

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.state.ut.us/>

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SPECIAL NOTICES

EXECUTIVE ORDER

Whereas, the danger from wildland fires is extremely high throughout the State of Utah; and

Whereas, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment; and

Whereas, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended; and

Whereas, immediate action is required to suppress the fires to protect public safety, property, natural resources and the environment; and

Whereas, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981; and

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the power vested in me by the constitution and the laws of the State of Utah;

Do Hereby Order That: It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of July 30, 2000, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

In Testimony, Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 30th day of July, 2000.

(State Seal)

Michael O. Leavitt
Governor

Attest:

Olene S. Walker
Lieutenant Governor

PROCLAMATION

WHEREAS, since the close of the 2000 General Session of the 53rd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

SPECIAL NOTICES

NOW, THEREFORE, I, MICHAEL O. LEAVITT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 53rd Legislature of the State of Utah into a Twelfth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 16th day of August, 2000, at 12:00 noon, for the following purpose:

For the Senate to advise and consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2000 General Session of the 53rd Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 1st day of August, 2000.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, LIBRARY**

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 00-13, dated June 23, 2000 (<http://www.state.lib.ut.us/00-13.html>); List No. 00-14, dated July 11, 2000 (<http://www.state.lib.ut.us/00-14.html>); and List No. 00-15, dated July 21, 2000 (<http://www.state.lib.ut.us/00-15.html>). For copies of the complete lists, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view them on the World Wide Web at the addresses above.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 15, 2000, 12:00 a.m., and August 1, 2000, 11:59 p.m., are included in this, the August 15, 2000, issue of the *Utah State Bulletin*.

In this publication, each PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least September 14, 2000. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through December 13, 2000, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Alcoholic Beverage Control,
Administration
R81-1-3
General Policies

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 23038
FILED: 07/31/2000, 10:30
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The department is presently being charged \$20 for collection of checks returned for insufficient funds, refer to maker, and account closed. This rule amendment reflects that increase.

SUMMARY OF THE RULE OR CHANGE: In Subsection R81-1-3(7) (Returned Checks), the department will assess a \$20 fee to a customer or licensee whose check is returned for nonpayment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--the fees are paid to the collection agency.
- ❖LOCAL GOVERNMENTS: None--local governments are not involved in the Department of Alcoholic Beverage Control (DABC) check collection process.
- ❖OTHER PERSONS: Liquor store customers or DABC licensees whose checks are returned for nonpayment are the only persons affected by the increased check collection charge.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DABC customers and licensees whose checks are returned for nonpayment will pay an additional \$5 collection fee. The present fee of \$15 is being increased to \$20 for each returned check.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on business. The majority of returned checks are from individuals, not businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Alcoholic Beverage Control
Administration
1625 South 900 West
PO Box 30408
Salt Lake City, UT 84130-0408, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clara Fritz or Earl Dorius at the above address, by phone at (801) 977-6800, by FAX at (801) 977-6889, or by Internet E-mail at abcmain.cfriz@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope of Definitions, and General Provisions.

R81-1-3. General Policies.

(1) Administrative Policy.

The administration of the department shall be nonpartisan and free of partisan political influence, and operated as a public business using sound management principles and practices. The commission and department shall regulate the sale of alcoholic beverages in a manner and at prices which reasonably satisfy the public demand and protect the public interest including the rights of citizens who do not wish to be involved with alcoholic products.

(2) Official State Label.

Pursuant to Section 32A-1-109(6)(m), the department shall affix an official state label to every container of liquor over 187 ml sold in the state, and to every box containing containers of liquor under 187 ml in size. Removal of the label is prohibited.

(3) Labeling.

No licensee or permittee shall sell or deliver any alcoholic beverage in containers not marked, branded or labeled in conformity with regulations enacted by the agencies of the United States government pertaining to labeling and advertising.

(4) Manner of Paying Fees.

Payment of all fees for licenses or permits, or renewals thereof, shall be made in legal tender of the United States of America, certified check, bank draft, cashier's check, United States post office money order, or personal check.

(5) Copy of Commission Rules.

Copies of the commission rules shall be available at the department's office, 1625 South 900 West, P. O. Box 30408, Salt Lake City, Utah 84130-0408 for an administrative cost of \$20 per copy.

(6) Interest Assessment on Delinquent Accounts.

The department may assess the legal rate of interest provided in Section 15-1-1 for any debt or obligation owed to the department by a licensee, permittee or package agent.

(7) Returned Checks.

The department will assess a [~~fifteen dollar~~]\$20 charge for any check payable to the department returned for the following reasons:

- (a) Insufficient Funds;
- (b) Refer to Maker; and
- (c) Account Closed.

Receipt of a check payable to the department which is returned by the bank for any of these reasons may result in the immediate suspension of the license, permit, or operation of the package agency of the person tendering the check until legal tender of the United States of America, certified check, bank draft, cashier's check, or United States post office money order is received at the department offices, 1625 South 900 West, Salt Lake City, Utah, plus the [fifteen dollars]\$20 returned check charge. Failure to make good the returned check and pay the [fifteen dollar]\$20 returned check charge within thirty days after the license, permit, or operation of the package agency is suspended, is grounds for revocation of the license or permit, or termination of the package agency contract, and the forfeiture of the licensee's, permittee's, or package agent's bond.

(8) Disposition of unsaleable merchandise.

The department, after determining that certain alcoholic products are distressed or unsaleable, but consumable, may make those alcoholic products available to the Utah Department of Public Safety for education or training purposes.

All merchandise made available to the Utah Department of Public Safety must be accounted for as directed by the Department of Alcoholic Beverage Control.

KEY: alcoholic beverages

[July 3,]2000

Notice of Continuation January 10, 1997

32A-1-107

- 32A-1-119(5)(c)**
- 32A-3-103(1)(a)**
- 32A-4-103(1)(a)**
- 32A-4-203(1)(a)**
- 32A-5-103(3)(c)**
- 32A-6-103(2)(a)**
- 32A-7-103(2)(a)**
- 32A-8-103(1)(a)**
- 32A-9-103(1)(a)**
- 32A-10-203(1)(a)**
- 32A-11-103(1)(a)**

resorts, and wineries; 4) modify the sales hours; 5) eliminate minimum square footage and minimum inventory requirements for package agencies in hotels and resorts; 6) eliminate dock delivery requirements; and 7) preclude winery package agencies from carrying products other than those produced at the winery.

SUMMARY OF THE RULE OR CHANGE: 1) Allow package agencies to accept photo military identification cards and valid passport forms of identification; 2) eliminate an old effective date on nonconsignment inventory; 3) allow package agencies in hotels, resorts and wineries to (a) serve populations less than 6,000 people; (b) be located within a mile radius of each other; and c) not have to maintain large gross profits to the state; (4) set acceptable liquor sales hours for the different types of package agencies, and give the package agent more flexibility in setting those hours to met the needs of his customers; 5) eliminate the requirement that package agencies in hotels, resorts, and wineries (a) be at least 100 square feet, (b) maintain at least 50 code numbers of inventory, and (c) have good dock delivery access; 6) restrict winery package agencies to carrying only those wine products produced at the winery (to avoid competing with state liquor stores and other package agencies).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107 and 32A-3-106

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--first, although the rule eliminates the need for a package agency in a hotel, resort, or winery to maintain a gross profit to the State of \$12,000 annually, the State in practice has not required this profit margin in these kinds of package agencies. Many of them cannot reach such a profit margin because they are very small operations that exist primarily to provide limited liquor service to hotel guests and those touring local wineries. Thus, we anticipate no real reduction in gross profits to the State. Second, although the rule modifies the acceptable range of sales hours for most package agencies, we do not anticipate that the actual hours of sales in these agencies will increase. Current rule mandates that type 1, 2, and 3 agencies be open at least 7 hours a day, 5 days a week. However, most agencies are open 8 hours per day (11:00 a.m. to 7:00 p.m.). The amended rule merely gives the package agent some flexibility to chose the hours within the acceptable range or window that will best serve customers. It is doubtful any of these agencies will expand their overall sales hours. The rule also sets specific hours for type 4 agencies that exist to provide room service to hotel guests (10:00 a.m. to 1:00 a.m.). Preliminary indications are that these are the usual sales hours utilized by hotels for room service, so there should not be a decline in revenue from sales at these locations. Third, eliminating minimum square footage and inventory size of agencies in hotels, resorts, and wineries should not have any fiscal impact to the state. These are small operations designed to provide very limited liquor service to their guests. Finally, prohibiting a package agency in a winery from carrying products other than those produced at the winery should have no fiscal impact on the state. Local



**Alcoholic Beverage Control,
Administration**

R81-3

Package Agencies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23040

FILED: 08/01/2000, 10:50

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: 1) To allow for additional forms of identification when purchasing alcoholic beverages; 2) eliminate an old effective date for the nonconsignment inventory rule; 3) eliminate certain evaluation guidelines for locating package agencies in hotels,

wineries are in the business to sell their own products, not those of competitors. The rule eliminates the possibility of a winery trying to expand its operation to compete with our state liquor stores and regular package agencies.

❖LOCAL GOVERNMENTS: None--see explanation given under "state budget."

❖OTHER PERSONS: None--see explanation given under "state budget."

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this rule should not increase the number of compliance checks conducted by the Department of Alcoholic Beverage Control, or by any state or local law enforcement agencies. Nor should it increase costs to any package agency operator. It may decrease costs for package agencies located in hotels and resorts by eliminating minimum square footage, delivery access, minimum inventory, and minimum profit margin requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a fiscal impact on businesses. Costs for some package agencies could decrease by eliminating the minimum size of the outlet, minimum inventory carried, dock delivery access, and minimum profit margin requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Alcoholic Beverage Control Administration
1625 South 900 West
PO Box 30408
Salt Lake City, UT 84130-0408, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Clara Fritz or Earl Dorius at the above address, by phone at (801) 977-6800, by FAX at (801) 977-6889, or by Internet E-mail at abcmain.cfriz@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-3. Package Agencies.

.....

R81-3-8. Identification Guidelines to Purchase Liquor.

All package agencies shall accept only ~~two~~four forms of identification for the purchase of liquor by customers of questionable age: (1) a valid driver's license with a picture affixed; ~~or~~(2) an official State identification card with a picture affixed as provided in Sections 32A-1-301 to 32A-1-305, (3) a military

identification card if it includes date of birth and has a picture affixed; or (4) a valid passport.

.....

R81-3-10. Non-Consignment Inventory.

~~[Effective July 1, 1986, at]~~Type 1 package agencies shall be on a non-consignment inventory status where the agency owns the inventory.

R81-3-11. Application.

An application for a package agency shall be included in the agenda of the monthly commission meeting for consideration for issuance of a package agency contract when the requirements of Sections 32A-3-102, -103, and -105 have been met, a completed application has been received by the department, and when the package agency premises have been inspected by the department. No application fee is required for ~~[F]~~type 2 and 3 package agency applicants.

R81-3-12. Evaluation Guidelines of Package Agencies.

Type ~~[1, 2,]~~2 and 3 package agencies shall:

- (1) serve a population of at least 6,000 people comprised of both permanent residents and tourists;
- (2) not be established or maintained within a one mile radius of another type 2 or 3 package agency unless it can be clearly demonstrated that it is in the best interest of the state to establish and maintain the outlet at that location; and
- (3) maintain a gross profit to the state of \$12,000 annually to assure adequate service to the public.

R81-3-13. Operational Restrictions.

(1) Hours of Operation.~~[Type 1, 2, and 3 package agencies must be open for business at least seven hours a day, five days a week, except where closure is otherwise required.]~~

(a) Type 1, 2, and 5 package agencies may operate from 10:00 a.m. until 12:00 midnight, Monday through Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department. Type 2 agencies shall be open for business at least seven hours a day, five days a week, except where closure is otherwise required by law.

(b) Type 3 package agencies may operate from 10:00 a.m. until 10:00 p.m., Monday through Saturday, but may remain closed on Mondays in the discretion of the package agent. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department, provided the agency operates at least seven hours a day.

(c) Type 4 package agencies may operate from 10:00 a.m. until 1:00 a.m., Monday through Friday, and 10:00 a.m. until 12:00 midnight on Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the department.

(d) Any change in the hours of operation of any package agency requires prior department approval, and shall be submitted in writing by the package agent to the department.

(e) A package agency, regardless of type, shall not operate on Sundays, legal holidays, and election days where the sale of alcoholic beverages is prohibited by law until the polls have closed.

If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday.

(2) Size of Outlet. The retail selling space devoted to liquor sales in a type [1, 2,]2 or 3 package agency must be at least one hundred square feet [of floor space].

(3) Inventory Size. Type [1, 2,]2 and 3 package agencies must maintain at least fifty code numbers of inventory at a retail value of at least five thousand dollars and must maintain a representative inventory by brand, code, and size.

(4) Access to General Public. Type 1, 2, and 3 package agencies must be easily accessible to the general consuming public.

(5) [Delivery Access. The package agency must have good dock delivery access as determined by the department warehouse manager or be willing to pick up product from the department warehouse.

—(6)—Purchase of Inventory. All new package agencies, at the discretion of the department, will purchase and maintain their inventory of liquor.

R81-3-14. Type 5 Package Agencies.

A type 5 package agency is for the limited purpose of allowing a winery to sell at its winery location the wine product it actually produces. It [is not required to] may not carry the products of other alcoholic beverage manufacturers. The product produced by the winery and sold in the type 5 package agency need not be shipped from the winery to the department warehouse and then back to the package agency. However, the department shall establish, by written policy, any requirements for inventory and sales accounting, record-keeping, state labeling, payment of taxes and mark-up, etc. of the product.

KEY: alcoholic beverages

~~[1994]2000~~

32A-1-107

Notice of Continuation January 10, 1997



Commerce, Occupational and Professional Licensing
R156-55d
Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23032

FILED: 07/27/2000, 08:21

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of a public hearing and further division review, amendments are being proposed.

SUMMARY OF THE RULE OR CHANGE: 1) Section R156-55d-306: amendment deletes language which conflicted with Title 58,

Chapter 55, concerning requirements for the replacement of a qualifying agent; 2) Section R156-55d-502: added a false alarm rate requirement to the unprofessional conduct section; and 3) Section R156-55d-603: one amendment allows new licensees to work under the direct supervision of an alarm agent who has a level one certification for a period of six months from the time of initial licensure without being required to hold a level one certificate. Additional amendment allows current alarm agents holding licensure under Title 58, Chapter 55, to have until January 1, 2001, to comply with the National Burglar and Fire Alarm Association (NBFAA) level one certification or equivalent training requirement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-55-101 and 58-55-308; and Subsections 58-1-106(1), 58-1-202(1), 58-55-302(3)(h), 58-55-302(3)(i), and 58-55-302(4)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The division will incur minimal costs to reprint the rule once these amendments become effective. Any costs incurred will be absorbed in the division's current budget.

❖LOCAL GOVERNMENTS: There is no fiscal impact on the local government budget; however, this proposal will in fact help to resolve local government problems with alarm companies whose alarm systems are impacting the local government.

❖OTHER PERSONS: Proposed amendments clarify, for alarm business and companies, the expectations concerning a change of qualifying agent, false alarms, and allow the companies time to ensure their alarm installers are properly trained. There will be a training cost of \$225 or less per alarm installer to those companies who have alarm installers that are untrained and now must meet the training requirement. The division is unable to determine how many untrained alarm installers exist. The proposed amendments should help the general public to avoid fines that might be levied by local governments due to excessive false alarms created by improperly installed alarm systems.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a training cost of \$225 or less per alarm installer to those alarm companies who have alarm installers that are untrained and now must meet the training requirement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT

THE RULE MAY HAVE ON BUSINESSES: The primary purpose for which this rule amendment is proposed is to delete language in conflict with the provisions of the law, provide a window to permit licensees to meet the training requirements of the rules, and to make it unprofessional conduct for an alarm company to produce a disproportionate number of false alarms. There will be no impact upon the state budget. Local governments will hopefully seek a reduction in false alarms as a result of excessive false alarms being considered unprofessional conduct, and a resulting decrease in the cost of responding to such alarms. The general public, whether utilizing the services of an alarm company or not, should benefit from a reduction in the amount of false alarms, either through not being fined or through a better use of tax dollars than responding to false alarms. The cost to the

regulated entities will be approximately \$225 per trainee for the proper training of alarm installment employees--Douglas C. Borba

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Clyde Ormond at the above address, by phone at (801) 530-6254, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cormond@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 08/23/2000, 9:00 a.m., 160 East 300 South, Conference Room 4B, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: A. Gary Bowen, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-55d. Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules.**

R156-55d-306. Change of Qualifying Agent.

[Within 15 days, or some extended period granted in writing by the Division, after a qualifying agent for an alarm company ceases employment with the alarm company, or for any other reason is not qualified to act as the alarm company qualifier, the alarm company]In accordance with Subsection 58-55-304(6), an alarm company whose qualifier has ceased association or employment shall file with the Division an application for change of qualifier on forms provided by the Division accompanied by a record of criminal history or certification of no record of criminal history, fee, fingerprint cards, and copy of an identification as required under Subsection R156-55d-302a(1).

R156-55d-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) failing as an alarm company to notify the Division of the cessation of performance of its qualifying agent or failing to replace its qualifying agent as required under Section R156-55d-306;
- (2) failing as an alarm company agent to carry or display a copy of the licensee's license as required under Section R156-55d-601;
- (3) failing as an alarm agent to carry or display a copy of his National Burglar and Fire Alarm Association (NBFAA) level one certification or equivalent training as required under Section R156-55d-603;

(4) employing as an alarm company a qualifying agent or alarm company agent knowing that individual has engaged in conduct inconsistent with the duties and responsibilities of an alarm company agent.

(5) failing to comply with operating standards established by rule;

(6) a judgment on, or a judicial or prosecutorial agreement concerning a felony, or a misdemeanor involving moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere by an individual, or a settlement or agreement whereby an individual has entered into participation as a first offender, or an action of deferred adjudication, or other program or arrangement where judgment or conviction is withheld;[~~and~~]

(7) making false, misleading, deceptive, fraudulent, or exaggerated claims with respect to the need for an alarm system, the benefits of the alarm system, the installation of the alarm system or the response to the alarm system by law enforcement agencies; and

(8) an alarm business or company having a residential or commercial false alarm rate 100% above the average of the residential or commercial false alarm rate of the municipality or county jurisdiction in which the alarm business or company's alarm systems are located.

R156-55d-603. Operating Standards - Alarm Installer.

In accordance with Subsection 58-55-308(1), the operating standards for the installer of an alarm system include the following:

(1) An alarm agent must be fully trained in the installation of an alarm system in accordance with the National Burglar and Fire Alarm Association (NBFAA) level one certification or equivalent training requirements prior to the alarm agent installing any alarm system in any residence, business, or public building within the state.

(2) An alarm agent upon receiving initial licensure may work under the direct supervision of an alarm agent who has level one certification for a period of six months from the time of initial licensure without being required to hold a level one certificate.

~~(2)3~~ (3) An alarm agent shall carry evidence of the NBFAA level one certification or equivalent training with him at all times.

(4) An alarm agent holding licensure under Title 58, Chapter 55 shall have until January 1, 2001 to comply with the NBFAA level one certification or equivalent training requirement.

**KEY: licensing, alarm company*, burglar alarms*
[July 18,]2000**

- 58-55-101
- 58-1-106(1)
- 58-1-202(1)
- 58-55-302(3)(h)
- 58-55-302(3)(i)
- 58-55-302(4)
- 58-55-308



Commerce, Occupational and
Professional Licensing
R156-59
Professional Employer Organization
Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23028

FILED: 07/20/2000, 16:23

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After recently amending R156-59 which became effective on April 17, 2000, the division received new information that specific parts of the new sections would have an adverse impact in the industry, in that one or more PEOs may not be able to meet the renewal requirements for licensure. Because of the potential adverse impact on the industry, and upon recommendation of the Attorney General's Office, it was decided to delete Section R156-59-303 and Subsection R156-59-306(2), and to amend Subsection R156-59-306(3) to delay implementation of that section.

