or school and request supportive services. Their request will be considered for appropriateness of the activity; these individuals must undergo an assessment and develop an employment plan based on Family Independence work program requirements. Criteria for the appropriateness of the activity must be utilized in the approval/denial of the self-referring individual's employment activity schedule.~~

## **0812.15 WORK ACTIVITIES**

~~REV:05/1997~~

~~The following comprise the activities which may be recorded in the component listing of an individual's employment plan:~~

- ~~\* Basic Literacy Education;~~
- ~~\* English as a Second Language (ESL);~~
- ~~\* Basic Education Programs;~~
- ~~\* High School/High School Equivalency (GED) Programs;~~
- ~~\* Vocational Educational/Post Secondary Degree Programs;~~
- ~~\* Skills Training;~~
- ~~\* Group and Individual Job Search;~~
- ~~\* Rapid Job Placement;~~
- ~~\* Job Readiness;~~
- ~~\* Work Experience~~
- ~~\* Work Supplementation Program; and~~
- ~~\* Employment (includes On the Job Training).~~

~~The component provider screens of the INRHODES employment activity schedule contain the provider's name and address, the activity type, the beginning and projected completion dates of the selected activity/program, the weekly scheduled hours of the activity, the manner and date of verification of enrollment, and other appropriate information.~~

## **0812.20 SUPPORTIVE SERVICES**

~~REV:05/1997~~

~~A recipient may receive, as appropriate, allowances for transportation and/or child care services to enable the individual to participate in her or his employment plan; the service(s) is specified in the plan's supportive services section.~~

## ~~0812.20.05 — Transportation~~

~~REV:05/1997~~

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~~The Department will provide an allowance for transportation costs necessary to comply with the employment plan, provided, however, that the amount of such reimbursement shall not exceed the sum of three dollars (\$3.00) per day. The participant must incur actual out-of-pocket expenses and must not be receiving a transportation stipend or allowance in excess of three dollars (\$3) per day from any other source.~~

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~~The transportation allowance of no more than three dollars (\$3) per day from any source or combination of sources is paid directly to an individual as a reimbursement for each authorized day in which the person actually attended an approved activity.~~

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~~If transportation costs are reimbursed in whole or in part by the Family Independence program, the allowance is authorized by the appropriate agency representative and issued through INRHODES.~~

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~~Monthly attendance reports must be submitted by the participant or the component provider to the Business Office. After the report is data entered, a check is remitted to the individual.~~

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~~Reimbursement of transportation costs is contingent upon the availability of funding.~~

## ~~0812.20.10 — Child Care Services~~

~~REV:07/2007~~

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~~Child care services are provided to individuals with approved employment plans who are participating in approved training or employment programs. Individuals are eligible for this supportive service subject to the policies outlined in Section 0850.~~

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## ~~0812.20.15 — Exclusion from Income~~

~~REV:05/1997~~

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~~The transportation allowance Section 0812.20.05 is considered a reimbursement for training and employment readiness and is excluded as income and resources for both the Family Independence and Food Stamp programs.~~

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## ~~0812.25 — PROGRESS AND ATTENDANCE REQUIREMENTS~~

~~REV:05/1997~~

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~~Once the individual has begun to participate in an activity included in her/his employment plan, s/he must meet certain requirements in both progress, referred to also as successful participation, and attendance to remain in compliance with Family Independence Program requirements.~~

## **~~0812.25.05~~ — ~~Definition of Successful Participation~~**

~~REV:05/1997~~

~~"Successfully participating" in an education or training component means that the participant in any training activity is meeting, on a periodically measured basis of less than a year, a consistent standard of progress toward completion of the education or training activity. This standard must include a qualitative measure of progress, such as a grade point average, and a quantitative measure, such as a reasonable time limit by which a student is expected to complete his/her education or training program.~~

~~With the exception of providers of postsecondary component activities, the agency representative will use the standard of the individual institution operating the education or training activity as its standard. Standards for participants in postsecondary activities are outlined in Section 0816.15. The appropriate standard for each participant will be defined as part of her/his employment plan when it is developed.~~

~~The agency representative monitors attendance and successful participation through attendance reports which are sent monthly either to the component provider (for contracted providers) or to the individual. Each report is completed by the provider who annotates the days attended, indicates satisfactory or unsatisfactory progress, and, if the individual has stopped attending the program, indicates the termination date. The report is signed and dated by both the provider and the participant. When the completed and signed report is returned to the Business Office, the days attended, satisfactory or unsatisfactory progress, and termination date information are data entered. Data entry of unsatisfactory/unsucessful progress and/or termination date information prompt messages on the worker's Daily Report for follow up.~~

