



COMMONWEALTH OF PENNSYLVANIA  
**DEPARTMENT OF PUBLIC WELFARE**  
P.O. BOX 2675  
HARRISBURG, PENNSYLVANIA 17105-2675

**Estelle B. Richman**  
Secretary

**AUG 05 2008**

Telephone 717-787-2600/3600  
FAX 717-772-2062

The Honorable Edwin B. Erickson  
Senate of Pennsylvania  
Harrisburg, Pennsylvania 17120

Dear Senator Erickson:

Enclosed is a proposed rulemaking that adds a new Chapter 108 (relating to family violence, Temporary Aid to Needy Families (TANF), and General Assistance (GA)) and amends Chapter 187 (relating to support from relatives not living with the client).

The Department of Public Welfare (Department) proposes to codify requirements that support victims of domestic violence in the TANF and GA cash assistance programs. The Department will apply the policies in this proposed rulemaking to identify victims of domestic violence, refer them to appropriate services, waive certain TANF or GA program requirements when appropriate and protect the confidentiality of domestic violence victims.

This proposed rulemaking, which amends the *Pennsylvania Code*, Title 55, by adding Chapter 108, Family Violence and TANF and GA, is submitted for review by your Committee pursuant to the Regulatory Review Act.

The Department will provide your Committee with any assistance required to facilitate a thorough review of this proposal. Thank you, and if you have questions please contact Ms. Jennifer DeBell, Director, Office of Legislative Affairs at (717) 783-2554.

Sincerely,

A handwritten signature in cursive script that reads "Estelle B. Richman".

Estelle B. Richman

Enclosure

cc: Ms. Ruth O'Brien, Office of Legal Counsel  
Ms. Jennifer DeBell, Director, Office of Legislative Affairs  
Ms. M.L. Wernecke, Director, Office of Policy Development  
Ms. Linda T. Blanchette, Deputy Secretary, Office of Income Maintenance

CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><i>[Signature]</i></p> <p>By: _____ (Deputy Attorney General)</p> <p><b>JUL 29 2008</b> Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><b>DEPARTMENT OF PUBLIC WELFARE</b> (Agency)</p> <p>LEGAL COUNSEL: <i>Alana Clark</i></p> <p>DOCUMENT/FISCAL NOTE NO. <u>14513</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <i>Estelle B. Richter</i></p> <p>TITLE: <b>SECRETARY OF PUBLIC WELFARE</b> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><i>[Signature]</i></p> <p>BY: _____ Andrew C. Clark</p> <p><b>JUN 9 2008</b> Date of Approval</p> <p>(Deputy General Counsel) (<del>Chief Counsel, Independent Agency</del>) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF PROPOSED RULEMAKING  
DEPARTMENT OF PUBLIC WELFARE  
OFFICE OF INCOME MAINTENANCE

[55 Pa.Code Chapter 108]

Family Violence and TANF and GA

[55 Pa.Code Chapter 187]

Support From Relatives Not Living With the Client

*Statutory Authority*

Notice is hereby given that the Department of Public Welfare (Department) under the authority of the Public Welfare Code, Act of June 13, 1967, P.L. 31 No. 21, 62 P.S. §§ 201(2) and 403(b); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193); and the Domestic Relations Code, 23 Pa. C.S. §§ 4301-4381, 5103, 7101-7901 and 8101-8418 intends to amend the regulations set forth in Annex A.

*Purpose of Regulation*

The purpose of this proposed rulemaking is to add a new Chapter 108 (relating to Family Violence and TANF and GA) to Title 55 of the Pennsylvania Code. The Department proposes to codify requirements that support victims of domestic violence who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) or General Assistance (GA) cash assistance programs.

The proposed rulemaking also amends 55 Pa. Code Chapter 187 (relating to support from relatives not living with the client) by deleting regulations relating to domestic violence that will be incorporated into the newly proposed Chapter 108.