(DAR Note: The previous amendment to R156-59 was published under DAR No. 22677 in the March 15, 2000, issue of the *Utah State Bulletin*, and is effective as of April 17, 2000.)

SUMMARY OF THE RULE OR CHANGE: Section R156-59-303 and Subsection R156-59-306(2): These two sections are being deleted because there are existing Professional Employer Organizations (PEOs) that may not be able to meet the renewal requirements. Specifically, one or more PEOs may not have a minimum net worth of \$50,000 or 5% of total adjusted liabilities in order to renew their license. Subsection R156-59-306(3): It was further recommended by the Attorney General's Office to amend this section to delay implementation for approximately one year. This delay would allow sufficient time for PEOs to make any necessary internal adjustments needed in order to comply with the requirement of this new section. Specifically, the PEOs would have another year before being required to have a third party administrator certify that the PEO is in compliance with Subsections 58-59-302(7)(b) and 58-59-302(7)(d) and to have an actuary certify that the PEO is in compliance with Subsection 58-59-302(7)(a).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-59-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There is a potential lawsuit pending as a result of the current rule. By making these amendments, the lawsuit will not be filed. The potential savings to the Attorney General's Office could be thousands of dollars in not having to defend against a potential lawsuit. The division will

incur minimal costs to reprint the rule once these amendments are made effective. Any costs incurred will be absorbed in the division's current budget.

❖**LOCAL GOVERNMENTS:** Rule does not apply to local governments; therefore, no cost or savings.

❖**OTHER PERSONS:** There will be the cost savings to each licensed PEO who is self-funded in that each of these PEOs will not have to pay for a third party administrator and actuary to certify that the self-funded program complies with the licensing act for one more year. It is estimated that there are less than ten PEOs that have a self-funded program. The estimated cost for each PEO to have their self-funded program certified is about \$5,000, for a total cost savings of \$50,000 for the next year. By not requiring each PEO to have a minimum net worth of \$50,000 or 5% of total adjusted liabilities in order to renew their license, it will permit those affected PEOs to remain in business. It is estimated that there is at least one PEO and as many as three PEOs who may have been affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be the cost savings to each licensed PEO who is self-funded in that each of these PEOs will not have to pay for a third party administrator and actuary to certify that the self-funded program complies with the licensing act for one more year. It is estimated that there are less than ten PEOs that have a self-funded program. The estimated cost for each PEO to have their self-funded program certified is about \$5,000, for a total cost savings of \$50,000 for the next year. By not requiring each PEO to have a minimum net worth of \$50,000 or 5% of total adjusted liabilities in order to renew their license, it will permit those affected PEOs to remain in business. It is estimated that there is at least one PEO and as many as three PEOs who may have been affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The primary purpose for which this rule amendment is proposed is to effectuate a recommendation by the Attorney General to delete certain provisions anticipated by the attorney general to trigger threatened legal proceedings. Specifically, the amendments will give the division time to determine whether the intent of the rule would be better addressed by an amendment to the statute, as well as delaying the implementation for a year to provide sufficient time for the regulated industry to make necessary adjustments to be in a position to comply with the requirements. The impact upon the state budget would be to prevent a threatened legal action which would consume thousands of dollars in legal resources. There will be no impact upon local governments or entities other than the affected industry. Within the regulated industry, there are at most ten PEOs which are currently self-funded. The cost of compliance with the renewal requirements would be an estimated \$5,000 per PEO, resulting in an aggregate savings of approximately \$50,000 by delaying implementation for a year--Douglas C. Borba

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building

160 East 300 South
 PO Box 146741
 Salt Lake City UT 84114-6741, or
 at the Division of Administrative Rules.

Commerce, Occupational and
 Professional Licensing
R156-67
 Utah Medical Practice Act Rules

DIRECT QUESTIONS REGARDING THIS RULE TO:
 David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23026
 FILED: 07/17/2000, 15:22
 RECEIVED BY: NL

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

RULE ANALYSIS

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: A. Gary Bowen, Director

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division needed to make amendments to the rule to bring it into compliance with statutory changes made to the endorsement section during the 1999 legislative session (S.B. 202). Also requires all applicants for licensure as a physician/surgeon to go through the Federation Credentials Verification Service, which includes the National Practitioner Data Bank Report. The division has access to complete an AMA profile so the applicant does not need to supply the profile with the application. The division needed to specify under what circumstances the division and Board will require an individual to take the SPEX examination.
(DAR Note: S.B. 202 is found at 1999 Utah Laws 327, and was effective May 3, 1999.)

**R156. Commerce, Occupational and Professional Licensing.
 R156-59. Professional Employer Organization Act Rules.**

~~**R156-59-303. Renewal Requirements.**~~

~~In addition to the renewal requirements set forth in Section 58-59-303, and in accordance with Subsection 58-1-308(3), the renewal requirements for licensure include maintaining the qualifications for licensure set forth in Subsections 58-59-302(3), (4), (5), (6), (7), (8) and (10).]~~

R156-59-306. Financial Responsibility.

(1) In accordance with Subsection 58-59-306(2)(a), the quarterly reports prepared by an independent CPA shall be submitted in accordance with the following schedule:

- (a) March 31 for the quarter ending December 31;
- (b) June 30 for the quarter ending March 31;
- (c) September 30 for the quarter ending June 30; and
- (d) December 31 for the quarter ending September 30.

~~(2) [In accordance with Subsection 58-59-306(2)(b)(ii), the annual audited financial statement prepared by an independent certified public accountant shall provide evidence that the PEO has a minimum adjusted net worth of \$50,000 or 5% of total adjusted liabilities, whichever is greater.~~

~~(3) In]Beginning September 30, 2001, in accordance with Subsection 58-59-306(2)(b)(ii), if the PEO is self-funded or partially self-funded:~~

- (a) a third party administrator shall certify annually that the PEO is in compliance with Subsection 58-59-302(7)(b) and (d); and
- (b) a qualified actuary who is a member in good standing of the American Academy of Actuaries shall submit annually a statement of actuarial opinion certifying that the PEO is in compliance with the requirements set forth in Subsection 58-59-302(7)(a).

SUMMARY OF THE RULE OR CHANGE: In Section R156-67-102, deleted definitions for "ABMS" (American Board of Medical Specialties) and "NPDB" (National Practitioner Data Bank) as they are no longer needed. In Section R156-67-302a, clarified that all applicants must submit a Federation Credentials Verification Service (FCVS) form for licensure. Deleted the need for an applicant to submit an American Medical Association (AMA) profile and National Practitioner Data Bank Action Report. In Section R156-67-302d, added criteria for requiring the Special Purpose Examination of the Federation of State Medical Boards (SPEX) for certain applicants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-67-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Minimal costs will be incurred by the division to reprint the rules once they become effective. Any costs involved will be absorbed in the division's current budget. There may be costs as identified below to state budgets if an agency hires and pays for the Utah licensing fees of physician/surgeon employees.
- ❖LOCAL GOVERNMENTS: Rules do not apply to local governments unless such local government pays for licensing fees of physicians/surgeons employed by the local government.

KEY: licensing, professional employer organization*
~~[July 10,]2000~~ **58-1-106(1)**
 Notice of Continuation January 27, 1998 **58-1-202(1)**
58-59-101

❖OTHER PERSONS: Applicants for licensure as a physician/surgeon will have to pay the cost of the FCVS form which is currently \$350. The division expects to receive approximately 50 to 75 applications in a year that would be affected by this new requirement for a total cost of \$17,500 - \$26,250. As a result of the FCVS form, an applicant will not have to gather the documents which are included in the form individually which may result in minimal savings of time and money. Applicants for licensure by endorsement who are required by the division and the Physicians Licensing Board to take the SPEX examination will incur a testing fee of \$625. The division is unable to estimate how many applicants for licensure by endorsement will be required to take the SPEX examination.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants for licensure as a physician/surgeon will have to pay the cost of the FCVS form which is currently \$350. Applicants for licensure by endorsement who are required by the Division and Physicians Licensing Board to take the SPEX examination will incur a testing fee of \$625.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of these proposed amendments is to bring the rules into harmony with the changes made to the licensing act since the current rules were adopted. The proposed rules eliminate definitions superseded by the statutory changes and clarify the reasons an applicant may be required to take the SPEX examination to exhibit current competency. The proposed changes also include a provision that all candidates for licensure must submit a Federation Credentials Verification Service form with their applications. Previously, Utah graduates were not required to meet this requirement placed on nonresidents, resulting in unequal treatment. It is anticipated that there will be no fiscal impact upon the state budget or local governments unless they hire and pay for the Utah licensing of physician employees. Utah receives approximately 75 to 100 applications annually for licensure to act as physicians/surgeons, approximately 50 to 75 of whom are graduates of the University of Utah Medical School. These candidates will be impacted with a cost of \$350, resulting in a total impact of \$17,500 to \$26,250 yearly to license candidates. These fees are paid to the verification service and do not represent income to the licensing agency. The cost of the SPEX examination, which may be required of physicians with suspect credentials, will be \$625 per examination. It is impossible to estimate how many applicants for licensure by endorsement might be affected in this manner since the pool of applicants possessing credentials considered suspect as delineated in the proposed rule are very few--Douglas C. Borba

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741

Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Lee Duke at the above address, by phone at (801) 530-6179, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.lduke@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/13/2000, 10:00 a.m., 160 East 300 South, Conference Room 428, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: A. Gary Bowen, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-67. Utah Medical Practice Act Rules.**

R156-67-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 67, as used in Title 58, Chapters 1 and 67 or these rules:

(1) [~~"ABMS" means American Board of Medical Specialties.~~
(2)] "ACCME" means the Accreditation Council for Continuing Medical Education.

(~~3~~) "Alternate medical practices" as used in Section R156-67-603, means treatment or therapy which is determined in an adjudicative proceeding conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act, to be:

(a) not generally recognized as standard in the practice of medicine;

(b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety, or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and

(c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.

(~~4~~) "AMA" means the American Medical Association.

(~~5~~) "FLEX" means the Federation of State Medical Boards Licensing Examination.

(~~6~~) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

(~~7~~) "FSMB" means the Federation of State Medical Boards.

(~~8~~) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by the federal Food, Drug and Cosmetic Act, Public Law 717.21 U.S. Code Sec. 331 et seq., as well as the state of Utah's food and drug laws and Controlled Substances Act.

(~~9~~) "LMCC" means the Licentiate of the Medical Council of Canada.

~~(10)~~ "NBME" means the National Board of Medical Examiners.]

~~(11) "NPDB" means the National Practitioner Data Bank.]~~

~~(12)~~ "Unprofessional conduct" as defined in Title 58, Chapters 1 and 67 is further defined in accordance with Subsection 58-1-203(5), in Section R156-67-502.

~~(13)~~ "USMLE" means the United States Medical Licensing Examination.

R156-67-302a. Qualifications for Licensure - [Application Requirements]Practitioner Data Banks.

~~(1)~~ In accordance with Subsections 58-67-302(1)(a)(i) and 58-1-401(2), applicants applying for licensure under Subsections 58-67-302(1) and (2) shall submit the [submissions by the applicant of information maintained by practitioner data banks for those seeking licensure under Subsections 58-67-302(1)(f)(i) and 58-67-302(2) or (3) shall include the following:

- ~~(a)~~ American Medical Association Profile;
- ~~(b)~~ Federation Credentials Verification Service (FCVS) form; and

~~(c)~~ National Practitioner Data Bank Report of Action.

~~(2)~~ In accordance with Subsections 58-67-302(1)(a)(i), submissions by the applicant of information maintained by practitioner data banks for those seeking licensure under Subsection 58-67-302(1)(f)(ii) shall include the following:

- ~~(a)~~ American Medical Association Profile; and
- ~~(b)~~ Federation of State Medical Boards Disciplinary Inquiry form.]

R156-67-302d. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-67-302(1)(g), the required licensing examination sequence is the following:

- (a) the FLEX components I and II on which the applicant shall have achieved a score of not less than 75 on each component part; or
- (b) the NBME examination parts I, II, and III on which the applicant shall achieve a passing score of not less than 75 on each part; or
- (c) the USMLE, steps 1, 2 and 3 on which the applicant shall achieve a score of not less than 75 on each step; or
- (d) the LMCC examination, Parts 1 and 2; or
- (e) the NBME part I or the USMLE step 1 and the NBME part II or the USMLE step 2 and the NBME part II or the USMLE step 3; or
- (f) the FLEX component 1 and the USMLE step 3; or
- (g) the NBME part I or the USMLE step 1 and the NBME part II or the USMLE step 2 and the FLEX component 2.

~~(h)~~ In addition all applicants who are foreign medical graduates shall pass the FMGEMS unless they pass the USMLE steps 1 and 2.

~~(2)~~ In accordance with Subsection 58-67-302(2)(c), the passing score on the SPEX examination is at least a score of 75.

~~(3)~~ In accordance with Subsection 58-67-302(2)(c), the medical specialty certification shall be in a ABMS member specialty board. (2) In accordance with Subsection 58-67-302(2)(d), an applicant under the following circumstances may be required to take the SPEX examination to document his qualification for licensure:

- (a) has not practiced in the past three years;
 - (b) has had disciplinary action in the past;
 - (c) has a physical or mental impairment which may affect his ability to safely practice; or
 - (d) has had a history of substance abuse.
- (3) In accordance with Subsection (2) above, the passing score on the SPEX examination is 75.

KEY: physicians, licensing
[June 4, 1998]2000

58-67-101
58-1-106(1)
58-1-202(1)



Crime Victim Reparations,
Administration
R270-1
Award and Reparation Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23041
FILED: 08/01/2000, 14:03
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Proposed changes were authorized by the CVR Board to implement award limits for medication management and sexual assault forensics examinations as well as clean up rule text to comply with recent statutory changes.

SUMMARY OF THE RULE OR CHANGE: 1) Sets maximum medication management rate at \$62.50 per 30-minute session; 2) the cost of sexual assault forensics examination shall be limited to \$300 per examination. In addition to the payment for the sexual assault examination, Crime Victims Reparations (CVR) may also pay for the cost of medication and up to 85% of the hospital expenses; and 3) deletes Section R270-1-11 to comply with recent statutory changes (H.B. 331) to Subsection 63-25a-402(37)(a). (DAR Note: H.B. 331 is found at 2000 Utah Laws 235, and was effective May 1, 2000.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-25a-406(c)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: CVR derives its funding from surcharges. No State General Fund monies are appropriated. It is anticipated that there would be a savings to the CVR Trust Fund.

❖LOCAL GOVERNMENTS: The CVR rule does not effect local government. The rate caps are between the CVR office and provider of services.

❖OTHER PERSONS: There is no anticipated cost or savings to other persons because the caps being placed on medication management and sexual assault examinations are considered reasonable and customary rates. Section R270-1-11 is being deleted to comply with recent statute changes. COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no compliance costs because the CVR program does not impose fees on victims of crime for services provided.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is anticipated there would be a minimal savings to the CVR Trust Fund because of the caps that have been established.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Crime Victim Reparations Administration Suite 200 350 East 500 South Salt Lake City, UT 84111, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Dan R. Davis at the above address, by phone at (801) 238-2367, by FAX at (801) 533-4127, or by Internet E-mail at ddavis@gov.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Dan R. Davis, Director

R270. Crime Victim Reparations, Administration.
R270-1. Award and Reparation Standards.

.....

R270-1-9. Loss of Earnings.

A. Pursuant to Subsection 63-25a-411(4)(d), the 66-2/3% of the person's weekly salary or wages is calculated on gross earnings.

B. Loss of earnings for primary and secondary victims may be reimbursed for up to a maximum of twelve (12) weeks work loss, at an amount not to exceed the maximum allowed per week by Worker's Compensation guidelines in effect at the time of work loss. Reference should be made to Section R270-1-1[2]1 for guidelines on sick leave, annual leave or bereavement leave as a collateral source. The Crime Victim Reparations Board may review extenuating circumstances on loss of earnings claims.

.....

~~**R270-1-11. Witnesses.**~~

~~Pursuant to Subsection 63-25a-402(37)(a), witnesses to a violent crime who are traumatically affected and require~~

~~psychological or medical attention can be reviewed on a case-by-case basis to determine if they qualify as a victim.~~

]

R270-1-1[2]1. Collateral Source.

A. Pursuant to Section 63-25a-413, sick leave and annual leave shall be considered as a collateral source. If there are extenuating circumstances, the director may make an exception to this requirement.

B. Only insurance policies that itemize specific coverages under the policy, such as funeral and burial expenses, shall be considered as a collateral source.

C. Crime Victim Reparations Trust Fund monies shall be used before State Social Services contract monies when considering out-of-pocket expenses in child sexual abuse cases, if the individuals qualify as victims. If the victim qualifies for Medicaid, the contract monies should be used first.

D. Crime Victim Reparations Trust Fund monies shall be used before the Utah Medical Assistance Program funds when considering allowable benefits for victims of violent crime.

R270-1-1[3]2. Record Retention.

A. Pursuant to Section 63-25a-401, retention of Crime Victim Reparations annual report and crime victim case files shall be as follows:

1. Annual reports and other statistical information shall be retained in office for a period of three years and then transferred to State Archives.

2. Crime victim case files shall be retained in office as needed for administrative use. After closure or denial of a case file, case file shall be retained in office for ~~two~~one year[s] and then transferred to State Archives. Case files will be retained in the State Records Center for ~~ten~~eleven years and then destroyed.

R270-1-1[4]3. Awards.

A. Pursuant to Section 63-25a-421, when billing from the providers exceeds the maximum allowed, the Reparation Officer shall pay the bills by the date of service. The Reparation Officer shall solicit input from the victim when making this determination. When the services and the billings have occurred at the same time, the Reparation Officer shall determine payment on a percentage basis.

R270-1-1[5]4. Essential Personal Property.

Pursuant to Subsection 63-25a-411(4)(h), essential personal property covers all personal articles necessary and essential for the health and safety of the victim. The Reparation Officer may allow up to \$1500 for replacement of such items as eyeglasses, hearing aids, burglar alarms, door locks, crime scene cleanup, repair of walls and broken windows, etc. The board shall review any exceptions over \$1500.

R270-1-1[6]5. Subrogation.

Pursuant to Section 63-25a-419, subrogation monies collected from the perpetrator, insurance, etc., will be placed in the Crime Victim Reparations Trust Fund and will not be credited toward a particular victim or claimant award amount.

R270-1-1[7]6. Unjust Enrichment.

A. Pursuant to Subsection 63-25a-410(1)(d), the following criteria shall be used when considering claims involving possible unjust enrichment of an offender:

1. Unjust enrichment determination shall not be based solely on the presence of the offender in the household at the time of the award.

2. Awards shall not be denied on the basis that the offender would be unjustly enriched, if the victim cooperates with investigation and prosecution of the crime and does what is possible to prevent access by the offender to substantial compensation.

3. Payment to third party providers shall be made to prevent monies intended for victim expenses be used by or on behalf of the offender.

4. Collateral resources such as court-ordered restitution and medical insurance that are available to the victim from the offender shall be examined. However, the victim shall not be penalized for failure of an offender to meet legal obligations to pay for the cost of the victim's recovery.

5. Factors to be considered in determining whether enrichment is substantial or inconsequential include the amount of the award and whether a substantial portion of the compensation award will be used directly by or on behalf of the offender. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied. When enrichment is inconsequential or minimal, the award shall not be reduced or denied.