~~When an agency representative's Daily Report contains a Component Noncompliance message indicating Unsatisfactory Progress, the representative initiates Conciliation to determine the reason for the failure to participate. (See Section 0812.35.)~~

## **~~0812.25.10~~ — ~~Attendance Requirements~~**

~~REV:05/1997~~

~~An individual is considered to be successfully participating relative to attendance if s/he attends the approved employment plan component activity for all scheduled hours.~~

~~Attendance reports are sent monthly, either to the individual participant or to the component/activity provider when the individual's provider has a contract with the DHS, to monitor both attendance and satisfactory progress. Each report is completed by the provider who~~

~~notates the days attended, indicates satisfactory or unsatisfactory progress, and, if the participant has ended activity in the program, indicates the termination date. The report is signed and dated by both the provider and the participant. When the completed and signed report is returned to the Business Office, the days attended, satisfactory/unsatisfactory progress, and termination date information are data entered.~~

~~When the agency representative receives a message in her/his Daily Report that a participant has terminated component activity, the agency representative sends a component closure notice and/or child care discontinuance notice to close supportive services. (See 0812.25.15.) If appropriate, s/he then begins the conciliation process. (See 0812.35.)~~

~~Similarly, when the agency representative's Daily Report contains a Component Noncompliance message indicating that a participant is not attending her/his scheduled days, the agency representative initiates conciliation to determine the reason for the failure to participate. (See 0812.35.)~~

## **0812.25.15 — Component Closure**

REV:05/1997

~~When a component activity is about to end or the agency representative learns that a participant has completed or terminated an activity, the representative utilizes the NOTC function to send a Component Closure notice which closes supportive services (but not child care services). Each component notice contains the reason(s) for component closure, the effective date, and the participant's appeal rights.~~

~~Similarly, if appropriate, a separate notice must be sent discontinuing child care to the individual containing the reason for discontinuance, the effective date, and the participant's appeal rights. A notice informing the provider of the termination of DHS payment for child care services is also generated.~~

## **0812.30 — CONCILIATION**

REV:05/1997

~~A nonexempt parent who fails without good cause to comply with the employment plan causes the amount of cash assistance paid to the family to be reduced by the parent's portion of the family's benefit. The reduction in benefits is preceded by a conciliation process.~~

~~Conciliation is a means for a participant to prove good cause for failure or refusal to comply with her/his requirements. Section 0812.35.10 lists examples of overt and de facto refusal which would result in conciliation. Conciliation is offered to all participants through each notice; each notice also includes the participant's appeal rights. A participant who exercises her/his right to file for a fair hearing will be considered to have given written request to terminate the conciliation process.~~

## ~~0812.30.05 Conciliation Process~~

~~REV:05/1998~~

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~~The conciliation process may be initiated by either the participant or the FIP caseworker. The participant may opt to initiate conciliation prior to noncompliance. However, when the FIP caseworker learns of a failure or refusal to comply (either overt or de facto) by the occurrence of one or more of the actions like those listed in Section 0812.30.10, s/he must initiate conciliation by either contacting the individual and/or sending a conciliation appointment notice. The conciliation letter must be sent as soon as possible but no later than ten (10) days from the date the caseworker becomes aware of the failure or refusal to participate. The conciliation period is not to exceed fourteen (14) days and begins on the scheduled date of the conciliation conference or the date of the telephone contact.~~

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~~The FIP caseworker informs the participant that s/he is failing to meet program requirements. When the formal conciliation procedure is utilized, the conciliation notice provides the date of a conciliation conference at the appropriate office for the individual to discuss the act or pattern of behavior in question and to afford the individual an opportunity to prove good cause for non-compliance. The notice must specify the reason(s) for the conciliation appointment, the consequences of failure to keep the appointment, and the end date of the conciliation period. In the informal telephone conciliation process, the reason for conciliation, consequences, and the opportunity to prove good cause must be provided to the individual.~~

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~~In ALL conciliation (and sanction) processes, the FIP caseworker must keep a complete record of the circumstances and the substance of the individual's refusal/failure to comply in the file and case narrative (CNAR).~~