The Department will apply the policies in this proposed rulemaking to help identify victims of domestic violence, refer them to appropriate services, waive certain

TANF or GA program requirements when appropriate, and protect the confidentiality of domestic violence victims.

### *Background*

Concerned about the pervasiveness of domestic violence and its impact on families needing assistance, Congress addressed these issues in PRWORA under the "Family Violence Option" (FVO) at 42 U.S.C.A. §§ 602 (a)(7) and 608 (a)(7)(C)(iii) (relating to eligible states; state plan; and prohibitions; requirements). The Department recognizes that clients may rely on public assistance as a means to escape domestic violence, address safety issues and become financially independent of abusive partners or family members. Domestic violence can interfere with a client's ability to comply with welfare requirements, causing the loss of needed benefits. At times, welfare requirements such as cooperating in establishing paternity and establishing and enforcing child support, engaging in job training, looking for work and getting a job, can place victims and their families at risk of further domestic violence.

States that adopt the FVO may waive one or more public assistance program requirements for a victim of domestic violence if complying with those requirements would make it more difficult for the victim to escape domestic violence, unfairly penalize the individual or place the individual at risk of further domestic violence. Under the FVO, states certify that they will develop a system to screen for victims of domestic violence and refer them to appropriate counseling and supportive services. The

Commonwealth elected to adopt the FVO in its 1997 TANF State Plan and confirmed this election in subsequent plans submitted to the Federal Department of Health and Human Services, Administration for Children and Families.

In implementing the FVO, the Department developed policies to provide applicants and recipients with information about domestic violence, the availability of supportive services and the option to waive certain program requirements such as support cooperation, time limits and work. One or more program requirements may be waived if compliance would make it more difficult for the individual to escape domestic violence or unfairly penalize individuals who are victims, have been victims or who are at risk of further domestic violence.

### *Requirements*

The following is a summary of the specific provisions in the proposed rulemaking:

§108.1. (relating to purpose).

The Department describes reasons for adoption of the FVO and ways in which it will use policies to assist victims of domestic violence who apply for or receive TANF or GA cash assistance. The Department will use the policies in this chapter to help identify victims of domestic violence; refer victims to counseling, shelter, or other appropriate services; and waive certain TANF or GA program requirements when appropriate.

§§108.3 – 108.5 (relating to universal notification, written notification, and individual notification).

The Department describes universal notification policies relating to domestic violence, referral to domestic violence services, confidentiality protections and waivers of TANF or GA program requirements.

The Department describes the requirements for providing written and oral notification to applicants and recipients.

§§108.7 and 108.8. (relating to requirements subject to waiver based on domestic violence; and claiming good cause based on domestic violence).

The Department describes standards for waivers of support cooperation, work requirements, time limits, minor parent live-at-home rules, verification and other TANF or GA program requirements, based on domestic violence.

§108. 9. (relating to time limits).

The Department currently provides up to 12 months of cash assistance benefits that do not count towards the 60-month TANF time limit to victims of domestic violence. In 2002, the Department codified regulations governing these benefits in Chapter 281 (relating to time-out benefits) which sunset effective July 1, 2004. This rulemaking

proposes to codify the time-out provisions of obsolete Chapter 281 that relate to victims of domestic violence under Chapter 108.

The Department also provides Extended TANF benefits to victims of domestic violence who are otherwise eligible as provided in § 141.53 (relating to eligibility based on domestic violence). This proposed rulemaking codifies under Chapter 108 that victims of domestic violence may receive Extended TANF and cross references § 141.53.

§108.10. (relating to verification).

The Department explains the verification form to be completed by an individual who wishes to establish good cause for a waiver of TANF or GA program requirements based on domestic violence.

§§ 108.11 and 108.12. (relating to timeframes for good cause waiver determinations based on domestic violence and notice of good cause waiver determinations based on domestic violence).

The Department describes policies relating to the timeframes within which it will determine an individual's eligibility for a domestic violence waiver(s) and policies relating to written notice of its determination.

§§108.14-108.16 (relating to safeguarding information, alternate address, and DRS responsibility for the FVI).