R270-1-1[8]7. Prescription or Over-the-Counter Medications.

A. Reimbursement of prescription or over-the-counter medications used in conjunction with mental health therapy shall be considered only for the duration of an approved Treatment Plan.

B. Reimbursement of prescription or over-the-counter medications used in conjunction with medical treatment shall be considered only during the course of treatment by the physician.

C. Medication management rates shall be limited to a maximum of \$62.50 per thirty minute session.

R270-1-1[9]8. Peer Review Committee.

A. A volunteer Peer Review Committee may be established to review issues and/or provide input to Crime Victim Reparations staff on out-patient mental health counseling claims. The composition, duties, and responsibilities of this Committee shall be defined by the Crime Victim Reparations Board by written internal policy and procedure.

R270-1-1[20]19. Medical Awards.

A. Pursuant to Subsection 63-25a-411(4)(b), medical awards are subject to limitations as follows:

1. All medical costs must be related directly to the victimization and all treatment must be considered usual and customary.

2. The reparation officer reserves the right to audit any and all billings associated with medical care.

3. The reparation officer will not pay any interest, finance, or collection fees as part of the award.

4. After the effective date of this rule, in-patient hospital medical bills shall be reimbursed at a rate established between the

CVR office and individual hospitals and shall be considered payment in full. A Memorandum of Agreement shall be signed and kept on file.

R270-1-2[1]0. Misconduct.

Pursuant to Subsections 63-25a-402(21) and 63-25a-412(1)(b) misconduct shall be considered conduct which contributed to the victim's injury or death or engaged in conduct in which the victim could have reasonably foreseen could lead to injury or death. In determining whether the victim engaged in misconduct, the CVR staff shall consider any behavior of the victim that may have directly or indirectly contributed to the victim's injury or death including consent, provocation, verbal utterance, gesture, incitement, prior conduct of the victim or the ability of the victim to have reasonably avoided the incident upon which the claim is based.

R270-1-2[2]1. Three Year Limitation.

Pursuant to Subsections 63-25a-406(1)(c) and 63-25a-428(2) a claim for benefits expires and no further payments will be made with regard to the claim after three years have elapsed from the date of application with the CVR office. All claimants who have filed a claim for benefits with the CVR office prior to the effective date of this rule shall be notified in writing of the three year limitation for payment of benefits. Any claimant who filed a claim for benefits more than two and one-half years prior to the effective date of this rule, other than a claim for benefits for permanent disability or loss of support, shall be notified in writing that they have six months in which to submit any remaining expenses before the three year limitation is imposed and the claim is closed. Claims for benefits for permanent disability or loss of support filed prior to the effective date of this rule shall not be subject to the three year limitation. The Crime Victim Reparations Board may review extenuating circumstances on claims that have been closed because of the Three Year Limitation rule.

R270-1-2[3]2. Sexual Assault Forensic Examinations.

A. Pursuant to Subsections 63-25a-402(19) and 63-25a-411(4)(i), the cost of sexual assault forensic examinations for gathering evidence and providing treatment may be paid by the CVR office in an amount not to exceed \$300.00. The CVR office may also pay for the cost of medication and up to 85% of the hospital expenses. The following agency guidelines need to be adhered to when making payments for sexual assault forensic examinations:

1. A sexual assault forensic examination shall be reported to law enforcement.

2. Victims shall not be charged for sexual assault forensic examinations.

3. The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations.

4. The agency may reimburse licensed medical personnel trained to gather evidence of sexual assaults who perform sexual assault forensic examinations.

5. CVR may pay for the collection of evidence and not attempt to prove or disprove the allegation of sexual assault.

6. A request for reimbursement shall include the law enforcement case number or be signed by a law enforcement officer or victim/witness coordinator.

7. The application or billing for the sexual assault forensic examination must be submitted to CVR within ~~[90 days]~~one year of the examination.

8. The billing for the sexual assault forensic examination shall:

- a. identify the victim by name, address, date of birth, Social Security number, telephone number, patient number;
- b. indicate the claim is for a sexual assault forensic examination; and
- c. itemize services and fees for services.

9. All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before CVR Trust Fund monies are used. Pursuant to Subsection 63-25a-411(i), the Director may determine that reimbursement for a sexual assault forensic examination will not be reduced even though a claim could be recouped from a collateral source.

10. Evidence will be collected only with the permission of the victim or the legal guardian of the victim. Permission shall not be required in instances where the victim is unconscious, mentally incapable of consent or intoxicated.

11. Restitution for the cost of the sexual assault forensic examination may be pursued by the CVR office. [~~12. Sexual assault victims have a right to an informal hearing pursuant to Section R270-2-2 if they disagree with the agency's decision concerning payment or the amount of payment.~~]

~~12. Sexual assault victims have a right to an informal hearing pursuant to Section R270-2-2 if they disagree with the agency's decision concerning payment or the amount of payment.~~

1[3]2. Payment for sexual assault forensic examinations shall be considered for the following:

- a. Fees for the collection of evidence, for forensic documentation only, to include:
 - i. history;
 - ii. physical;
 - iii. collection of specimens and wet mount for sperm; and
 - iv. treatment for the prevention of sexually transmitted disease up to four weeks.

- b. Emergency department services to include:
 - i. emergency room, clinic room or office room fee;
 - ii. cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;
 - iii. serum blood test for pregnancy; and
 - iv. morning after pill or high dose oral contraceptives for the prevention of pregnancy.

1[4]3. The victim of a sexual assault that is requesting payment by CVR for services needed or rendered beyond the sexual assault forensic examination needs to submit an application for compensation to the CVR office.

R270-1-2[4]3. Loss of Support Awards.

A. Pursuant to Subsection 63-25a-411(4)(g), loss of support awards shall be covered on death claims only.

R270-1-2[5]4. Rent Awards.

A. Pursuant to Subsection 63-25a-411(4)(a), victims of domestic violence or child abuse may be awarded a one time only rental award for actual rent expenses of \$1800 for a maximum of three months if the following conditions apply:

- 1. The perpetrator was living with the victim at the time of the crime or the rent assistance appears directly related to the victim's ability to distance herself/himself from the perpetrator.

2. It appears reasonable that the perpetrator was assisting or was solely responsible for rent.

3. The victim agrees that the perpetrator is not allowed on the premises.

R270-1-2[6]5. Secondary Victim.

Secondary victims who are not primary victims pursuant to Subsections 63-25a-402(37)(39) and who [~~witness or~~] are traumatically affected by criminally injurious conduct shall be eligible for compensation as prescribed by the CVR Board. Secondary victims include only immediate family members (spouse, father, mother, stepparents, child, brother, sister, stepchild, stepbrother, stepsister, or legal guardian) and anyone residing in the household at the time of the crime who was traumatically affected by the crime. The CVR Board may review requests by other individuals who are not immediate family members or do not reside in the household if their involvement is essential to the well being and treatment of the primary victim.

KEY: victim compensation, victims of crimes
~~[December 16, 1999]~~September 15, 2000 63-25a-401 et seq.
 Notice of Continuation December 23, 1996



Crime Victim Reparations,
 Administration
R270-2
 Crime Victim Reparations Adjudicative
 Proceedings

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 23042
 FILED: 08/01/2000, 14:05
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being changed to comply with statutory changes to Section 63-25a-415 (Rules for contested claims).

SUMMARY OF THE RULE OR CHANGE: Per statutory change to Subsection 63-25a-415(1) (H.B. 331), effective May 1, 2000, Crime Victim Reparations (CVR) is required to adopt a rule to set procedures for contested reparation officer determinations. The rule change allows the director to review contested determinations or designate the CVR Board to review contested determinations. The decision of the director or the CVR Board is final and may not be appealed.
(DAR Note: H.B. 331 is found at 2000 Utah Laws 235, and was effective May 1, 2000.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-25a-406

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: CVR derives its funding from surcharges. No State General Fund monies are appropriated.

❖LOCAL GOVERNMENTS: This CVR rule does not effect local government because the contested review is between the CVR office and the victim.

❖OTHER PERSONS: There are no anticipated costs or savings to other persons because contested claims are reviewed at the agency level and are not subject to judicial review.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no compliance costs for affected persons because CVR does not impose fees on victims of crime for services provided.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be no fiscal impact on businesses. This rule spells out that CVR is not an entitlement program and would not be subject to judicial review.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Crime Victim Reparations
Administration
Suite 200
350 East 500 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan R. Davis at the above address, by phone at (801) 238-2367, by FAX at (801) 533-4127, or by Internet E-mail at ddavis@gov.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Dan R. Davis, Director

R270. Crime Victim Reparations, Administration.

R270-2. Crime Victim Reparations Adjudicative Proceedings.

R270-2-1. ~~[All Proceedings Informal]~~Contested Determinations.

~~[Any proceedings regarding contested claims or any other adjudicative proceedings requested of and conducted by the Crime Victim Reparations Office, shall be conducted as an informal adjudicative proceeding.]~~

R270-2-2. Informal Proceedings Procedure:

A. Pursuant to Section 63-46b-5, at the discretion of the director, the agency may hold an informal adjudicative hearing which shall include the following procedures:

— 1. Within 20 days of the final agency action the claimant may request a hearing.

— 2. A request for a hearing by a claimant shall be considered a request for agency action pursuant to Section 63-46b-3. A request for agency action shall be prepared pursuant to the requirements of Subsections 63-46b-3(3)(a)(b):

— 3. Hearings shall not be permissible on changes to time limits or monetary limits that are clearly expressed in statute or rule.

— 4. Within 30 days of a request for a hearing, the agency will hold an informal hearing.

— 5. Within 20 days after the close of any hearing held under this rule, the Hearing Officer shall issue a written disposition stating the decision, the reason for the decision, notice of right of judicial review and the time limits for filing an appeal.

— 6. The agency may issue subpoenas or other orders to obtain evidence.

— 7. Hearings will be held only after timely notice to all parties.

— 8. In any hearing all parties shall be permitted to testify, present evidence and comment on the issues.

— 9. All parties shall have access to information contained in the agency's files and to all materials and information gathered in any investigation, to the extent permitted by law.

— 10. Hearings shall be open to all parties.

— 11. The presiding officer's order shall be based on the facts appearing in the agency's files and on the facts presented in evidence at the hearings.

— 12. The informal hearing shall be recorded and any party at his own expense may have a reporter, approved by the agency, prepare a transcript from the agency's record of the hearing.

~~R270-2-3. Contested Claims.~~

~~A. Pursuant to Section 63-25a-415, the Director may serve as the presiding officer in an informal proceeding or the Director may designate a Reparation Officer to serve as the presiding officer. At the discretion of the Director, the CVR Board may be designated as the presiding officer for an informal proceeding. If an individual was responsible for deciding an initial claim for reparations, that individual shall not serve as the presiding officer in an informal proceeding. An appeal of an informal proceeding shall be made to the District Court as provided in Section 63-46b-15.~~

~~B. Appeal hearings shall not be scheduled until all possible allowable expenses regarding the claim are considered by the Reparation Officer.]A. Pursuant to Section 63-25a-415(1), the Director shall review contested determinations by a reparation officer or designate the CVR Board to review the contested determination. The Director will keep the CVR Board apprised of all contested determinations. The decision of the Director or the CVR Board is final and may not be appealed.~~

KEY: appellate procedures, administrative procedures

[July 2, 1997]September 15, 2000

63-46[b]a

Notice of Continuation December 23, 1996



Environmental Quality, Water Quality
R317-100
Utah State Project Priority System and
List for the Utah Wastewater Project
Assistance Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23029
FILED: 07/25/2000, 13:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The
Priority System and List are used to rank wastewater projects
for possible state and federal funding assistance. The
Priority List is updated annually through rulemaking and
incorporated by reference into Section R317-100-1. The
proposed rulemaking action is required in order for the state
to be eligible for federal funds.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment
changes the date in the incorporation by reference statement
to reflect the current FY (fiscal year) 2000 Wastewater
Project Priority List. An additional "readiness to proceed"
ranking category.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS
RULE: Section 19-5-104
FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 35.915 and 40
CFR 35.2015

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE
FOLLOWING MATERIAL: Fiscal Year 2001 Utah State Project
Priority List

ANTICIPATED COST OR SAVINGS TO:
*THE STATE BUDGET: None--the proposed amendment is an
annual update of the Wastewater Project Priority List,
incorporated by reference at Section R317-100-1.
*LOCAL GOVERNMENTS: Loans issued under the program may
substantially reduce the cost of wastewater facilities to local
governments. Possible interest rate savings on loans issued
under the program range from 1% to 6%.
*OTHER PERSONS: Loans issued under the program may
substantially reduce the cost of wastewater services to
individuals by lowering the cost to local governments as
indicated above.
COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance
costs are expected as a result of the proposed amendment.
The annual update of the Wastewater Project Priority List is
required in order for the state to be eligible for federal funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT
THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to
businesses will occur as a result of the proposed
amendments. The proposed amendment is an annual

update to incorporate the current FY2001 Wastewater
Project Priority List.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING
REGULAR BUSINESS HOURS, AT:
Environmental Quality
Water Quality
Cannon Health Building
288 North 1460 West
PO Box 144870
Salt Lake City, UT 84114-4870, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
David Wham at the above address, by phone at (801) 538-
6146, by FAX at (801) 538-6016, or by Internet E-mail at
dwham@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE
BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO
LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Dianne R. Nielson, Director

R317. Environmental Quality, Water Quality.
R317-100. Utah State Project Priority System and List for the
Utah Wastewater Project Assistance Program.
R317-100-1. Incorporation by Reference.

The Fiscal Year [2000]2001 Utah State Project Priority List,
dated [June 4, 1999]June 30, 2000 adopted by the Utah Water
Quality Board pursuant to Section 19-5-104 and pursuant to 40
CFR 35.915, is hereby incorporated by reference and made a part
of these regulations. This rule is necessary to meet requirements of
Federal Water Quality Act. Copies of the Fiscal Year [2000]2001
Utah State Project Priority List are available at the Utah Department
of Environmental Quality, Division of Water Quality.

.....

R317-100-3. Project Priority Ranking System.

A. PRIORITY POINT TOTAL

1. A priority number total for a project will be determined by
adding the priority points from each of the four priority categories.
Total Priority Points = Project Need for Reduction of Water
Pollution + Potential for Improvement Factor + Existing Population
Affected + Special Consideration. If two or more projects receive
an equal number of priority points, such ties shall be broken using
the following criteria:

- a. The projects shall be ranked in order of the highest "Need
for Reduction of Water Pollution."
b. If the tie cannot be broken on the basis of need, the projects
shall be ranked in order of the "Potential for Improvement Factor."
c. If the tie cannot be broken on the basis of the above, the
project serving the greatest population will be given priority.

B. PROJECT NEED FOR REDUCTION OF WATER
POLLUTION

All projects receive the highest applicable point level only.

1. A documented existing substantial health hazard will be eliminated by the project. This may include: (1) discharge of inadequately treated wastewater to an area of immediate public contact where inadequate operation and maintenance is not the primary cause of the condition; (2) an area where a substantial number of failing subsurface disposal systems are causing surfacing sewage in areas of human habitation. The elimination of existing substantial health hazards is of highest priority. The determination of the existence of substantial health hazards shall be based upon the investigation, report, and certification of the local health department and the State Division of Water Quality. Such reports and certifications will be forwarded to EPA with the Priority List. The health hazard designation will normally apply to unsewered communities experiencing widespread septic tank failures and surfacing sewage: 70 points.

2. A raw sewage discharge will be eliminated or prevented: 60 points.

3. The surface water quality standards identified in R317-2 are impaired by an existing discharge. For points to be allotted under this criterion the affected stream segment must be "water quality limited" according to a wasteload analysis and water quality standards. Water quality standards have been established for the waters of Utah according to designated beneficial use classifications. A stream segment is considered to be "water quality limited" if a higher level of treatment than that which is provided by state effluent limitations is required to meet water quality standards. A stream segment is "effluent limited" if water quality standards are met by state imposed effluent limitations: 50 points.

4. The ground water quality standards identified in R317-6 are impaired by an existing discharge. For points to be allotted under this criterion the affected ground water must be impaired according to the numerical criteria outlined in the ground water protection levels established for Class I and II aquifers: 50 points.

5. Construction is needed to provide secondary treatment, or to meet the requirements of a Utah Pollution Discharge Elimination System (UPDES) Permit or Ground Water Discharge Permit, or the Federal Sludge Disposal Requirements: 50 points.

6. Documented water quality degradation is occurring, attributable to failing individual subsurface disposal systems where inadequate operation and maintenance is not the primary cause of the condition: 45 points.

7. Areas not qualifying as an existing substantial health hazard, but where it is evident that inadequate on-site conditions have resulted in the chronic failure of a significant number of individual subsurface disposal systems, causing an ongoing threat to public health or the environment. Points may be awarded in this category only when the Division of Water Quality determines that existing on-site limitations cannot be overcome through the use of approved subsurface disposal practices, or that the cost of upgrading or replacing failed systems to meet the minimum requirements of the local health department are determined to be excessive: 45 points.

8. Treatment plant loading has reached or exceeded 95 percent of design requirements needed to meet conditions of an UPDES Permit or needed to restore designated water use, or design requirements are projected to be exceeded within 5 years by the Division of Water Quality. Points will not be allocated under this criterion where excessive infiltration or inflow is the primary cause

for the loading to the system to be at 95 percent or greater of design requirements: 40 points.

9. Existing facilities do not meet the design requirements in R317-3. Points may be allocated under this category only if the design requirements that are not being met are determined to be fundamental to the ability of the facility to meet water quality standards: 40 points.

10. Interceptor sewers, collection systems, pump stations and treatment, where applicable, are needed to solve existing pollution, ground water, or public health concerns: 35 points.

a. Points may be awarded under this category only if they will primarily serve established residential areas and only if they are needed to solve existing pollution or public health problems.

b. Points shall not be awarded under this category where an interceptor is proposed for newly developing recreational communities, resorts, or unincorporated subdivisions.

c. Points may be awarded under this category when the majority of existing septic systems are located in defined well head protection zones or principal ground water recharge areas to Class I and II aquifers.

11. Interceptor sewers, collection systems, pump stations and treatment, where applicable, are needed to accomplish regionalization or eliminate existing treatment facilities. Points shall not be awarded under this category where an interceptor is proposed for newly developing recreational communities, resorts, or unincorporated subdivisions: 25 points.

12. Communities having future needs for wastewater facilities construction at existing wastewater systems, not included above, which are consistent with the goals of the Federal Water Pollution Control Act: 10 points.

13. Communities having future needs for new treatment plants and interceptors, not included above, which are consistent with the goals of the Federal Water Pollution Control Act: 5 points.

C. POTENTIAL FOR IMPROVEMENT FACTOR (PIF)

The PIF priority point sub-total is obtained by adding the points obtained in each of the four subcategories. Total PIF points = Classified Water Use + Discharge Standard Factor + Restoration from Water Quality Standard Violation + Estimated Improvement.

1. Classified Water Use. Priority points under this subcategory are allotted in accordance with segment designations listed in R317-2-13, Classifications of Waters of the State. Points are cumulative for segments classified for more than one beneficial use.

a. Protected as a raw water source of culinary water supply; R317-2-13 Use Classes: 1A, 1B, or 1C: 4 points.

b. Protected for primary contact recreation (swimming); R317-2-13: 2A: 4 points.

c. Protected for secondary contact recreation (water skiing, boating and similar uses); R317-2-13: 2B: 3 points.

d. Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain; R317-2-13: 3A: 3 points.

e. Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in the food chain; R317-2-13: 3B: 3 points.

f. Protected for non-game fish and other aquatic life, including the necessary aquatic organisms in their food chain; R317-2-13: 3C: 2 points.

g. Protected for waterfowl, shore birds and other water-oriented wildlife not included above, including the necessary aquatic organisms in their food chain; R317-2-13: 3D: 2 points.

h. Protected for agricultural, industrial, and "special" uses; R317-2-13: 4, 5, and 6: 1 point.