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~~During the conciliation period, the FIP caseworker and the participant attempt to resolve the problem by exploring the situation and reason(s) for non-compliance. The individual must provide substantiation of her/his reason(s) for not complying with her/his employment plan in order to establish good cause. A listing of reasons which constitute good cause is given in Section 0812.30.15. Verification must be documented in the case file and recorded in CNAR.~~

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~~The Domestic Violence Notice (Form WVR-1) must be reviewed with the participant so that s/he is informed about claiming the Family Violence Option as part of the conciliation process. The procedures following an applicant's claiming of this option or disclosure of abuse are outlined in Section 0814.10.~~

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~~Either the agency caseworker or the participant upon written request may terminate the conciliation period early when either believes the dispute cannot be resolved by conciliation. The Family Independence caseworker must advise the participant of the right to terminate the conciliation process and, when necessary, assist in preparing the written request for a hearing. A participant who exercises her/his right to file for a hearing is considered to have given written request to terminate the conciliation process.~~

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~~Unless the participant requests a fair hearing, the FIP caseworker shall recommend a sanction only after undertaking reasonable efforts to conciliate with the recipient within the allowable time frame.~~

## ~~0812.30.10 Overt and De Facto Refusal~~

~~REV:05/1997~~

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~~Overt refusal to comply occurs when a participant states orally, or in writing, that s/he will not participate or continue to participate in work activities or components. The participant is requested to put oral refusals in writing.~~

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~~De facto refusal to participate occurs when:~~

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~~\* A participant fails without good cause to appear for a scheduled workshop/appointment/employment activity;~~

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~~\* A participant fails without good cause to appear for a job referral or interview that is appropriate to the individual's employment plan;~~

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~~\* A participant fails without good cause to attend a required educational activity;~~

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~~\* A participant fails or refuses without good cause to accept a bona fide offer of employment;~~

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~~\* A participant repeatedly fails to show up for work and/or for a required interview appointment without acceptable excuse;~~

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~~\* A participant seriously disrupts a work related activity or the orderly administration of the activity/program, or her/his behavior constitutes a threat or hazard to fellow participants and/or staff;~~

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~~\* A participant possesses the required education, experience or aptitude to perform an assignment but makes no effort to benefit from the activity;~~

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~~\* A participant quits his/her job without good cause, or is fired for cause during the initial thirty (30) days of employment;~~

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~~\* A participant refuses without good cause to accept suitable child care which would then preclude participation in the activity; or~~

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~~\* A participant refuses without good cause to accept other services, such as transportation, which would then preclude participation in work or training.~~

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~~The preceding list of actions is not all inclusive. The agency representative makes the determination when an individual is failing or refusing to comply with her or his employment plan.~~

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## ~~0812.30.15 — Good Cause for Failure to Comply~~

~~REV:05/1997~~

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~~Good cause for refusal to participate must be a verifiable short term circumstance or an on-going reason for the individual turning down a specific assignment or job offer. Circumstances leading to determinations of good cause for failure to participate are usually short term in duration and result from events beyond the participant's control.~~

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~~Although the individual's reason for refusing a particular assignment may be valid, s/he shall be required to continue to participate in the component/activity.~~

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~~Documentation of good cause must be obtained when possible and included in the case file. The case narrative (CNAR) must include the reasoning used by the supervisor in the determination of good cause when documentation can not be secured, e.g., short term illness not requiring a doctor's visit.~~

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~~The following reasons, when substantiated, constitute good cause for failure or refusal to comply with her/his employment plan.~~

~~—~~

~~\* Child care is necessary for the parent(s) to participate in employment plan activity and the agency representative determines that such child care is unavailable;~~

~~—~~

~~\* Child care (or care for an incapacitated individual living in the home) is necessary for an individual to participate or continue to participate in the program or accept employment and such care is not available;~~

~~—~~

~~\* Illness of the participant;~~

~~—~~

~~\* Illness of another family member sufficiently serious to require the presence of the participant;~~

~~—~~

~~\* The individual is experiencing a family or household crisis or change in family circumstances such as the death of a spouse, parent, or child, a housing crisis;~~

~~—~~

~~\* Court required appearance; or~~

~~—~~

~~\* Breakdown in transportation arrangements with no readily accessible means of transportation.~~