The Department describes policies relating to safeguarding information about victims of domestic violence. The Department explains that a victim of domestic violence may use an alternate address for receipt of mail. The Department also explains how confidential information is safeguarded by requiring the DRS to place a Family Violence Indicator (FVI) on Department files.

§108.17. (relating to Agreement of Mutual Responsibility (AMR)).

The Department describes the policy for completing an AMR for an individual who has disclosed domestic violence.

§§ 187.22 and 187.27 (relating to definitions and waiver of cooperation for good cause)

The Department proposes to delete regulations relating to domestic violence from this chapter and add cross references to Chapter 108. The Department also proposes minor technical revisions to this chapter. For example, the acronym "CAO" is replaced with the term "Department".

*Affected Individuals and Organizations*

This proposed rulemaking affects applicants and recipients who are victims of domestic violence. This proposed rulemaking also affects community referral agencies such as counseling, shelter, and other domestic violence service providers.

*Accomplishments and Benefits*

This proposed rulemaking will benefit TANF and GA applicants and recipients who are victims, have been victims, or are at risk of further victimization due to domestic violence.

Individuals who disclose domestic violence will be referred for appropriate voluntary counseling and supportive services. Those individuals who request and receive a waiver of TANF or GA program requirements will be temporarily excused from those requirements when compliance could jeopardize their safety, make it more difficult for them to escape domestic violence or place them at risk of further violence. Individuals who receive waivers of the 60-month time limit on receipt of TANF benefits will have more time to avail themselves of programs and supportive services that are designed to move them toward self-sufficiency.

Approximately 3,500 individuals currently receiving cash assistance have good cause waivers for child support or work requirements.

According to a study by Richard Tolman and Jody Raphael in "A Review of the Research on Welfare and Domestic Violence." Journal of Social Issue and Sharmila Lawrence's issue brief titled Domestic Violence and Welfare Policy: Research Findings That Can Inform Policies on Marriage and Child Well-Being from the Research Forum on Children, Families, and the New Federalism. National Center for Children in Poverty, approximately 25 percent of current welfare recipients have a history of domestic violence. With the current TANF population, this regulation could benefit approximately 30,000 individuals and families.

#### *Fiscal Impact*

There are no costs or savings associated with this proposed regulation.

#### *Paperwork Requirements*

A new written consent form is needed to allow the Department to release information to a third party about the applicant or recipient that is not subject to disclosure as provided under proposed § 108.14 (relating to safeguarding information). Completion of this form should not have a significant impact on CAO workload as it will be used under limited circumstances.

*Effective Date*

This proposed rulemaking is effective upon final publication in the Pennsylvania Bulletin.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Edward J. Zogby, Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg, Pennsylvania 17120, (717) 787-4081, within 30 calendar days after the date of publication of this proposed rulemaking in the Pennsylvania Bulletin.

Reference Regulation No. 14-513 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

*Regulatory Review Act*

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on AUG 05 2008 the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of

the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if the IRRC has any comments, recommendations or objections to any portion of the proposed rulemaking, it may notify the Department and the Committees within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed policies for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.

ANNEX A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart A. ASSISTANCE POLICIES AND PROCEDURES

CHAPTER 108. FAMILY VIOLENCE AND TANF AND GA

GENERAL PROVISIONS

§108.1. Purpose.

This chapter establishes rules and policies that apply to victims of domestic violence who are applicants for or recipients of Temporary Assistance for Needy Families (TANF) or General Assistance (GA) cash assistance. These policies reflect the Department of Public Welfare's (Department) commitment to address domestic violence among welfare recipients and are based on the Department's election of the Family Violence Option (FVO), authorized under Federal law.

§108.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

DRS – Domestic Relations Section – The section of a Court of Common Pleas responsible for establishing and enforcing support orders.

Domestic Violence – One or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats or attempts of physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

FVI – Family Violence Indicator – A marker placed on Department and DRS records to indicate one or more individuals in the file are victims of domestic violence.