2. Discharge Standard Factor. Priority points are allotted as follows:

a. Project discharge standards are water quality based: 5 points.

b. Project must meet secondary effluent treatment standards: 2 points.

c. Project does not discharge to surface waters: 0 points.

3. Restoration from Water Quality Standard Violation.

a. Project WILL RESTORE Designated Water Use: 5 points.

b. Project WILL NOT RESTORE Designated Water Use: 0 points.

c. Points under this subcategory are assigned on the basis of whether appropriate water quality standard(s) can be restored if the respective project is constructed and any other water quality management controls are maintained at present levels. For a project to receive points under this subcategory, data from a State-approved waste load analysis must generally show that the designated water use is substantially impaired by the wastewater discharge and that the proposed project will likely restore the numerical water quality standards and designated use(s) identified in R317-2-12 and R317-2-14 for the waterbody.

d. Points may not be assigned under this subcategory if nonpoint source pollution levels negate water quality improvement from the proposed construction, if numerical standards or actual levels of pollutants being discharged are questionable, if serious consideration is being given to the redesignation of the stream segment to a lower classification, or if numerical standards for specific pollutants are inappropriately low for the classified water use.

4. Estimated Improvement in Stream Quality or Estimated Improvement in Environmental Quality including Presently Unsewered Communities and Sewered Communities with Raw Sewage Discharges. Points in this category shall be allocated based upon the judgment of the Division of Water Quality Staff and on the nature of the receiving water and surrounding watershed. Consideration shall be given to projects which discharge into Utah priority stream segments as identified in the biennial water quality report (305(b)). The criteria used to develop the Stream Segment Priority List may be used to evaluate projects on other streams not on the Stream Segment Priority List. These criteria include the existing use impairment, the overall index from a use impairment analysis, the potential for use impairment, the downstream use affected, the population affected, the amount of local interest and involvement toward improving the stream quality, the presence of endangered species, and the beneficial use classification. Activities within the watershed that are aimed at reducing point and nonpoint sources of pollution may also be considered in the allocation of points. In addition, the effect of a discharge or proposed change in a discharge on the chemical and biological quality of the receiving stream may be considered in the determination of points. Only those projects which will significantly improve water quality or environmental quality and will restore or protect the designated uses

or eliminate public health hazards shall be given the maximum points allowable. Fewer points can be given in instances where some significant improvement will be achieved if a project is constructed.

a. The project is essential immediately, and must be constructed to protect public health or attain a high, measurable improvement in water quality: 20 points.

b. The project will likely result in a substantial level of improvement in water quality or public health protection: 10 points.

c. Some level of water quality improvement or public health protection would likely be provided by the construction of the project, but the effect has not yet been well established. Also, present facilities lack unit processes needed to meet required discharge standards: 5 points.

d. No significant improvement of water quality or public health protection would likely be achieved, at present, by a project: 0 points.

D. EXISTING POPULATION AFFECTED

For sewerred communities, priority points are based on the population served by a treatment facility. For unsewered areas, points are based on the population of the affected community.

1. Greater than 80,000: 10 points.

2. 40,000 - 80,000: 9 points.

3. 20,000 - 40,000: 8 points.

4. 10,000 - 20,000: 7 points.

5. 5,000 - 10,000: 6 points.

6. 4,000 - 5,000: 5 points.

7. 3,000 - 4,000: 4 points.

8. 2,000 - 3,000: 3 points.

9. 1,000 - 2,000: 2 points.

10. Less than 1,000: 1 point.

E. SPECIAL CONSIDERATION

1. The proposed project is an interceptor sewer which is part of a larger regional plan and is necessary to maintain the financial, environmental or engineering integrity of that regionalization plan: 20 points, or

2. The project is needed to preserve high quality waters such as prime cold water fishery and anti-degradation segments: 20 points.

3. The proposed project will change the facility's sludge disposal practice from a non-beneficial use to a beneficial use method: 20 points.

4. The users of the proposed project are subject to a documented water conservation plan: 20 points.

5. The sponsor of the proposed project has completed and submitted the most recent Municipal Wastewater Planning Program (MWPP) questionnaire: 20 points.

F. READINESS TO PROCEED

The identified project is near-term as evidenced by its inclusion on the most recent SRF Intended Use Plan: 30 points.

KEY: grants, state assisted loans, wastewater

~~October 1, 1999~~ 2000

19-5

Notice of Continuation December 12, 1997

19-5-104

40 CFR 35.915 and 40 CFR 35.2015



Health, Children's Health Insurance Program
R382-10 Eligibility

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 23027
FILED: 07/20/2000, 09:30
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule sets forth the eligibility requirements for coverage under CHIP (Childeren's Health Insurance Program). The rule is necessary to change the way the earned income of a child who is not the head of a household is counted. The intent is to disregard all of the earned income of a child when determining CHIP income eligibility. In addition, when a child has had an emergency that has delayed the completion of a CHIP application, the department will allow a grace enrollment period beginning no earlier than four days before the date a completed and signed application is received by the department.

SUMMARY OF THE RULE OR CHANGE: If a child is not the head of a household, that child's income will not be counted in the household income determination. The changes appear in Subsections R382-10-13(15) and R382-10-18(1). The four-day grace enrollment period appears in Section R382-10-18.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5, and Title 26, Chapter 40

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: This program is largely funded by federal money (81%). These changes will have some net increase on the state funds that would otherwise be expended for the Children's Health Insurance Program (CHIP). However, the costs will be minimal. The changes will simplify administration of the program, which will offset some of the cost. The major cost will be the four day grace enrollment period. We believe that no more than 150 children will take advantage of the grace enrollment period. We also believe that the average claim will be \$1,000 when the small and large claims are averaged. If so, the total impact on the state budget will be \$28,500 (19% of \$150,000). There should be no costs to any other agencies or private businesses affected by these changes.

LOCAL GOVERNMENTS: This rule does not apply to local government, so there should be no fiscal impact.

OTHER PERSONS: The change to Section R382-10-18 will have a positive impact on health care providers and children in the program. Fewer uninsured claims for the grace period will exist for both.

COMPLIANCE COSTS FOR AFFECTED PERSONS: See explanation given under other persons above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This modest extension of additional coverage to children eligible for CHIP will have a positive impact on health care providers, with no significant impact on private insurers. If a public comment suggests that the department has failed to anticipate all costs to businesses, this rule will be reevaluated--Rod L. Betit

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health
Children's Health Insurance Program
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gayleen Henderson at the above address, by phone at (801) 538-6135, by FAX at (801) 538-6952, or by Internet E-mail at ghenders@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

R382. Health, Children's Health Insurance Program.
R382-10. Eligibility.

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R382-10-13. Income Provisions.

To be eligible to enroll in the Children's Health Insurance Program, gross household income must be equal to or less than 200% of the federal non-farm poverty guideline for a household of equal size. All gross income, earned and unearned, received by any household member is counted toward household income, unless this section specifically describes a different treatment of the income.

(1) The Department does not count income that is defined in 20 CFR 416(K) Appendix, 1997 edition, which is adopted and incorporated by reference.

(2) Any income in a trust that is available to, or is received by a household member, is countable income.

(3) Payments received from the Family Employment Program, General Assistance, or refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 is countable income.

(4) Rental income is countable income. The following expenses can be deducted:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property;

(c) utility costs only if they are paid by the owner; and
(d) interest only on a loan or mortgage secured by the rental property.

(5) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. An applicant or enrollee who disputes household ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to the household. Funds that are successfully disputed are not countable income.

(6) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.

(7) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the certification period.

(8) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service or did not work to receive is not counted as income.

(9) SSI and State Supplemental Payments are countable income.

(10) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.

(11) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.

(12) Child Care Assistance under Title XX is not countable income.

(13) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the State Department of Health are not countable income.

(14) Needs-based Veteran's pensions are not counted as income. If the income is not needs-based, only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.

(15) ~~[The first \$1620 of e]~~ Earned income of a child is ~~[earns in a year are]~~ excluded ~~[from household income if the child meets all of the following criteria:]~~ if the child is not the head of a household.

~~—(a) the child is a student who is regularly attending school that includes secondary school, post-secondary school, vocational and trade schools;~~

~~—(b) the child is under age 19; and~~

~~—(c) the child is not head of a household.]~~

(16) Educational income such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.

(17) Reimbursements for expenses incurred by an individual are not countable income.

(18) Any payments made to an individual because of his status as a victim of Nazi persecution as defined in Pub. L. No. 103-286 are not countable income, including payments made by the Federal Republic of Germany, Austrian Social Insurance payments, and Netherlands WUV payments.

(19) Victim's Compensation payments as defined in Pub. L. No. 101-508 are not countable income.

(20) Disaster relief funds received if a catastrophe has been declared a major disaster by the President of the United States as defined in Pub. L. No. 103-286 are not countable income.

.....

R382-10-18. Effective Date of Enrollment and Recertification.

(1) The effective date of CHIP enrollment is the date a completed and signed application is received by the Department. ~~[Up to June 30, 1999, t]~~ The Department will allow a grace enrollment period beginning no earlier than ~~[seven]~~ four days before the date a completed and signed application is received by the Department if a child has had an emergency that delayed the completion of the application. ~~[The applicant must inform the Department that medical services were received during those seven days before the application is approved.]~~ The Department shall not pay for any services received before the effective enrollment date.

(2) A household that the Department has determined to be eligible for CHIP, and has a child enrolled in CHIP, may enroll another eligible child. The effective date of enrollment will be the date of report, except as otherwise provided in R382-10-18(1). The effective date for enrollment in CHIP for a child meeting one of the criteria below will be the date of the event listed below, if the household reports the event to the Department within 30 days of the event. The events are:

(a) when a new baby is born to a household member;

(b) when a child is adopted or placed for the purpose of adoption by a household member;

(c) when a parent of an enrolled child, or an enrolled child, marries, and a dependent child meeting CHIP eligibility criteria is added to the household as a result;

(d) when a child who was previously ineligible for CHIP because he had health insurance coverage, or had access to an employer's health insurance plan, loses coverage or access involuntarily.

(3) When the report is made more than 30 days after the specified event, enrollment in CHIP will be effective beginning the date of report, except as otherwise provided in R382-10-18(1).

(4) The effective date of enrollment for a recertification is the first day of the month after the recertification month, if the recertification is completed by the end of the recertification month and the child continues to be eligible.

(5) If both the recertification form and the required verifications are not received by the end of the recertification month, the case will be closed unless the enrollee has good cause for not completing the recertification process on time. Good cause includes a medical emergency, death of an immediate family member, or natural disaster, or other similar occurrence.

(6) The Department may require an interview with the parent, child, or adult who has assumed responsibility for the care or supervision of a child, or other authorized representative as part of the recertification process.

.....

KEY: children's health benefits*
[January 7, 1999]2000

26-1-5
 26-40

◆ ————— ◆

Human Services, Recovery Services

R527-450

Federal Tax Refund Intercept

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23031

FILED: 07/26/2000, 17:24

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: 1) In order to clarify the authority under which the ORS/CSS refers qualified support debts to the federal OCSE for tax refund intercept and distributes the money collected through that process, it is necessary to add the applicable federal citations to the rule; 2) the term "pre-offset" is used in the rule to identify the type of notice ORS/CSS sends to obligors and unobligated spouses concerning the amount of certified arrearage, but such notice is actually given via the Annual Notice of Past-due Child Support. The term "annual" is, therefore, a more accurate description of the notice and replaces "pre-offset" in the proposed rule to make it clear that there are not two such notices; and 3) although the rule states correctly that ORS/CSS holds federal tax intercept payments for at least 30 days before disbursement to the obligee in Non-IV-A cases, it is not clear that such payments may be held substantially beyond the 30-day period. When a tax refund based on a joint return has been intercepted, the intercept payment may be held 180 days (the maximum time allowed by federal law) to give the unobligated spouse adequate time to have his refund claim processed before any funds are disbursed. New wording in the proposed rule addresses the 180-day period.

SUMMARY OF THE RULE OR CHANGE: In the introductory paragraph of Section R527-450-1, the federal citations 45 CFR 303.72 (1999) and 42 U.S.C. 664, have been added. The specific criteria listed under the introductory paragraph for referring IV-A and Non-IV-A debts (including spousal support debts) to the Office of Child Support Enforcement (OCSE) for federal tax refund intercept have been deleted from the rule because they are already provided in federal law and regulations including the above mentioned citations and Pub. L. No. 104-134 (1966) also known as the Debt Collection Improvement Act (DCIA). Subsection R527-450-1(2)(c) has been renumbered Subsection R527-450-1(1), and the words "On Non-IV-A debts" were added to it to make it clear that it still refers to Non-IV-A debts. In Section R527-450-2, the words "a pre-offset" have been replaced with "an annual" in reference to the notice sent to obligors who certify for federal tax refund intercept. In Subsection of R527-450-

4(3) the words, "but not more than 180 days," have been added after "...at least 30 days..." to clarify the period of time federal tax intercept payments may be held by Office of Recovery Services/Child Support Services (ORS/CSS).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107

FEDERAL REQUIREMENT FOR THIS RULE: 45 CFR 303.72 (1999) and 42 U.S.C. 664

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the proposed rule changes will have no affect on current ORS/CSS federal tax refund intercept policy or procedures because the deleted text already exists in federal regulations and the added text and citations are for clarification purposes.

❖LOCAL GOVERNMENTS: None--the administrative rules of the Office of Recovery Services do not apply to local governments.

❖OTHER PERSONS: None--the application of the proposed rule to people affected by federal tax refund intercepts will not change because the rule changes will not affect ORS/CSS policy or procedures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule change will not change the federal tax intercept process or the affect that process has on any child support obligor or unobligated spouse subject to it. There will, therefore, be no change in individual compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current rule, and the proposed changes to it, involves the federal Office of Child Support Enforcement (OCSE), the Department of the Treasury Financial Management Service (FMS), the child support agency (ORS/CSS), child support obligors whose debts certify for federal tax intercept, unobligated spouses who have filed jointly with those obligors, and child support obligees eligible to receive funds collected through the federal tax intercept program. Because there is no direct connection to businesses, no fiscal impact on them is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
 Recovery Services
 Fourteenth Floor, Eaton/Kenway Building
 515 East 100 South
 PO Box 45011
 Salt Lake City, UT 84145-0011, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsadmin.hsorssl.c.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.
R527-450. Federal Tax Refund Intercept.
R527-450-1. Certification Criteria.**

The Office of Recovery Services/Child Support Services (ORS/CSS) will refer qualified support debts to the federal Office of Child Support Enforcement (OCSE) for offset by federal tax refund intercept as authorized in 45 CFR 303.72 (1999) and 42 U.S.C. Section 664, according to the following criteria:

- ~~1. IV-A debts:

 - a. There must be an order for support. The order may be either judicial or administrative.
 - b. The obligor must be delinquent in an amount of \$150 or more. The delinquency must be three months or older.
 - c. Spousal support qualifies for certification only if ORS/CSS is currently enforcing a spousal support debt.~~
- ~~2. Non-IV-A debts:

 - a. There must be an order for support. The order may be either judicial or administrative.
 - b. The obligor must be delinquent in an amount of \$500 or more. The support has been delinquent for three months or longer.
 - c. The]
 - 1. On Non-IV-A debts support shall be owed to or on behalf of a minor child. The child must be under 18 years old as of December 31 of the year in which the debt is submitted for offset.
 - [d. Non-IV-A spousal support debts may be certified if ORS/CSS is currently enforcing a spousal support debt and at least one child on the case is under 18 years old.~~

R527-450-2. Notice of Offset.

ORS/CSS will send [~~a pre-offset~~]an annual notice to all obligors certified for the federal tax refund intercept and to all unobligated spouses of these obligors, notifying the obligor of the amount of the arrearage certified, outlining the unobligated spouse's rights, and directing the obligor to contact ORS/CSS if he has questions. The notice will advise the obligor of his right to contest the amount of past-due support and of his right to an administrative review.

R527-450-4. Distribution of Collections.

- 1. Any money collected through the tax refund offset process can be applied only to the arrearage certified.
- 2. Collections received through federal tax refund intercept will be applied to satisfy certified IV-A and foster care arrearages before Non-IV-A arrearage.
- 3. On Non-IV-A cases the federal tax intercept payments will be held for at least 30 days but not more than 180 days before being disbursed to the obligee.
- 4. In the event that the Department of the Treasury, Financial Management Service (FMS) reclaims money which has been

refunded to a Non-IV-A obligee, that obligee will be required to repay to the state the amount reclaimed by FMS.

.....

KEY: alimony, child support

~~[August 17, 1999]~~2000

62A-11-107

Notice of Continuation December 1, 1995



Judicial Conduct Commission,
Administration
R595-1
Rules of Procedure

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 23037

FILED: 07/31/2000, 07:54

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The new rule incorporates the ABA's model rules and comply with H.B. 285.

SUMMARY OF THE RULE OR CHANGE: The new rule better illustrates the process and function of the Judicial Conduct Commission and are modeled after the American Bar Association (ABA) Model Rules. More definitions have been added which did not appear in the old rule; the new rule provides for procedures of reporting criminal and unethical conduct to prosecutors and the Utah State Bar as provided for in H.B. 285; the new rule modifies the sanctions available to judges by deleting any informal, nonpublic sanctions in order to comply with H.B. 285. There are really no other substantive changes to the new rule because essentially the same procedures will be followed as provided in the old rule with the exceptions set forth above in compliance with H.B. 285, 2000 legislative session.

(DAR Note: H.B. 285 is found at 2000 Utah Laws 148, and was effective May 1, 2000.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article VIII, Section 13; and Section 78-8-107

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: Judicial Conduct Commission rules do not apply to state government; therefore, no cost or savings.
- ❖LOCAL GOVERNMENTS: Judicial Conduct Commission rules do not apply to local government; therefore, no cost or savings.
- ❖OTHER PERSONS: This will only impact the disciplinary procedures taken by the Judicial Conduct Commission against state judges. There is no anticipated cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change only impacts the disciplinary procedures taken by the Judicial Conduct Commission against state judges and no additional costs to any "person" is anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses in the state of Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Judicial Conduct Commission
Administration
Suite 104, Law and Justice Center
645 South 200 East
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steven H. Stewart at the above address, by phone at (801) 533-3200, by FAX at (801) 533-3208, or by Internet E-mail at steves@utahbar.org.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Steven H. Stewart, Executive Director

R595. Judicial Conduct Commission, Administration.

R595-1. Rules of Procedure.

[R595-1-1. Definitions.

— In these rules, unless the context or subject matter otherwise requires:

— (a) "Chairman" or "Chairperson" includes the acting chairman or chairperson.

— (b) "Commission" means the Judicial Conduct Commission.

— (c) "Complaint" means information in any form from any source received by the Commission that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is incapacitated. If there is no written complaint from another person, the executive director's written statement of the allegations constitutes the complaint.

— (d) "Examiner" means the counsel designated by the Commission to gather and present evidence before the masters or Commission with respect to the charges against a judge.

— (e) "Judge" means a justice, judge, justice of the peace, court judge or judge pro tem of any court of the state.

— (f) "Masters" means special masters appointed by the Commission.

— (g) "Presiding master" means the master designated by the Commission, or in the absence of such designation, the judge first named in the appointment of the masters.

— (h) "Reasonable cause" means a reasonable ground for belief in the existence of facts that support a finding of judicial misconduct. See Rule 6.

— (i) "Retirement" means involuntary and disability retirement.