~~—~~

~~The preceding list of reasons is not all-inclusive. If the participant claims some other grounds for her/his noncompliance, a conference with the supervisor is held to determine the validity of the reason, and if, in fact, it constitutes good cause. A complete record of the circumstances and the substance of the individual's refusal must be kept in the file and/or case narrative (CNAR); a description of the supervisor's decision and the reasons for that determination must also be provided.~~

## ~~0812.35 — PENALTIES FOR WORK REQUIREMENT NONCOMPLIANCE~~

~~REV:09/2006~~

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~~0812.35 — PENALTIES FOR WORK REQUIREMENT NONCOMPLIANCE REV:09/2006~~

~~—~~

~~FIRST SIX (6) MONTHS OF NONCOMPLIANCE~~

~~—~~

~~The amount of cash assistance to which an otherwise eligible recipient family is entitled shall be reduced by the portion of the family's benefit attributable to any parent who, without good cause, has failed to enter into an individual employment plan or has failed to comply with his or her individual employment plan, as required under Sections 0812.05.05 and 0812.05.10 or Section 0812.05.25; provided that the reduction shall be applied during the first six (6) months, whether or not consecutive, of such failure or non-compliance by the parent.~~

~~—~~

~~For a family size of two (2), the benefit reduction due to noncompliance with the employment plan shall be computed utilizing a family size of three (3), in which the parent's portion equals one hundred five dollars (\$105).~~

~~—~~

~~When a second parent enters or returns to the household, the employment plan for the parent(s) must be revised to reflect the two parent work requirements in Section 0812.05.25. If no employment plan exists, one must be developed unless both parents are exempt from participation, within thirty (30) days of the change in household composition. Failure of the parents to comply with the revision or development of the employment plan will result in the family being ineligible for Cash Assistance in accordance with Section 0802.20 requiring an employment plan as a condition of eligibility.~~

~~—~~

~~IN EXCESS OF SIX (6) MONTHS OF NONCOMPLIANCE~~

~~—~~

~~The Department shall terminate cash assistance to a family if any parent in the family has failed, without good cause, to enter into an individual employment plan, or to comply with his or her individual employment plan and has been penalized for six (6) months, whether or not consecutive.~~

~~—~~

~~The penalty becomes effective on the next payroll date after the adverse action period. The participant is notified of the penalty by an INRHODES generated notice.~~

~~—~~

~~When a parent who has been sanctioned for six (6) months moves from one household to another, a sanction is imposed on the new household.~~

~~—~~

~~No hearing is held when a decision has already been rendered by a Hearing Officer that the recipient has, without good cause, refused to participate in an employment plan activity, to accept employment, or to otherwise fail to comply with her/his plan.~~

~~—~~

~~However, the participant may contest the amount of the payment as it has been adversely affected by the refusal to participate, in which case the sanction period begins the next effective date if an adverse decision is rendered.~~



~~When an individual is penalized and subsequently becomes exempt from participation in her/his employment plan component activity, the documented exemption will result in the benefits being restored to the full amount beginning with the initial payment made on the first of the month following the date that the documentation of the exemption is received by the Department.~~

## ~~0812.40 FAIR HEARING REQUESTS~~

~~REV:05/1997~~

~~If an individual believes that the intended action is incorrect, s/he may request a hearing before the DHS Hearing Officer within thirty (30) days of the mailing of the notice of adverse action.~~

~~The request is made in writing by the individual or his/her authorized representative in accordance with the policy in Section 0110.~~

## ~~0812.45 ENDING WORK PENALTIES~~

~~REV:09/2006~~

~~0812.45 ENDING WORK PENALTIES REV:09/2006~~

~~A penalty for failure or refusal to comply with the employment plan can be ended if the individual complies with her/his employment plan as follows:~~

~~\* Refusal to report to an employer when referred by the agency representative reporting to this employer if work is still available or to another employer to whom referred;~~

~~\* Refusal to accept a bona fide offer of employment when referred by the agency representative acceptance of this employment, if still available to the individual, of any other employment with earnings equivalent to the refused job, or any other employment of at least thirty (30) hours per week, with weekly earnings equal to the higher of the state or Federal minimum wage multiplied by thirty (30) hours;~~

~~\* Refusal to comply with a FIP Employment Plan assignment, appointment, and/or activity, such as Job Search and employment compliance with the Assignment or an alternate assignment by the agency representative. In order to demonstrate that her/his failure to comply has ceased, an individual must participate in the previously assigned activity or an alternate assignment by the agency representative for two(2) consecutive weeks (and continue to participate thereafter). If the individual successfully participates during that probational time period, the sanction will be considered to have ended as of the~~