R595-1-2. Interested Party.

— A judge who is a member of the Commission or of the Supreme Court may not participate as such in any proceedings involving his or her own censure, reprimand, suspension, removal, or retirement.

R595-1-3. Confidentiality of Proceedings.

— All papers filed with and proceedings before the Commission, or before the masters appointed by the Commission, shall not be disclosed except in accordance with Section 78-7-30 U.C.A.

R595-1-4. Privileged Material.

— The filing of papers with or the giving of testimony before the Commission or before the masters appointed by the Commission shall be privileged in any civil action. No other publication of such papers or proceedings shall be so privileged, except that the record filed by the Commission in the Supreme Court continues to be privileged.

R595-1-5. Preliminary Investigations.

— (a) The Commission, upon receiving a complaint not obviously unfounded or frivolous, alleging facts indicating that a judge has engaged in willful misconduct in office, willful and persistent failure to perform the Judge's duties, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or that the judge has a disability that seriously interferes with the performance of the judge's duties, shall make a preliminary investigation to determine whether formal proceedings should be instituted and hearing held.

— (b) The judge shall be notified of the investigation, the nature of the charge, and the name of the person making the complaint, and shall be afforded reasonable opportunity in the course of the preliminary investigation to respond to the complaint. Such notice shall be given by prepaid registered or certified mail addressed to the judge at the address listed in the directory published by the Administrative Office of the Courts, or by personal service.

— If the preliminary investigation does not disclose reasonable cause to institute formal proceedings, the judge shall be so notified. Engaging in activity to determine whether a complaint is unfounded or frivolous or whether it alleges sufficient facts indicating a violation of the statutes governing judicial conduct is not a "preliminary investigation" within the purview of this rule. The dismissal of a complaint or allegation against a judge or justice shall be disclosed without the consent of the judge or justice to the person who filed the complaint or allegation.

R595-1-6. Notice After Finding of Reasonable Cause.

— (a) After the preliminary investigation has been completed, if the Commission finds reasonable cause that formal proceedings should be instituted, the Commission may without delay issue a written notice advising that formal proceedings have been instituted to inquire into the charges against the judge. Such proceedings shall be entitled:

— "BEFORE THE JUDICIAL CONDUCT COMMISSION

— Inquiry Concerning a Judge, In re (insert judge's full name); Case No."

— (b) The notice shall specify in ordinary and concise language the charges against the judge, the alleged facts upon which such charges are based, the canons of the Code of Judicial Conduct the

judge allegedly violated, and shall advise the judge of the right to file a written answer to the charges within 15 days after service of the notice upon the judge.

— (c) A copy of the notice shall be personally served upon the judge, or mailed to the judge, postage prepaid, by registered or certified mail.

R595-1-7. Answer:

— Within 15 days after service of the notice of formal proceedings the judge may file with the Commission an original and 11 copies of the answer.

R595-1-8. Setting for Hearing before Commission or Masters:

— Upon the filing of an answer or upon expiration of the time for its filing, the Commission shall order a hearing to be held before it concerning the censure, reprimand, suspension, removal, or retirement of the judge, or the Commission may appoint three special masters, who shall be judges of courts of record, to hear and take evidence in the matter, and to report thereon to the Commission. The Commission shall set a time and place for hearing before itself or before the masters and shall give notice of such hearing by mail to the judge at least 30 days prior to the hearing date.

R595-1-10. Hearing:

— (a) At the time and place set for hearing, the Commission, or the masters, when the hearing is before masters, shall proceed with the hearing whether or not the judge has filed an answer or appears at the hearing. The examiner shall present the case in support of the charges in the notice of formal proceedings.

— (b) The failure of the judge to answer or to appear at the hearing shall not, standing alone, be evidence of the truth of the facts alleged to constitute grounds for censure, reprimand, suspension, removal, or retirement. The failure of the judge to testify in the judge's own behalf or to submit a medical examination requested by the Commission or the masters may be considered, unless it appears that such failure was due to circumstances beyond the judge's control.

— (c) The proceedings at the hearing shall be recorded.

— (d) When the hearing is before the Commission, not fewer than a quorum shall be present when the evidence is produced. The chair of the hearing panel shall be an active member of the Utah State Bar.

— (e) Before the hearing commences, the Commission and the judge shall enter into a stipulation identifying uncontroverted facts, contested issues of fact, contested issues of law, witnesses, and exhibits.

— (f) Immediately following the conclusion of the hearing, the panel of commissioners or special masters shall deliberate and make a preliminary decision.

— (g) A letter setting forth the preliminary decision, signed by the hearing-panel chair, shall be sent to the judge as soon as possible after the conclusion of the hearing.

— (h) As soon as possible after the preliminary decision has been sent to the judge, the hearing panel chair shall prepare a memorandum decision to be signed by all the panel members.

— (i) The memorandum decision shall be served on the judge and given to the Commission's Executive Director to prepare

findings of fact, conclusions of law, and an order consistent with the memorandum decision.

— (j) The findings of fact, conclusions of law, and order shall be reviewed by a quorum of the Commission and approved by a majority of a quorum of the Commission.

— (k) Upon approval, the findings of fact, conclusions of law, and order shall be signed by the Commission chair and served on the judge.

R595-1-11. Evidence:

— At a hearing before the Commission or Masters, the Utah Rules of Evidence shall govern the admission of evidence.

R595-1-12. Procedural Rights of Judge:

— (a) In proceedings involving censure, reprimand, suspension, removal, or retirement, a judge shall have the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The judge shall also have the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter.

— (b) When a transcript of the testimony has been prepared at the expense of the Commission, a copy thereof shall, upon request, be available for use by the judge and the judge's counsel in connection with the proceedings, or the judge may arrange to procure a copy at the judge's expense. The judge shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings transcribed at the judge's expense.

— (c) Except as herein otherwise provided, whenever these rules provide for giving notice or sending any matter to the judge, such notice or matter shall be sent to the judge at the judge's residence unless the judge requests otherwise, and a copy thereof shall be mailed to the judge's counsel of record.

— (d) If the judge is adjudged insane or incompetent, or if it appears to the Commission at any time during the proceedings that the judge is not competent to act for himself or herself, the Commission shall appoint a guardian ad litem unless the judge has a guardian who will represent the judge. In the appointment of such guardian ad litem, preference shall be given whenever possible to members of the judge's immediate family. The guardian, or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent. Whenever these rules provide for serving or giving notice or sending any matter to the judge, such notice or matter shall be served, given, or sent to the guardian or guardian ad litem.

R595-1-13. Amendments to Notice or Answer:

— The masters, at any time prior to the conclusion of the hearing, or the Commission, at any time prior to the entry of its order, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. If such an amendment is made, the judge shall be given reasonable time to answer the amendment and to prepare and present the judge's defense against the matters charged thereby.

R595-1-14. Report of Commission or Masters:

— (a) After the conclusion of the hearing before the Commission or the masters, the Commission or the masters shall promptly prepare a report which shall contain a brief statement of the proceedings and findings of fact with respect to the issues presented by the notice of formal proceedings and the answer thereto, or if there be no answer, the findings of fact with respect to the allegations in the notice of formal proceedings. When the findings support the grounds alleged for censure, reprimand, suspension, removal, or retirement, the report shall be accompanied by an original and four copies of a transcript of the proceedings.

— (b) Upon receiving the report of the masters or upon completion of its own report, the Commission shall promptly mail a copy to the judge.

R595-1-15. Objection to Report of Commission or Masters:

— Within 15 days after mailing of the copy of the Commission's or the masters' report to the judge, the examiner or the judge may file with the Commission an original and 11 copies of a statement of objections to the report of the Commission or masters, setting forth all the objections to the report and the reasons in opposition to the findings as being sufficient grounds for censure, reprimand, suspension, removal, or retirement. When the statement is filed by the examiner a copy thereof shall be sent by mail to the judge.

R595-1-16. Appearing before Commission:

— If no statement of objections to the report of the Commission or masters is filed within the time provided, the Commission may adopt the findings of the report without further hearing. If such statement is filed, or if the Commission in the absence of such statement proposes to modify or reject the findings of the masters, the Commission may, in its sole discretion, give the judge and the examiner an opportunity to be heard orally before the Commission. If the Commission grants a request for oral argument, written notice of the time and place of such hearing shall be mailed to the judge at least 10 days prior thereto. If the Commission denies the request for oral argument, the objections will be decided upon the written submissions of the parties.

R595-1-17. Extension of Time:

— The chairman of the Commission may extend for periods not to exceed 30 days in the aggregate the time for filing an answer, for the commencement of a hearing before the Commission, and for filing a statement of objections to the report of the Commission or masters. The presiding master may similarly extend the time for the commencement of a hearing before masters.

R595-1-18. Hearing Additional Evidence:

— (a) The Commission may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate the matters on which the evidence is to be taken. A copy of such order shall be sent by mail to the judge at least 10 days prior to the date of hearing.

— (b) In any case in which masters have been appointed, the hearing of additional evidence shall be before such masters, and the proceedings therein shall be in conformance with the provisions of Rules 8, 10, 11 and 12.

R595-1-19. Commission Vote:

— If the Commission finds good cause it shall order the censure, reprimand, suspension, removal, or retirement of the judge. The affirmative vote of a quorum of the Commission who have considered the record is required for an order of censure, reprimand, suspension, removal, or retirement of a judge or for dismissal of the proceedings.

R595-1-20. Record of Commission Proceedings:

— The Commission shall keep a record of all proceedings concerning a judge. The Commission's order shall be entered in the record and notice thereof shall be mailed to the judge. If the Commission orders censure, reprimand, suspension, removal, or retirement, the Commission shall prepare a transcript of the evidence and of all proceedings therein and shall make written findings of fact and conclusions of law with respect to the issues of fact and law in the proceedings.

R595-1-21. Certification of Commission Order to Supreme Court:

— Prior to the implementation of a Commission order referred to in Rule 18, the Commission shall promptly file a copy of the order certified by the chairman or secretary of the Commission, together with the transcript and the findings and conclusions, with the clerk of the Supreme Court and shall immediately mail the judge a notice of such filing, together with a copy of such order, findings, and conclusions.

R595-1-22. Review of Commission Proceedings:

— The Supreme Court shall review the record of the proceedings on the law and facts in accordance with Subsection 78-7-30(2), U.C.A. In the exercise of its discretion, it may permit the introduction of additional evidence. The Supreme Court shall enter its order implementing, modifying, or wholly rejecting the Commission's order, as it finds just and proper.

R595-1-23. Retirement Procedure:

— Retirement for disability or involuntary retirement as provided by Sections 78-7-28 through 78-7-30, U.C.A., shall be processed through the Utah State Retirement Office, and the judge retiring shall meet the requirements for retirement as specified in Sections 78-7-28 through 78-7-30, U.C.A.

KEY: judges, judicial ethics, proceedings, sanctions

June 15, 2000 **78-8-102**

78-8-107

]R595-1-1. Definitions.

In these rules, unless the context or subject matter otherwise requires:

A. "Chair" means the chair of the Judicial Conduct Commission and includes the vice chair or acting chair.

B. "Commission" means the Judicial Conduct Commission.

C. "Complaint" means reliable information in any form from any source received by the Commission that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is disabled. If there is no written complaint from another person, the executive director's written statement of the allegations constitutes the complaint.

D. "Examiner" means the lawyer designated by the Commission to gather and present evidence before the masters or hearing panel on formal charges against a judge.

E. "Formal Charges" means the document that formally charges the judge with misconduct or disability. Formal charges are prepared by the examiner after the Commission finds reasonable cause that a judge committed misconduct or is disabled.

F. "Hearing" means the proceeding at which the issues of law and fact raised by the formal charges and answer are tried.

G. "Hearing Panel" means a panel of at least a quorum of the Commission designated to conduct a hearing on formal charges.

H. "Informal Order of Reprimand" means a reprimand imposed on a judge by the Commission with the prior written consent of the judge.

I. "Investigation" means an inquiry into allegations of misconduct, including a search for and examination of evidence concerning the allegations, divided into two stages: (1) a preliminary investigation conducted by the executive director after the receipt of a complaint; and (2) a full investigation in which the judge is asked to respond to specific allegations.

J. "Judge" means a justice, judge, justice court judge, or judge pro tempore of any court of the state, including part-time, full-time, and senior active judges, but not including court commissioners or administrative law judges.

K. "Masters" means the special masters appointed by the Commission to conduct a hearing on formal charges.

L. "Presiding Master" means the special master designated to preside over a hearing conducted by masters.

M. "Proceeding" means all steps in the Commission's discipline and disability process.

N. "Reasonable Cause" means a reasonable ground for belief in the existence of facts that support a finding of judicial misconduct or disability.

O. "Record" means all documents filed in the case beginning with the complaint or statement of allegations and includes a transcript of the hearing on the formal charges.

P. "Respondent" means a judge or former judge against whom formal charges have been filed.

Q. "Screening" means examination of a complaint or other information coming to the attention of the executive director to determine whether the Commission has jurisdiction.

R. "Supreme Court" means the Utah Supreme Court.

R595-1-2. Jurisdiction.

A. Judges. The Commission has jurisdiction over judges regarding allegations that misconduct occurred before or during service as a judge and regarding allegations of disability during service as a judge.

B. Former judges. The Commission has continuing jurisdiction over former judges regarding allegations that misconduct occurred before or during service as a judge if a complaint is made before the judge left office.

R595-1-3. Executive Director.

Powers and Duties. The executive director shall have the authority and duty to:

1. Receive and screen complaints, refer complaints to other agencies when appropriate, conduct preliminary investigations, recommend full investigations, notify complainants about the status and disposition of their complaints, make recommendations to the Commission on the disposition of complaints after investigation, file formal charges when directed to do so by the Commission, and act as examiner in prosecuting formal charges;

2. Maintain permanent records of the operations of Commission's office, including receipt of complaints, screening, investigation, and filing of formal charges in judicial discipline and disability matters, subject to the requirements of Rule 16;

3. Compile statistics to aid in the administration of the system, including but not limited to a log of all complaints received, investigative files, and statistical summaries of docket processing and case dispositions;

4. Prepare the Commission's budget for submission to the Commission and legislature, and administer the funds;

5. Employ and supervise other members of the Commission's staff;

6. With the Commission's approval, engage experts in connection with proceedings; and

7. Perform other duties at the direction of the Commission.

R595-1-4. Proof.

Charges of misconduct and disability shall be established by a preponderance of the evidence.

R595-1-5. Evidence Rules Applicable.

Except as otherwise provided in these rules, the Utah Rules of Evidence apply in all proceedings.

R595-1-6. Right to Counsel.

The judge shall be entitled to retain counsel and to have the assistance of counsel at every stage of Commission proceedings.

R595-1-7. Confidentiality.

A. All papers filed with, and proceedings before the Commission or before the masters appointed by the Commission, shall not be disclosed except in accordance with Section 78-8-107, U.C.A.

B. Information.

1. All information relating to a complaint that has not been dismissed shall be held confidential by the Commission and its staff, except that the Commission may disclose information:

a. When the Commission has determined that there is a need to notify a government agency in order to protect the public or the administration of justice; or

b. Upon waiver in writing by the judge.

2. All information relating to a complaint that has been dismissed without formal charges being filed shall be held confidential by the Commission and its staff.

3. The examiner's work product and records of the Commission's deliberations shall not be disclosed.

R595-1-8. Service.

Service of formal charges in any disciplinary or disability proceeding shall be made by personal service upon the judge or judge's counsel or by registered or certified mail. Delivery of all

other papers or notices shall be made by regular mail with the envelope marked "confidential."

R595-1-9. Subpoena Power.

A. Oaths. Oaths and affirmations may be administered by any member of the Commission, the executive director in matters under investigation, or any other person authorized by law.

B. Subpoenas for Investigation. After a full investigation is authorized, the Commission may compel by subpoena the attendance of the judge or witnesses and the production of pertinent books, papers, and documents for purposes of investigation.

C. Enforcement of Subpoenas. A subpoena issued by the Commission shall have the same authority as an order of the district court.

D. Issuance of Subpoenas. Commission subpoenas shall be issued and served in the same manner and form prescribed for subpoenas by the Utah Rules of Civil Procedure.

E. Quashing Subpoena. Any attack on the validity of a subpoena shall be heard and determined by the district court in which enforcement of the subpoena is being sought. Any resulting order is not appealable prior to entry of a final order in the proceeding.

F. Witnesses and Fees. Subpoena fees and costs shall be the same as those provided for in the Utah Rules of Civil Procedure.

R595-1-10. Notification to Complainant.

The executive director shall provide written acknowledgment of every complaint, if the complainant is known, and notify the complainant in writing of the final disposition of a proceeding.

R595-1-11. Screening and Investigation.

A. Screening. The executive director shall evaluate all information coming to the Commission's attention alleging judicial misconduct or disability by complaint or from other sources. Regardless of whether the information would constitute misconduct or disability if true, the executive director shall conduct a preliminary investigation.

B. Preliminary Investigation.

1. The executive director and the Commission's investigators may conduct interviews and examine evidence to determine whether grounds exist to believe the allegations of complaints, provided that no subpoena shall issue to obtain testimony or evidence until a full investigation has been authorized.

2. When there is credible evidence supporting the allegations against a judge, the executive director shall recommend a full investigation. The executive director may recommend a full investigation when there are grounds to believe that evidence supporting the allegations could be obtained by subpoena or further investigation. In all other cases, the executive director shall recommend that the matter be dismissed.

C. Full Investigation.

1. Within ten (10) days after a full investigation is authorized, the executive director shall give the following notice to the judge:

a. A specific statement of the allegations being investigated and the canons of the Code of Judicial Conduct allegedly violated, with the provision that the investigation can be expanded if appropriate;

b. The judge's opportunity to respond; and

c. The name of the complainant, unless the Commission determines there is good cause to withhold the name.

2. The executive director shall request that the judge file a written response within fifteen (15) days after service of the notice.

3. The chair of the Commission is authorized to issue subpoenas once a full investigation has been approved.

4. The executive director shall direct all investigations.

D. Disposition After Full Investigation.

1. Upon the conclusion of a full investigation, the executive director may recommend to the Commission one or more of the following:

a. Dismissal;

b. Informal order of reprimand;

c. The filing of formal charges for misconduct or disability;

d. Referral of information indicating possible criminal conduct by a judge to the Supreme Court pursuant to 78-8-104(1)(a), U.C.A.;

e. Referral of information indicating possible criminal conduct by a judge to a local prosecutor pursuant to 78-8-107(b)(1) and (2), U.C.A.;

f. Referral of information indicating possible attorney misconduct to the Utah State Bar under 78-8-107, U.C.A.

2. The Commission may adopt, reject, or modify the recommendations of the executive director. If the Commission finds reasonable cause to believe the judge committed misconduct,

a. It may direct the executive director to file formal charges;

b. It may propose an informal order of reprimand to the respondent and if the respondent consents, it shall submit the informal order of reprimand to the Supreme Court for review;

R595-1-12. Use of Allegations from Dismissed Cases.

If additional information becomes known to the executive director regarding a complaint that has been dismissed before the filing of formal charges, the Commission may authorize reinvestigation of the allegations.

R595-1-13. Formal Charges.

The formal charges shall give fair and adequate notice of the nature of the alleged misconduct or disability. The executive director shall file the formal charges with the Commission, cause a copy to be served upon the respondent or respondent's counsel, and file proof of service with the Commission.

R595-1-14. Pre-Hearing Procedures.

A. Answer. Within 15 days after service, the respondent may file an answer to the formal charges.

B. Witnesses and Exhibits. Before the hearing commences, the Commission and the respondent shall enter into a stipulation identifying uncontroverted facts, contested issues of fact, contested issues of law, witnesses, and exhibits. Not later than 15 days before the hearing, the examiner and respondent shall exchange all documents identified as proposed exhibits.

C. Exculpatory Evidence. The examiner shall provide respondent with exculpatory evidence relevant to the formal charges.

D. Duty of Supplementation. Both parties have a continuing duty to supplement information required to be exchanged under this rule.

E. Failure to Disclose. The hearing panel may preclude either party from calling a witness at the hearing if the party has not provided the opposing party with the witness's name and address, any statements taken from the witness, or summaries of any interviews with the witness.

F. Civil Rules Not Applicable. Proceedings under these rules are not subject to the Utah Rules of Civil Procedure, except for the issuance and enforcement of subpoenas pursuant to 78-9-108, U.C.A.

R595-1-15. Discipline by Consent.

A. At any time after the filing of formal charges and before final disposition, the respondent may agree with the examiner that the respondent shall admit to any or all of the formal charges in exchange for a stated sanction. The agreement shall be submitted to the Commission, which shall either:

1. Reject the agreement; or
2. Submit the agreement to the Supreme Court for approval.

B. Rejection by Supreme Court. If the Supreme Court rejects the agreement, the admission shall be withdrawn and cannot be used against the respondent in any proceedings.

C. Order of Discipline. The Commission shall file the proposed agreement, findings of fact, conclusions of law, and order of sanction with the Supreme Court. The record shall remain confidential until the Supreme Court has entered its final order except:

1. Upon order of the Supreme Court; or
2. Upon the request of the respondent.

R595-1-16. Hearing.

A. Scheduling. Upon receipt of the respondent's answer or upon expiration of the time to answer, the hearing panel of the Commission or masters shall schedule a hearing and notify respondent of the date, time, and place of the hearing.

B. Hearing Body. The hearing shall be conducted by a hearing panel or three special masters.

C. Conduct of Hearing.

1. All testimony shall be under oath.

2. The examiner shall present evidence supporting the formal charges.

3. The examiner may call the respondent as a witness.

4. Both parties shall be permitted to present evidence and produce and cross-examine witnesses.

5. The hearing shall be recorded by a certified court reporter.

6. When the hearing is before a hearing panel, not fewer than a quorum of the Commission shall be present when the evidence is presented. The chair of the hearing panel shall be an active member of the Utah State Bar.

7. Immediately following the conclusion of the hearing, the hearing panel or special masters shall deliberate and make a preliminary decision.

8. A letter setting forth the preliminary decision, signed by the hearing panel chair or presiding master, shall be served on the respondent and examiner as soon as possible after the conclusion of the hearing.

9. As soon as possible after the preliminary decision has been served on the respondent and examiner, the hearing panel chair or presiding master shall prepare a memorandum decision to be signed by all the panel members or masters.

10. The memorandum decision shall be served on the respondent and examiner, and the examiner shall prepare findings of fact, conclusions of law, and an order consistent with the memorandum decision.

11. The findings of fact, conclusions of law, and order shall be reviewed by a quorum of the Commission and approved by a majority of a quorum of the Commission.

12. Upon approval, the findings of fact, conclusions of law, and order shall be signed by the Commission chair and served on the respondent.

13. After the findings of fact, conclusions of law, and order have been signed by the Commission chair and served on the respondent, the record shall be submitted to the Supreme Court for review. A copy of the record shall be provided to the respondent without cost.

D. Dismissal or Recommendation for Sanction. The hearing panel or masters shall either dismiss the formal charges or recommend a sanction to the Supreme Court. The hearing panel or masters shall decide a matter only upon the concurrence of a majority of all members.

R595-1-17. Amendments to Notice or Answer.

The masters, at any time before the conclusion of the hearing, or the Commission, at any time before the entry of its findings of fact, conclusions of law, and order, may allow or require amendments to the formal charges and may allow amendments to the answer. The formal charges may be amended to conform to proof or to allege additional facts. If the formal charges are amended, the respondent shall be given reasonable time to answer and present evidence in defense of the amended charges.

R595-1-18. Objection to Findings of Fact, Conclusions of Law, and Order.

Within 15 days after service of the Commission's findings of fact, conclusions of law, and order, the respondent may file objections. Upon request of the respondent or examiner, the Commission shall schedule oral argument on the objections.

R595-1-19. Extension of Time.

The chair of the Commission may extend for periods not to exceed 30 days in the aggregate the time for filing an answer to formal charges, for the commencement of a hearing, or for filing objections to the findings of fact, conclusions of law, and order. The presiding master may similarly extend the time for the commencement of a hearing.

R595-1-20. Cases Involving Allegations of Mental or Physical Disability.

A. Initiation of Disability Proceeding. A disability proceeding can be initiated by complaint, by a claim of inability to defend in a disciplinary proceeding, or by an order of involuntary commitment or adjudication of incompetency.

B. Proceedings to Determine Disability Generally. All disability proceedings shall be conducted in accordance with the procedures for disciplinary proceedings, except:

1. The purpose of the disability proceedings shall be to determine whether the judge suffers from a physical or mental condition that adversely affects the judge's ability to perform judicial functions;

- 2. All of the proceedings shall be confidential; and
- 3. The Commission may appoint a lawyer to represent the judge if the judge is without representation.

KEY: judges, judicial ethics, proceedings, sanctions
September 15, 2000

78-8-102
78-8-107



**Public Safety, Law Enforcement and
 Technical Services, Regulatory
 Licensing**

R724-10

Regulation of Bail Bond Agents

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23033
 FILED: 07/27/2000, 12:36
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to assist the division in regulating bail bond agents as required by Title 53, Chapter 11, the "Bail Bond Recovery Act."

SUMMARY OF THE RULE OR CHANGE: This rule addresses various issues regarding the regulation of bail bond agents. Specifically, it provides definitions; requires applicants for licensure as bail bond agents to submit fingerprint cards; addresses information that needs to appear on licenses and identification cards; requires uniformity in instructional fees; clarifies minimum experience requirements; addresses qualification credit; provides that notice to the commissioner must be in writing; and describes the process for appealing the denial of a license.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-11-103(5)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: This rule will have no fiscal impact on the state because it merely clarifies existing agency practice.
 - ❖LOCAL GOVERNMENTS: This rule will have no fiscal impact on local government because the rule does not apply to local government.
 - ❖OTHER PERSONS: This rule will have no fiscal impact on other persons (applicants) because it does not require them to do anything they are not already doing.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because this rule will not require affected persons to do anything they are not already doing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses (bail bond businesses) because it does not require them to do anything they are not already doing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Safety
 Law Enforcement and Technical Services,
 Regulatory Licensing
 3888 West 5400 South
 PO Box 148280
 Taylorsville, UT 84114-8230, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jamie Allred at the above address, by phone at (801) 965-3868, by FAX at (801) 965-4749, or by Internet E-mail at jallred@dps.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Richard A. Greenwood, Deputy Commissioner

R724. Public Safety, Law Enforcement and Technical Services, Regulatory Licensing.

R724-10. Regulation of Bail Bond Agents.

R724-10-1. Purpose.

The purpose of this rule is to regulate bail bond agents as provided by Title 53, Chapter 11, the "Bail Bond Recovery Act."

R724-10-2. Authority.

This rule is authorized by Subsection 53-11-103(5).

R724-10-3. Definitions.

A. Terms used in this rule are defined in Section 53-11-102.

B. In addition:

1. "Moral turpitude" as used in Subsection 53-11-108(2)(a)(vi), means a conviction of any crime listed in R724-4-3(M). In addition, a crime of moral turpitude means a conviction of an offense involving:

- a. the use of alcohol, or;
- b. the unlawful use of narcotics or other controlled substances.

2. "Division" means the Criminal Investigation and Technical Services Division of the Department of Public Safety.

3. "Peace officer" as used in Subsection 53-11-108(2)(c), means anyone who is employed either full time or part time by the federal, state or local government in one of the officer classifications listed in Subsection 53-13-102.

R724-10-4. Application.

In addition to the requirements set forth in Sections 53-11-109 and 53-11-113, all applicants seeking licensure under this chapter

shall provide two completed sets of fingerprint cards for the purpose of fingerprint processing as provided for in Section 53-11-115.

R724-10-5. Licensure.

A. In addition to the provisions set forth in Subsection 53-11-116(1)(b)(i), each license and identification card shall have on it's face a designation as to whether or not the licensee is authorized to carry a loaded and concealed firearm as provided for in Subsection 53-11-108(5).

B. Providers offering instruction or continuing instruction required for licensure shall offer the courses to all applicants at the same course fees.

R724-10-6. Minimum Experience Requirements.

In addition to the requirements set forth in Subsections 53-11-109(1)(b)(i) and (ii), applicants who are claiming previous experience as either a bail recovery agent or law enforcement officer, must be able to substantiate the experience as qualifying experience by showing that the experience claimed has been acquired within ten years immediately preceding application.

R724-10-7. Qualification Credit for Specified Training.

A. Applicants receiving qualification credit under Section 53-11-114, are still required to attend the 16 hour training course(s) referred to in Section 53-11-108.

B. Applicants who hold a criminal justice bachelor's degree or who are certified to have successfully completed the state Peace Officers Standards and Training basic training course referred to in Section 53-6-202, may be exempt from meeting up to 1000 hours of the experience requirements.

C. Not more than 1000 hours may be exempt for any specified training.

R724-10-8. Notice to Commissioner.

The notice to the commissioner referred to in Subsection 53-11-116(5) regarding a change in the name or address of a bail bond agency and any change of employees or contract employees, shall be in writing and signed by the licensee.

R724-10-9. Appeal on Denial of License.

A. All adjudicative proceedings provided for herein shall be informal in accordance with Section 63-46b-5 and as allowed by Section 63-46b-4.

B. The board may deny a license application or renewal for failure to comply with the requirements in Sections 53-11-108 through 53-11-115, or for any of the reasons set forth in Section 53-11-118.

C. The board shall review and make an initial determination on all license applications. An applicant who is denied licensure by the board will be given an opportunity to appeal the board's initial determination to the board for a hearing.

D. The board will issue a written decision to the applicant within ten days following the hearing.

E. If the Board denies the license following a hearing, the decision issued by the Board will advise the applicant that he/she may appeal to the commissioner within 30 days after the decision is issued.

F. An appeal to the commissioner will not result in a de novo hearing before the commissioner. It will result in a review of the

record by the department's administrative law judge as the commissioner's designee. The administrative law judge, at his discretion, may request oral argument by the parties.

G. In addition to the options in Subsection 53-11-118(4), the administrative law judge may affirm the board's decision.

H. The administrative law judge will issue a decision within 60 days after receipt of the appeal.

KEY: bail bond agent, license
September 15, 2000

53-11-103(5)



Public Service Commission,
Administration
R746-340
Substantive Rules Governing
Telecommunications Utilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23045

FILED: 08/01/2000, 15:04

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To develop service quality standards for public telecommunications service.

SUMMARY OF THE RULE OR CHANGE: The proposed change to the existing rule provisions is intended to incorporate service quality guidelines or standards which are already in use in the telecommunications industry, service quality standards imposed in the Public Service Commission's proceedings involving the merger of US West Communications and Qwest, standards discussed with providers of public telecommunications services in Utah and standards anticipated to address service quality complaints filed with the Public Service Commission during the past five years. The proposal establishes, for carriers with over 30,000 access lines, technical standards for telecommunications services, standards for the installation or provision of service, and monitoring and reporting requirements. The proposed change includes the addition of new sections: Section R746-340-7 (End User Service Standards Where Competition Exists); Section R746-340-8 (End User Service Standards for Incumbent Telecommunications Corporations with 30,000 or More Access Lines in Utah, Not Subject to Competition); Section R746-340-9 (Reporting Requirements Where No Competition Exists); Section R746-340-10 (Price-Listed Service Information for Authorized Telecommunications Corporations); Section R746-340-11 (Enforcement Where No Competition Exists); Section R746-340-12 (Enforcement Where Competition Exists and for Incumbent Telecommunications Corporations with Less Than 30,000 Access Lines); and Section R746-340-13 (Record Retention).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-3.3

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 47 CFR 42 (1999)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No additional costs are anticipated for state agencies. Those agencies currently involved in addressing service quality standards of telecommunications providers will incorporate any new activities into their existing activities and procedures without additional budgetary expenditures. State agencies will realize savings to the extent that compliance with the proposed service quality standards reduces the occurrence, frequency, and duration of service interruptions or outages. Quantification of the savings is not possible to the Public Service Commission.

❖LOCAL GOVERNMENTS: No additional costs are anticipated for local governments as the proposed changes do not require any activity or modification of activity by local government entities.

❖OTHER PERSONS: To the extent that the proposed changes incorporate existing industry standards, no additional costs will be incurred with compliance. Qwest (formerly US West Communications), the largest provider of access lines in the state, has agreed to implement or comply with most of the proposed standards as part of the public benefit proffered in support of approval of its merger. The proposed rule changes incorporate into the rule those service quality standards already agreed to by Qwest as part of the merger process, so no additional costs will be incurred through the promulgation of those aspects of the proposed rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be incurred by telecommunications service providers where it is necessary to install additional facilities or personnel in order to comply with the proposed standards. However, the company potentially receiving the greatest impact from the proposed rule, Qwest, has agreed to incur the expenses associated with much of the proposed rule change as a benefit to the state of Utah in support of its merger with US West Communications. Hence, these costs of compliance do not derive from the rule change itself, but from the companies' decision to merge and provide benefits to the merged company's owners, customers, and the state of Utah. The monitoring and reporting requirements of the proposed change could entail additional compliance costs, but the Public Service Commission has adopted the same reporting scheme utilized by the Federal Communications Commission(FCC). Since companies are required to comply with the FCC's process, the Public Service Commission does not anticipate using the same process and scheme for the state's rule will require any significant expenditures. The proposed crediting provisions of the change are estimated to produce approximately \$22,000,000 in benefits. This estimate is calculated in assuming that the complaints filed with the Public Service Commission represent one in two hundred occurrences of actual service failure or problem. While the proposed rule requires a \$50 credit to be given to the customer, the Public Service Commission also estimates that the "costs" to a customer for a service failure or problem are approximately \$200 on average (e.g., value for time

taken out of a customer's work schedule to wait for missed service repair or installation appointments, lost business opportunities when service failures occur, labor costs expended in resolving billing disputes and errors, etc.). Using annual estimates of service failures or problems, based upon reported complaints during January through April, 2000, we estimate that customer credits could total approximately \$7,000,000; to offset \$30,000,000 in customer detriments from service failures and problems. Compliance with the proposed service quality would reduce each of these estimates and complete compliance would result in a net benefit of approximately \$22,000,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Public Service Commission receives numerous customer complaints regarding failures in the delivery of telecommunications services or in the installation of facilities for the provision of telecommunications services. Many of these complaints allege that the customer has sustained various costs or lost opportunities for income due to the failure, delay, or errors in providing service. Compliance with the proposed service quality standards should result in significant reduction in the burden currently borne by customers or potential customers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Barbara Stroud (designee), Paralegal

R746. Public Service Commission, Administration.

R746-340. Substantive Rules Governing Telecommunications [Utilities]Corporations.

R746-340-1. General.

A. Application of Rules -- These rules promulgated herein shall apply to each [telephone]telecommunications corporation, as defined in [Section 54-2-1(24)]54-8b-2(16).

1. These rules govern the furnishing of communications services and facilities to the public by a telecommunications [utility; hereinafter referred to as "utility,"]corporation subject to the jurisdiction of the Commission. The purpose of these rules is to

establish reasonable service standards to the end that adequate and satisfactory service will be rendered to the public.

2. The adoption of these rules by the Commission shall in no way preclude it from altering or amending its rules pursuant to applicable statutory procedures, nor shall the adoption of these rules preclude the Commission from granting temporary exemptions to rules in exceptional cases as provided in R746-100-16, Deviation from Rules.

B. Definitions -- In the interpretation of these rules, the following definitions shall apply:

1. "Adequate Service Standard" -- A measurable, defined service outcome judged by at least two thirds of the customers experiencing the outcome to be acceptable.

2. "Central Office" -- A building that contains the necessary telecommunications equipment and operating arrangements for switching, connecting, and inter-connecting the required local, interoffice, and interexchange services for the general public.

3. "Central Office Area" -- A geographic area served by a central office.

4. "CFR" means the Code of Federal Regulations, 1999 edition.

5. "Choke Network Trunk Groups" -- A network with special trunking and special prefixes in place to curtail the number of attempts to mass calling numbers.

6. "Commission" -- Public Service Commission of Utah.

7. "Commitment" -- A promise by a telecommunications corporation to a customer specifying a date and time to provide a service.

8. "Customer" -- A person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency, provided with telecommunications services by a telecommunications corporation.

9. Customer trouble reports include:

a. "Trouble Report" -- A customer report attributable to the malfunction of a telecommunications corporation's facilities and includes repeat trouble reports.

b. "Out of Service Trouble Report" -- A report used when a customer reports there is neither incoming nor outgoing telecommunications capability.

c. "Repeat Trouble Report" -- A report received on a customer access line within 30 days of a closed trouble report.

10. "Division" -- The Division of Public Utilities.

11. "Exchange" -- A unit established by a telecommunications corporation for the administration of telecommunications services in a specified area for which a separate local rate schedule is provided. It may consist of one or more central office areas together with associated outside plant facilities used in furnishing telecommunications services in that area.

12. "Exchange Service Area" -- The geographical territory served by an exchange.

13. "Extreme Event" -- an event when a telecommunications corporation is unable to provide adequate service due to:

a. A customer's act;

b. A customer's failure to act;

c. A governmental agency's delay in granting a right-of-way or other required permit;

d. A disaster or an act of nature that could not have been anticipated and prepared for by the telecommunications corporation;

e. A disaster of sufficient intensity to give rise to an emergency being declared by state government;

f. A cable cut outside a telecommunications corporation's control affecting more than 20 pairs;

g. Public calling events, busy calling or dial tone loss due to mass calling or dial-up event; or

h. A work stoppage. In the case of a work stoppage, a telecommunications corporation shall have a grace period of six weeks following return to work to comply with service quality standards.

14. Held Order -- A request for access line service delayed beyond the initial commitment date due to a lack of facilities.

15. "Interconnection Trunk Group" -- Connects the telecommunications corporation's end office with a long distance company, interexchange carrier.

16. "Local Access Line" -- A facility, totally within one central office area, providing a telecommunications connection between a customer's service location and the serving central office.

17. "Out of Service" -- When there exists neither incoming or outgoing telecommunications capability.

18. "Party Line Service" -- A grade of local exchange service which provides for a number of customers more than one customer to be served by the same local access line.

19. "Tariff" -- A portion or the entire body of rates, tolls, rentals, charges, classifications and rules, filed by the telecommunications corporation and approved by the Commission.

20. "Telecommunications Utility" -- A "telephone corporation" as defined in Section 54-2-1(24).

21. "Voice Grade Service" -- Service that at a minimum, includes:

a. providing access to E911, which identifies the exact location of the emergency caller;

b. Two-way communications with a clear voice each way;

c. Ability to either place or receive calls; and

d. Voice band between 300 HZ and 3000 HZ.

22. "Wire Center" -- The building in which one or more local switching systems are installed and where the outside cable plant is connected to the central office equipment.

R746-340-2. Records and Reports.

A. Availability of Records -- Each telecommunications corporation shall make its books and records open to inspection by representatives of the Commission or the Division during normal operating hours.

B. Retention of Records -- All records required by these rules shall be preserved for the period of time specified at 47 CFR 42, incorporated by this reference. A telecommunications corporation subject to the reporting requirement under R746-340-9 shall retain all documentation associated with a failure and all data supporting or used in preparing the designated reports for a minimum of four years.