~~\_\_\_\_\_ day s/he began to participate. If no such activity is  
\_\_\_\_\_ available within thirty(30) days, the sanction will  
\_\_\_\_\_ end on the day s/he agrees to participate.~~

~~—  
If the family's benefit has been reduced in accordance with paragraph  
one of Section 0812.35 for less than six (6) months, whether or not  
consecutive, due to the parent's failure to enter into an individual  
employment plan or failure to comply with the terms of his or her  
individual employment plan, benefits shall be restored to the full  
amount beginning with the initial payment made on the first of the  
month following the month in which the parent (1) enters into an  
individual employment plan and demonstrates compliance with the terms  
thereof, or (2) demonstrates compliance with the terms of his or her  
existing individual employment plan, as such plan may be amended by  
agreement of the parent and the Department.~~

~~—  
If the family's benefit has been terminated in accordance with  
paragraph three of 0812.35 due to the failure by one or more parents to  
enter into an individual employment plan or failure to comply with the  
terms of his or her individual employment plan, the family may re apply  
for benefits and benefits shall be restored to the family in the full  
amount the family is otherwise entitled to under this chapter beginning  
on the first of the month following the month in which all parents in  
the family who are subject to the employment plan requirements (1)  
enter into an individual employment plan and demonstrate compliance  
with the terms thereof, or (2) demonstrate compliance with the terms of  
his or her existing individual employment plan, as such plan may be  
amended by agreement of the parent and the Department.~~

~~—  
A work penalty shall not be ended and the entire family shall be made  
permanently ineligible if the following circumstances exist:~~

~~—  
\* A parent has reached the sixty (60) month lifetime limit on  
\_\_\_\_\_ FIP cash assistance; and~~

~~—  
\* A parent was under the work penalty for six or more months  
\_\_\_\_\_ during the sixty (60) months s/he received cash assistance.~~

## **~~0812.50~~ \_\_\_\_\_ ~~WORK CLOSURE~~**

~~REV:01/2002~~

~~—  
The agency representative is notified automatically via D206 in her/his  
Daily Report when a participant is no longer eligible for cash  
assistance and her/his needs have been removed from the payment and/or  
the case has been closed. The agency representative determines from  
INRHODES the reason for the participant's removal from the cash payment  
or case closure.~~

~~—  
If the client is active in a component activity, the agency  
representative sends a Component Closure Notice (see Section  
0812.25.15) and, if applicable, a Child Care Discontinuance Notice.  
The agency representative then closes the case through the CLOS  
function of INRHODES.~~

~~If the case is closed to employment, the participant's job title, employer's name and address, hire date, and work schedule information is recorded in the Job Entry (JOBE) panels.~~

~~-~~

~~When the FIP cash assistance case is closed and the parent(s) is employed, the agency representative evaluates the potential need and eligibility for the Child Care Assistance Program (CCAP) (See Section 0850.02.02). The agency representative contacts the individual, if possible, regarding the need for child care assistance, whether as continuing services or as a new request.~~

~~-~~

~~If the client requests continuing child care assistance, the agency representative updates the current (i.e., less than 6 months old) child care application in accordance with Section 0850.02.03 before the active case is referred by the Supervisor to the Child Care Assistance Unit (CCAU) to prevent any interruption of service. For cases transferred to the CCAU office, a file containing copies of the latest application and all other required documentation are forwarded as soon as possible to the appropriate Child Care Assistance office.~~

~~-~~

~~If a participant did not receive but now requests child care assistance due to employment, the worker sends an entire child care application packet for the participant to complete and file with the CCAU.~~

~~-~~

~~If the participant's case is closed due to reasons other than employment, the worker evaluates, if possible, whether need for and/or eligibility exists for CCAP by contacting the client. If the client requests continuing child care assistance and there is no current application in the case record, the FIP case worker mails a new application document to the client for completion.~~

~~-~~

~~After the INRHODES case is updated, the active case is transferred as specified above.~~

~~-~~

~~If the client did not receive child care as a supportive service but now requests child care assistance, the FIP case worker sends an entire child care application packet for the participant to complete and file with the CCAU. Discontinuance notices for cases closed on cash assistance due to excess income also notify the recipient about the availability of subsidized child care and how to apply for the program.~~

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