C. Reports --

1. Each telecommunications corporation shall maintain records of its operations in sufficient detail to permit review of its service performance.

2. Central offices with more than 500 local access lines, shall each report as promptly as possible to the Commission and the local news media, including, but not limited to, radio, TV, and newspaper

when applicable, failure or damage to the equipment or facilities which disrupts the local or toll service of 25 percent or more of the local access lines in that central office area for a time period in excess of two hours.

D. Uniform System of Accounts -- The Uniform System of Accounts for Class A and Class B telephone utilities, as prescribed by the Federal Communications Commission at 47 CFR 32 is the prescribed system of accounts to record the results of Utah intrastate operations.

E. Data to be Filed with the Commission --

1. Tariffs -- Each [utility]telecommunications corporation shall have its tariff on file with the Commission in accordance with the rules governing the filing of tariffs as prescribed by the Commission and shall also provide the same information to the Commission in electronic format.

2. Exchange Maps -- Each [utility]telecommunications corporation shall have on file with the Commission an exchange area boundary map for each of its exchanges within the state. Each map shall clearly show the boundary lines of the exchange area wherein the utility serves. Exchange boundary lines shall be located by appropriate measurement to an identifiable location where that portion of the boundary line is not otherwise located on section lines, waterways, railroads, roads, etc. Maps shall show the location of major highways, section lines, geographic township and range lines and major landmarks located outside municipalities. An approximate distance scale shall be shown on each map.

R746-340-3. Engineering.

A. Utility Plant -- Utility plant shall be designed, constructed, maintained and operated in accordance with the provisions outlined in the National Electrical Safety Code, 1993 edition, incorporated by reference.

B. Party-line Service -- When party-line service is to be provided, no more than eight customers shall be connected on one local access line, unless approved by the Commission. The [utility]telecommunications corporation may re-group customers as may be necessary to carry out the provisions of this rule.

R746-340-4. Emergency Operation.

[1]A. [Utilities]Emergency Service -- Telecommunications corporations shall make reasonable arrangements to meet emergencies resulting from failures of service, unusual and prolonged increases in traffic, illness of personnel, fire, storm or other acts of God, and inform its employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telecommunications service.

[2]B. Battery Power -- Each central office shall have a minimum of three hours battery reserve.

[3]C. Auxiliary Power -- In central offices exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.

R746-340-5. Maintenance.

A. Maintenance of Plant and Equipment --

1. Each [utility]telecommunications corporation shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system to permit the rendering of safe, adequate and continuous service at all times.

2. Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and the adequate service performance of the plant affected.

B. Customer Trouble Reports --

1. Each [utility]telecommunications corporation shall provide for the receipt of customer trouble reports at all hours, and shall make a full and prompt investigation of and response to each complaint. The [utility]telecommunications corporation shall maintain a record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, and the action taken to clear the trouble or satisfy the complaint.

2. Provision shall be made to clear emergency out-of-service trouble at all hours, consistent with the bona fide needs of customers and the personal safety of [utility]telecommunications corporation personnel.[]

~~3. Provisions shall be made to clear other out-of-service trouble not requiring unusual repair, within 48 hours of the report received by the utility, unless the customer agrees to another arrangement.~~

~~4. If unusual repairs are required, or other factors preclude clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.~~]

C. Inspections and Tests -- Each [utility]telecommunications corporation shall adopt a program of periodic tests, inspections and preventative maintenance aimed at achieving efficient operation of its system and rendering safe, adequate, and continuous service.

D. Planned Service Interruptions -- If service must be interrupted for purposes of rearranging facilities or equipment, the work shall be done at a time which will cause minimal inconvenience to customers. Each [utility]telecommunications corporation shall attempt to notify each affected customer in advance of the interruption. Emergency or alternative service shall be provided, during the period of the interruption, to assure communication is available for local law enforcement and public safety units and agencies.

R746-340-6. Safety.

A. Safety -- Each [utility]telecommunications corporation shall:

1. require its employees to use suitable tools and equipment to perform their work in a safe manner;
2. instruct employees in safe work practices;
3. exercise reasonable care in minimizing the hazards to which its employees, customers and the general public may be subjected.

R746-340-7. End User Service Standards For All Telecommunications Corporations.

A. Public Telecommunications Services -- A telecommunications corporation providing public telecommunications services shall, excluding documented extreme events listed under R746-340-1(B)(13):

1. Meet minimum voice grade requirements as defined in R746-340-1(B)(20);

2. Meet network call completion standards:

a. Provide dial tone within three seconds on at least 98 percent of tested calls placed during average daily busy hours each month for each wire center; and

b. Assure that no local or toll direct distance dialing grade of service trunk group entirely within a telecommunication corporation's network, except choke network trunk groups and interconnection trunks, exceeds two percent blocking. The blocking standard applicable to interconnection trunks is governed by R746-365.

R746-340-8. End User Service Standards for Incumbent Telecommunications Corporations with 30,000 or More Access Lines in Utah, Not Subject to Sufficient Competition.

Except, after public notice and hearing, as ordered by the Commission upon finding that sufficient competition exists in a defined geographic area to waive one or more of the following standards and rely upon market operations to ensure adequate end user service quality, each incumbent telecommunications corporation with 30,000 or more access lines in Utah shall comply with the following service standards.

A. Returned Phone Calls -- Excluding documented extreme events listed in R746-340-1(B)(13)(a) telecommunications corporations shall return a "required phone call" by the end of the next business day.

1. A telecommunications corporation is required to return a phone call if:

a. A customer requests to speak with a supervisor and a supervisor is not immediately available; or

b. A telecommunications corporation representative tells a customer to expect a return phone call.

2. A telecommunications corporation shall automatically credit \$50 to a customer when it fails to either:

a. Have a supervisor return a phone call by the end of the next business day; or

b. Have its telecommunications corporation representative return a required phone call by the end of the next business day.

3. A telecommunications corporation shall maintain and provide to the Division upon request, substantial evidence documenting its efforts to return phone calls.

B. Consumer Complaints -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall automatically credit \$50 to a complainant if it fails to comply with R746-240-7 requirements. The customer credit shall be in addition to any other remedy or consequence for a violation of R746-240-7 requirements.

C. Installations -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall:

1. Install 90 percent of all new, transfer, and change orders within three business days or on the customer-requested due dates, whichever is later, on a wire center basis. Beginning July 2001, install 95 percent of all new, transfer, and change orders within three business days or on the customer-requested due dates, whichever is later, on a wire center basis;

2. Allow no more than five held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis for all areas not previously exempted under this rule. Beginning January 1, 2002, allow no more than four held orders per 1,000 new, transfer and change orders at the end of any month on a statewide basis;

3. Meet 90 percent of all new, transfer and change order installation commitments, on a wire center basis;

4. Automatically credit \$10 to a residential customer, \$40 to a small business customer, for missing an installation commitment.

D. Repairs -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall:

1. Repair 80 percent of all out-of-service troubles within one business day, on a wire center basis. Beginning July 1, 2001, repair 85 percent of all out-of-service troubles within one business day, on a wire center basis;

2. Repair 90 percent of all troubles within two business days, on a wire center basis;

3. Automatically credit \$10 to a residential customer, \$40 to a small business customer, for missing a repair commitment.

E. Maintenance -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall:

1. Maintain services so the trouble report rate does not exceed two per 100 access lines per wire center per month; and

2. Credit customers of affected wire centers \$0.25 per month for three successive months when the trouble rate for the wire centers serving those customers exceeds two percent for three consecutive months. The credit amount shall double each successive three consecutive months the trouble rate exceeds two percent.

F. Billing Requirements -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall:

1. Correct a billing error upon receiving a customer request by correcting the error prior to rendering the next bill, if the correction does not require additional investigation;

2. Orally explain a bill upon receiving a customer request such that the customer confirms understanding; otherwise, mail a written explanation to the customer no more than one business day after the customer declines to confirm understanding of the oral explanation;

3. Credit \$50 to a customer if it fails to implement a customer requested billing correction prior to rendering the next bill, if the correction did not require additional investigation;

4. Credit \$50 to a customer if it fails to send a written bill explanation no more than one business day after a customer declines to confirm understanding of an oral bill explanation;

5. Maintain and provide to the Division upon request, substantial evidence documenting its activities, the purposes, dates, volumes, and times of those activities in:

a. Making billing corrections prior to rendering the next bills,

b. Investigating to determine whether or how to make billing corrections,

c. Orally explaining bills to customers such that they confirm understanding, and

d. Mailing written explanations to customers who decline to confirm an understanding of oral explanations to billing inquires and complaints.

G. Disconnection of Service Requirements -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall:

1. Disconnect a customer for nonpayment no earlier than the disconnect date listed on the telecommunications corporation's disconnect notice to the customer;

2. Credit a customer \$50 if it disconnects service for nonpayment prior to the disconnect date on the telecommunications corporation's disconnect notice to the customer;

3. Credit a customer \$50 if it erroneously disconnects the customer for nonpayment;

4. Maintain and provide to the Division upon request, substantial evidence documenting its activities and the dates of those activities when disconnecting customers no earlier than the disconnect dates specified on their disconnect notices; and disconnecting only those customers eligible to be disconnected.

H. Incoming Repair and Business Office Calls -- Excluding documented extreme events listed in R746-340-1(B)(13), a telecommunications corporation shall:

1. Assure that incoming repair and business office calls experience no more than a 120-second time in queue on average. Beginning January 1, 2001 through July 7, 2001, assure that incoming repair and business office calls experience no more than a 45-second time in queue on average. Beginning July 8, 2001, assure incoming repair and business office calls experience no more than a 35-second time in queue on average;

2. Allow no more than one percent of incoming business and repair office calls to encounter a busy signal or other busy indication during a month;

3. Credit the telecommunications corporation 's Utah customers \$0.25 per month for three successive months if the percentage of busy signals for incoming business or repair office calls from Utah customers exceeds one percent for three consecutive months, with the credit amount doubling each successive three consecutive months the percentage of busy signals exceeds one percent.

R746-340-9. Reporting Requirements For Compliance with R746-340-8 Standards.

A. Reporting Requirements -- A telecommunications corporation, subject to R746-340-8, shall separately document the specific cause, the duration, and the magnitude of each failure to comply with a R746-340-8 requirement. A telecommunications corporation shall provide quarterly service quality monitoring reports covering the measures listed under R746-340-8. Monthly results will be recorded, summarized, and reported quarterly and on a wire-center basis as applicable. Wire-center specific data shall be treated as proprietary until 120 days after the close of the last month reflected in the report.

B. Monthly Results -- For each requirement, the reported monthly results shall measure outcomes both meeting and not meeting the R746-340-8 standards. The reported results not meeting each requirement will be categorized using each applicable extreme event category and the remainder categorized as nonexempted.

C. Audits of Service Outcomes or Complaints -- A telecommunications corporation shall cooperate in Division audits regarding its service outcomes or Commission complaints regarding those outcomes.

R746-340-10. Price-Listed Service Information for Telecommunications Corporations.

A. Information Requirements -- A telecommunications corporation authorized by the Commission to provide price- listed telecommunications services shall:

1. Make current prices, service descriptions, and definitions of the geographic areas served available to the public;

2. Provide the same information to the Commission in electronic format; and

3. If maintaining a web site, make current prices, service descriptions, and definitions of the geographic areas served available to the public on that web site.

KEY: procedure, telecommunications, telephone utility regulation
[1988]2000 54-4-1
Notice of Continuation June 26, 1998 54-4-14
54-4-23
54-2-1(24)



Regents (Board of), Administration
R765-610
Utah Higher Education Assistance
Authority Federal Family Education
Loan Program, PLUS, SLS and Loan
Consolidation Programs

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 23025
FILED: 07/17/2000, 12:57
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Adding the updates to the "Common Manual, Unified Student Loan Policy" for the year 2000.

SUMMARY OF THE RULE OR CHANGE: Adds updates to Chapter 2, "About the FFELP"; Chapter 3, "Lender Participation"; Chapter 4, "School Participation"; Chapter 5, "Borrower Eligibility and Loan Certification"; Chapter 6, "Guarantee, Disbursement, and Delivery"; Chapter 7, "Loan Servicing"; Chapter 8, "Delinquency, Default and Claims"; Chapter 9, "Consolidation Loans"; and Appendix A, Appendix F, Appendix H, and Appendix G, as outlined in the "Summary of Policy Changes" included with the updated manual.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53B-12-101(6)
FEDERAL REQUIREMENT FOR THIS RULE: Pub. L. No. 102-325 (Higher Education Act)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "Common Manual, Unified Student Loan Policy" (2000)

ANTICIPATED COST OR SAVINGS TO:
❖THE STATE BUDGET: None--there are no appropriated state funds involved in student loan programs. There are no

procedural changes or increase in workload due to this change.

❖LOCAL GOVERNMENTS: None--local governments are not involved in student loan programs. There are no procedural changes or increase in workload due to this change.

❖OTHER PERSONS: There may be indeterminate cost savings due to simplification of student loan policies. There are no procedural changes or increase in workload due to this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Updated rule does not add any new compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The "Common Manual" policies updated and incorporated by this rule merely reflect federal regulations regarding student loan programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Regents (Board of) Administration Suite 550, 3 Triad Center 355 West North Temple PO Box 45202 Salt Lake City, UT 84180-1205, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Cathryn Judd at the above address, by phone at (801) 321-7249, by FAX at (801) 321-7299, or by Internet E-mail at cjudd@utahsbr.edu.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Chalmers Gail Norris, Associate Commissioner for Student Financial Aid, and Executive Director, UHEAA

R765. Regents (Board of), Administration. R765-610. Utah Higher Education Assistance Authority Federal Family Education Loan Program, PLUS, SLS and Loan Consolidation Programs.

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R765-610-2. References.

2.1 Utah Code. Title 53B, Utah System of Higher Education, Chapter 12.

2.2 U.S. Congress, Title IV of the Higher Education Act of 1965, as amended.

2.3 U.S. Department of Education. Code of Federal Regulations, 34 CFR Parts 600, 668 and 682.

2.4 "Common Manual, Unified Student Loan Policy" published by Common Manual Guarantors, [~~1999~~]2000.

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R765-610-4. Incorporation by Reference.

4.1 UHEAA, as the designated guarantor for the FFELP in the state of Utah, hereby incorporates by reference the following documents:

4.1.1 Title IV of the U.S. Higher Education Act of 1965, as amended.

4.1.2 U.S. Department of Education 34 CFR Parts 600, 668, and 682.

4.1.3 "Common Manual, Unified Student Loan Policy", published by Common Manual Guarantors, [~~1999~~]2000.

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KEY: higher education, student loans*

~~[November 3, 1999]2000~~

53B-12-101(6)

Notice of Continuation July 15, 1997



Tax Commission, Motor Vehicle **R873-22M-17** Standards for State Impound Lots Pursuant to Utah Code Ann. Section 41-1a-1101

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23043

FILED: 08/01/2000, 14:39

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 41-1a-1101 requires the Tax Commission to promulgate rules setting standards for state impound yards.

SUMMARY OF THE RULE OR CHANGE: Amendment defines "impound yard" as an area used for storing vehicles and out of which a single tow company operates. The amendment clarifies Tax Commission practice.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-1101

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the amendment clarifies current practice.

❖LOCAL GOVERNMENTS: None--the amendment clarifies current practice.

❖OTHER PERSONS: None--the amendment clarifies current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the Tax Commission has always defined impound yard as set forth in this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses as this amendment clarifies current practice.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Tax Commission
 Motor Vehicle
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

R873. Tax Commission, Motor Vehicle.
R873-22M. Motor Vehicle.
R873-22M-17. Standards for State Impound ~~Lots~~ Yards Pursuant to Utah Code Ann. Section 41-1a-1101.

A. "Impound yard" means an area used for storing vehicles and out of which a single tow company operates.

~~A.]B.~~ An impound yard may be used by the Motor Vehicle Division and peace officers only if all of the following requirements are satisfied:

1. The yard must be identified by a conspicuously placed, well-maintained sign that:
 - a) is at least 24 square feet in size;
 - b) includes the business name, address, phone number, and hours of business; and
 - c) displays the impound yard identification number issued by the Motor Vehicle Division in characters at least four inches high.
2. The yard shall maintain a hard-surfaced storage area of concrete, black top, gravel, road base, or other similar material.
3. The yard must have adequate lighting.
4. A six-foot chain link or other similar fence that is topped with three strands of barbed wire or razor security wire must surround the yard or, in the case of yards that share a common boundary, must surround the exterior perimeter of those yards.
5. Spacing between vehicles must be adequate to allow opening of vehicle doors without interfering with other vehicles or objects.
6. An office shall be located on the premises of the yard.
 - a) The yard office shall be staffed and open for public business during normal business hours, Monday through Friday, except for designated state and federal holidays.
 - b) If the yard maintains multiple storage areas, authorization may be requested from the Motor Vehicle Division to maintain a

central office facility in a location not to exceed a 10 mile radius from any of its storage areas.

c) If a central office is approved under ~~[Subsection]~~ (6.b) ~~[above,];~~

(1) the signs of all storage areas must provide the location of the central office; and

~~(2) the central office must comply with the provisions of 6.a).~~

7. The yard shall provide compressed air and battery boosting capabilities at no additional cost.

~~[B:]C.~~ Persons who can demonstrate an ownership interest in a car held at a state impound yard are allowed to enter the vehicle during normal business hours and remove personal property not attached to the vehicle upon signing a receipt for the property with the yard.

1. An individual has ownership interest in the vehicle if ~~[he]the individual:~~

- a) is listed as a registered owner or lessee of the vehicle; or
- b) has possession of the vehicle title.

2. An individual must show picture identification as evidence of ~~[his]~~ ownership interest.

3. The storage yard shall maintain a log of individuals who have been given access to vehicles for the purpose of removing personal property. ~~[~~

~~—C. Impound yards holding five or less vehicles in a month may be required to tow those vehicles to another yard for the purpose of centralizing sales of vehicles or, at the discretion of the Motor Vehicle Division, be required to hold the vehicles until additional impounded vehicles may be included.]~~

D. Operators of impound yards shall remove license plates from impounded vehicles prior to the time of sale and turn them over to the Tax Commission at the time the vehicles are sold.

E. The Motor Vehicle Division has the authority to review the qualifications of state impound yards to assure compliance with the requirements set forth in this rule. Any yard not in compliance shall be notified in writing and given 30 days from that notice to rectify any noncompliance. If no action or insufficient action is taken by the impound yard, the Motor Vehicle Division may order it to be suspended as a state impound yard. Any yard contesting suspension, or any yard directly and adversely affected by the Motor Vehicle Division's refusal to designate it a state impound yard, has the right to appeal that suspension to the Tax Commission.

KEY: taxation, motor vehicles, aircraft, license plates

~~[June 21,]~~2000

Notice of Continuation May 8, 1997

41-1a-1101



Tax Commission, Property Tax
R884-24P-65
 Proportional Assessment of Transitory
 Personal Property Pursuant to Utah
 Code Ann. Section 59-2-402

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23044

FILED: 08/01/2000, 14:39

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-301 requires the county assessor to assess all property located within the county. Subsection 59-1-210(3), authorizes the State Tax Commission to promulgate rules that aide county officials in the performance of any duties relating to the assessment and equalization of property within the county.

SUMMARY OF THE RULE OR CHANGE: The proposed rule clarifies the definition of "transitory personal property" and indicates that transitory personal property becomes assessable when it has been in the state for 90 consecutive days in a calendar year. The rule also outlines the refund procedures when the property is moved out of Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-402

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the uniform school fund based on increased or decreased property valuation, including transitory personal property assessed under the Property Tax Act. Since transitory personal property was already taxable, no total cost or savings could be calculated without a complete inventory of personal property tax roles in each county. The state performs audits of personal property accounts at the request of individual counties; however, there should be no additional cost to the audit program since transitory personal property has always been taxable. Therefore, it is estimated that the overall change is minimal due to this rule.

❖LOCAL GOVERNMENTS: The amount of savings or cost to local government is undetermined. Local governments already receive tax revenue from transitory personal decreases in property valuation from the disposal or acquisition of new transitory personal property. No total cost or savings could be calculated without an exhaustive study of personal property tax rolls in each county, a listing of newly-acquired transitory personal property during 2000, and a listing of property which has been removed from personal property rolls during 2000. The tax collections from this type of property will be slightly reduced due to the 90-day provision. However, it is estimated that the overall cost or savings to local government is minimal due to this proposed rule. County assessor's offices statewide will be required to discover transitory personal property and determine the amount of time the property has been in Utah. The determination of the 90-day provision is the only issue that may require slightly more focus by the county. There should be no significant cost to local government.

❖OTHER PERSONS: The amount of savings or cost to other persons is undetermined. Transitory personal property

owners may see a slight decrease in tax, depending on the amount of time they normally spend in Utah. If the property is not in Utah for more than 90 consecutive days in a calendar year, no personal property tax is due.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each personal property owner is required to file an annual affidavit with the county assessor listing personal property. No aggregate compliance cost can be determined without a complete inventory of all personal property in each county. The compliance cost should be minimal because it is simply a reporting change on the personal property affidavit already filed by the taxpayers where they would disclose the amount of time the property has been in Utah. Therefore, it is estimated that the compliance cost due to this proposed rule is minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated above, the fiscal impact to individual businesses which are only in the state for a short time will be positive. The personal property taxes will not be assessed. The majority of businesses will not be impacted by this rule. In the aggregate, the fiscal impact is estimated to be minimal.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Tax Commission
Property Tax
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

R884. Tax Commission, Property Tax.**R884-24P. Property Tax.****R884-24P-65. Proportional Assessment of Transitory Personal Property Pursuant to Utah Code Ann. Section 59-2-402.**

A. "Transitory personal property" means tangible personal property that is used or operated primarily at a location other than a fixed place of business of the property owner or lessee.

B. Transitory personal property in the state on January 1 shall be assessed at 100 percent of fair market value.

C. Transitory personal property that is not in the state on January 1 is subject to a proportional assessment when it has been in the state for 90 consecutive days in a calendar year.

1. The determination of whether transitory personal property has been in the state for 90 consecutive days shall include the days the property is outside the state if, within 10 days of its removal from the state, the property is:

- a) brought back into the state; or
- b) substituted with transitory personal property that performs the same function.

D. Once transitory personal property satisfies the conditions under B., tax shall be proportionally assessed for the period:

- 1. beginning on the first day of the month in which the property was brought into Utah; and
- 2. for the number of months remaining in the calendar year.

E. An owner of taxable transitory personal property who removes the property from the state prior to December and who qualifies for a refund of taxes proportionally assessed and paid, shall receive a refund based on the number of months remaining in the calendar year at the time the property is removed from the state and for which the proportionally assessed tax has been paid.

F. For purposes of determining the refund under D., any portion of a month remaining shall be counted as a full month.

G. If tax has been paid for transitory personal property and that property is subsequently moved to another county in Utah:

- 1. No additional assessment may be imposed by any county to which the property is subsequently moved; and
- 2. No portion of the assessed tax may be transferred to the subsequent county.

KEY: taxation, personal property, property tax, appraisal [December 14, 1999]2000
Notice of Continuation May 8, 1997 59-2-402

◆ ————— ◆
**Workforce Services, Employment
Development
R986-100
Employment Support Programs**

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 23047
FILED: 08/01/2000, 18:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: This rule incorporates policies previously in effect at the department, but only found in the policy manual. Ten-day advance notice for adverse agency action is no longer required except for food stamps. The rule also incorporates provisions of federal law, PRWORA (Personal Responsibility and Work Opportunity Reconciliation Act), including the ten-year disqualification

provision for certain types of program fraud. The rule explains in detail the procedures followed by the department in "fair hearings." The requirement that the department issue a decision within 90 days has been removed. Assistance pending a hearing is not allowed except for FEP (Family Employment Program), FEPTP (Family Employment Program Two Parent), and food stamps. The department may now appeal a decision of an ALJ (Administrative Law Judge) to the director or designee. There is no requirement that the ALJ issue a decision within 21 days except as provided in federal law. Residents of group homes are no longer eligible for financial assistance. The department no longer makes vendor payments but can make payment to a protective payee as in the old rules. The rule defines good cause for failure to provide a social security number. A client is required to provide the department with a release of information to obtain information necessary to establish or continue eligibility. If an application is denied or assistance is reduced or terminated, an appeal must be filed within 90 days.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-101 et seq., 35A-3-301 et seq., and 35A-3-401 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Since most of the programs are federally funded, there will be a minimal cost savings to the state budget associated with the elimination of the ten-day advance notice requirement and the provision that some assistance payments will not continue pending a hearing in GA (General Assistance)-funded programs. It is anticipated that these cost savings will be negligible. Any and all administrative support associated with this new rule is anticipated to be minimal and can easily be absorbed at present staffing levels. All other provisions were either in the old rule or requirements of federal law or policy already in effect in the department and thus will not result in any cost or savings to the state budget.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings to local governments.

❖OTHER PERSONS: A few clients will not receive assistance due to the elimination of the ten-day notice requirement or the new provision that some kinds of assistance will not continue pending a hearing. This will only affect those individuals who are determined to have been ineligible. If those individuals are found eligible at the hearing, the assistance will be reinstated and paid back to the date of denial. Neither of these new provisions apply to food stamps.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this new rule because all costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.pixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

R986-100. Employment Support Programs.

R986-100-101. Authority.

(1) The legal authority for these rules and for the Department of Workforce Services to carry out its responsibilities is found in Sections 35A-1-104 and 35A-3-103.

(2) If any applicable federal law or regulation conflicts with these rules, the federal law or regulation is controlling.

R986-100-102. Scope.

(1) These rules establish standards for the administration of the following programs:

- (a) Food Stamps
- (b) Family Employment Program (FEP)
- (c) Family Employment Program Two Parent (FEPTP)
- (d) Refugee Resettlement Program (RRP)
- (e) Working Toward Employment (WTE)
- (f) General Assistance (GA)
- (g) Child Care Assistance (CC)
- (h) Emergency Assistance Program (EA)
- (i) Adoption Assistance Program (AA)

(2) The rules in the 100 section (R986-100 et seq.) apply to all programs listed above. Additional rules which apply to each specific program can be found in the section number assigned for that program. Nothing in R986 et seq. is intended to apply to Unemployment Insurance.

R985-100-103. Acronyms.

The following acronyms are used throughout these rules:

- (1) "AA" Adoption Assistance Program
- (2) "ALJ" Administrative Law Judge
- (3) "CC" Child Care Assistance
- (4) "CFR" Code of Federal Regulations
- (5) "DCFS" Division of Children and Family Services

(6) "DWS" Department of Workforce Services

(7) "EA" Emergency Assistance Program

(8) "FEP" Family Employment Program

(9) "FEPTP" Family Employment Program Two Parent

(10) "GA" General Assistance

(11) "INA" Immigration and Nationality Act

(12) "INS" Immigration and Naturalization Service

(13) "IPV" intentional program violation

(14) "IRCA" Immigration Reform and Control Act

(15) "ORS" Office of Recovery Service, Utah State Department of Human Services

(16) "PRWORA" the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

(17) "PL" Public Law as enacted the United States Congress

(18) "RRP" Refugee Resettlement Program

(19) "SNB" Standard Needs Budget

(20) "SSA" Social Security Administration

(21) "SSDI" Social Security Disability Insurance

(22) "SSI" Supplemental Security Insurance

(23) "SSN" Social Security Number

(24) "UCA" Utah Code Annotated

(25) "UI" Unemployment Compensation Insurance

(26) "VA" US Department of Veteran Affairs

(27) "WTE" Working Toward Employment Program

(28) "WIA" Workforce Investment Act

R986-100-104. Definitions of Terms Used in These Rules.

The following definitions apply to programs listed in R986-100-102:

(1) "Applicant" means any person requesting assistance under any program in Section 102 above.

(2) "Assistance" means "public assistance"

(3) "Certification period" is the period of time for which public assistance is presumptively approved. At the end of the certification period, the client must cooperate with the Department in providing any additional information needed to continue assistance for another certification period. The length of the certification period may vary between clients and programs depending on circumstances.

(4) "Client" means an applicant for, or recipient of, public assistance services or payments, administered by the Department.

(5) "Confidential information" means information that has limited access as provided under the provisions of UCA 63-2-201 or 7 CFR 272.1. The name of a person who has disclosed information about the household without the household's knowledge is confidential and cannot be released. If the person disclosing the information states in writing that his or her name and the information may be disclosed, it is no longer considered confidential.

(6) "Department" means the Department of Workforce Services.

(7) "Education or training" means:

(a) basic remedial education;

(b) adult education;

(c) high school education;

(d) education to obtain the equivalent of a high school diploma;

(e) education to learn English as a second language;

(f) applied technology training;

(g) employment skills training;

(h) on-the-job training; or

(i) post high school education.

(8) "Full-time education or training" means education or training attended on a full-time basis as defined by the institution attended.

(9) "Employment plan" consists of two parts, a participation agreement and an employment plan. Together they constitute a written agreement between the Department and a client that describes the requirements for continued eligibility for financial assistance and the result if an obligation is not fulfilled.

(10) "Executive Director" means the Executive Director of the Department of Workforce Services.

(11) "Financial assistance" or "cash assistance" means payments, other than for food stamps, child care or medical care, to an eligible individual or household under FEP, FEPTP, RRP, GA, or WTE and which is intended to provide for the individual's or household's basic needs.

(12) "Household assistance unit" means a group of individuals who are living together or who are considered to be living together, and for whom assistance is requested or issued. For all programs except Food Stamps and CC, the individuals included in the household assistance unit must be related to each other as described in R986-200-205.

(13) "Income match" means accessing information about an applicant's or client's income from a source authorized by law. This includes State and Federal sources.

(14) "Local office" means the Employment Center which serves the geographical area in which the client resides.

(15) "Material change" means anything that might effect household eligibility, participation levels or the level of any assistance payment including a change in household composition, eligibility, assets and/or income.

(16) "Minor child" is a child under the age of 18, or under 19 years of age and in school full time and expected to complete his or her educational program prior to turning 19, and who has not been emancipated either by a lawful marriage or court order.

(17) "Parent" means all natural, adoptive, and step parents.

(18) "Public assistance" means:

(a) services or benefits provided under UCA 35A Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided with the General Fund or under Title IV-E of the Social Security Act;

(d) food stamps; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(19) "Recipient" means any individual receiving assistance under any of the programs listed in Section 102.

(20) "Standard needs budget" is determined by the Department based on a survey of basic living expenses.

R986-100-105. Availability of Program Manuals.

(1) Program manuals for all programs are available for examination or review upon request at each local office. The manuals are also available on the Department's Internet web site. If an interested party cannot obtain a copy from the web site, a copy

will be provided by the Department upon request. Reasonable costs of copying may be assessed if more than 10 pages are requested.

(2) For the Food Stamp Program, copies of additional information available to the public, including records, regulations, plans, policy memos, and procedures, are available for examination upon request by members of the public, during office hours, at the Department's administrative offices, as provided in 7 CFR 272.1(d)(1) (1999).

R986-100-106. Residency Requirements.

(1) To be eligible for assistance for any program listed in R986-100-102, a client must be living in Utah voluntarily and not for a temporary purpose. There is no requirement that the client have a fixed place of residence. An individual is not eligible for public assistance in Utah if they are receiving public assistance in another State.

(2) The Department may require that a household live in the area served by the local office in which they apply.

(3) Individuals are not eligible if they are:

(a) in the custody of the criminal justice system;

(b) residents of a facility administered by the criminal justice system;

(c) residents of a nursing home;

(d) hospitalized; or

(e) residents in an institution.

(4) Individuals who reside in a temporary shelter, including shelters for battered women and children, for a limited period of time are eligible for public assistance if they meet the other eligibility requirements.

(5) Residents of a substance abuse or mental health facility may be eligible if they meet all other eligibility requirements. To be eligible for Food Stamps, the substance abuse or mental health facility must be an approved facility. Approval is given by the Department. The Department does not approve group homes. Approved facilities must notify the Department and give a "change report form" to a client when the client leaves the facility and tell the client to return it to the local office. The change report form serves to notify the Department that the client no longer lives in the approved facility.

R986-100-107. Client Rights.

(1) A client may apply or reapply at any time for any program listed in R986-100-102 by completing and signing an application and turning it in at the local office.

(2) If a client needs help to apply, help will be given by the local office staff.

(3) No individual will be discriminated against because of race, color, national origin, sex, religion or disability.

(4) A client's home will not be entered without permission.

(5) Advance notice will be given if the client must be visited at home outside working hours.

(6) A client may request an agency conference to reconcile any dispute which may exist with the Department.

(7) Information about a client obtained by the Department will be safeguarded.

(8) If the client is physically or mentally incapable or has demonstrated an inability to manage funds, the Department may make payment to a protective payee.

R986-100-108. Safeguarding and Release of Information.

(1) All information obtained on specific clients, whether kept in the case file, in the computer system, maintained by the Department, the state, or somewhere else, is safeguarded in accordance with the provisions of Sections 63-2-101 through 63-2-909 and 7 CFR 272.1(c) and 7 CFR 272.8 and PRWORA (1996) Title VIII, Section 837.

(2) General statistical information may be released if it does not identify a specific client. This includes information obtained by the Department from another source. Information obtained from the federal government for purposes of income match can never be released.

R986-100-109. Release of Information to the Client or the Client's Representative.

(1) Information obtained by the Department from any source, which would identify the individual, will not be released without the individual's consent or, if the individual is a minor, the consent of his or her parent or guardian.

(2) A client may request, review and/or be provided with copies of anything in the case record unless it is confidential. This includes any records kept on the computer, in the file, or somewhere else.

(3) Information that may be released to the client may be released to persons other than the client with written permission from the client.

(4) All requests for information must include:

(a) the date the request is made;

(b) the name of the person who will receive the information;

(c) a description of the specific information requested including the time period covered by the request; and

(d) the signature of the client.

(5) The first 10 pages will be copied without cost to the client. If the client requests copies of more than 10 pages, the Department will charge an appropriate fee for the copies in accordance with Department policy which will not be more than the cost to the Department for making copies.

(6) The original case file will only be removed from the office as provided in R986-100-110(6) and cannot be given to the client.

(7) Information that is not released to the client because it is confidential, cannot be used at a hearing or to close, deny or reduce assistance.

(8) Requests for information which is intended to be used for a commercial or political reason will be denied.

R986-100-110. Release of Information Other Than at the Request of the Client.

(1) Information obtained from or about a client will not be published or open to public inspection in any manner which would reveal the client's identity unless there has been a criminal conviction against the client for fraud in obtaining public assistance. In that instance, the Department will only provide information available in the public record on the criminal charge.

(2) Any information obtained by the Department pursuant to an application for or payment of public assistance may not be used in any court or admitted into evidence in an action or proceeding, except:

(a) in an action or proceeding arising out of the client's receipt of public assistance, including fraudulently obtaining or retaining

public assistance, or any attempt to fraudulently obtain public assistance; or

(b) where obtained pursuant to a court order.

(3) If the case file, or any information about a client in the possession of the Department, is subpoenaed by an outside source, legal counsel for the Department will ask the court to quash the subpoena or take such action as legal counsel deems appropriate.

(4) Information obtained by the Department from the client or any other source, except information obtained from an income match, may be disclosed to:

(a) an employee of the Department in the performance of the employee's duties unless prohibited by law;

(b) an employee of another governmental agency that is specifically identified and authorized by federal or State law to receive the information;

(c) an employee of a governmental agency to the extent the information will aid in the detection or avoidance of duplicate, inconsistent, or fraudulent claims against public assistance programs, or the recovery of overpayments of public assistance funds;

(d) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or to aid a felony criminal investigation except no information regarding a client receiving food stamps can be provided under this paragraph;

(e) to a law enforcement officer when the client is fleeing to avoid prosecution, custody or confinement for a felony or is in violation of a condition of parole or probation or when the client has information which will assist a law enforcement officer in locating or apprehending an individual who is fleeing to avoid prosecution, custody or confinement for a felony or is in violation of a condition of parole or probation and the officer is acting in his official capacity. The only information under this paragraph which can be released on a client receiving food stamps is the client's address, SSN and photographic identification;

(f) to a law enforcement official, upon written request, for the purpose of investigating an alleged violation of the Food Stamp Act 7 USCA 2011 or any regulation promulgated pursuant to the Act. The written request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person being investigated. Under this paragraph, the Department can release to the law enforcement official, more than just the client's address, SSN and photo identification;

(g) an educational institution, or other governmental entity engaged in programs providing financial assistance or federal needs-based assistance, job training, child welfare or protective services, foster care or adoption assistance programs, and to individuals or other agencies or organizations who, at the request of the Department, are coordinating services and evaluating the effectiveness of those services;

(h) to certify receipt of assistance for an employer to get a tax credit; or

(i) information necessary to complete any audit or review of expenditures in connection with a Department public assistance program. Any information provided under this part will be safeguarded by the individual or agency receiving the information and will only be used for the purpose expressed in its release.

(5) Any information released under paragraph (4) above can only be released if the Department receives assurances that:

(a) the information being released will only be used for the purposes stated when authorizing the release; and

(b) the agency making the request has rules for safeguarding the information which are at least as restrictive as the rules followed by the Department and that those rules will be adhered to.

(6) Case records or files will not be removed from the local office except by court order, or at the request of the Department's Information Disclosure Officer, the Department's Quality Control office, or ORS.

(7) In an emergency, as determined to exist by the Department's Information Disclosure Officer, information may be released to persons other than the client before permission is obtained.

(8) For clients receiving CC, the Department may provide the following information to the child care provider identified by the client as the provider:

(a) the date on which the CC payment was issued by the Department; and

(b) the amount of the check issued by the Department.

(9) Taxpayer requests to view public assistance payrolls will be denied.

R986-100-111. How to Apply For Assistance.

(1) To be eligible for assistance, a client must complete and sign an application for assistance.

(2) The application is not complete until the applicant has provided complete and correct information and verification as requested by the Department so eligibility can be determined or re-established at the time of review at the end of the certification period. The client must agree to provide correct and complete information to the Department at all times to remain eligible. This includes, but is not limited to:

(a) property or other assets owned by all individuals included in the household unit;

(b) insurance owned by any member of the immediate family;

(c) income available to all individuals included in the household unit;

(d) a verified SSN for each household member receiving assistance. If any household member does not have an SSN, the client must provide proof that the number has been applied for. If a client fails to provide a SSN without good cause, or if the application for an SSN is denied for a reason that would not be disqualifying, assistance will not be provided for that household member. Good cause in this paragraph means the client has made every effort to comply. Good cause does not mean illness, lack of transportation or temporary absence because the SSA makes provisions for mail-in applications in lieu of applying in person. Good cause must be established each month for continued benefits;

(e) the identity of all individuals who are living in the household regardless of whether they are considered to be in the household assistance unit or not;

(f) proof of relationship for all dependent children in the household. Proof of relationship is not needed for food stamps; and

(g) a release of information, if requested, which would allow the Department to obtain information from otherwise protected sources when the information requested is necessary to establish eligibility or compliance with program requirements.

(3) All clients, including those not required to participate in an employment plan, will be provided with information about applicable program opportunities, supportive services and child care.

R986-100-112. Assistance Cannot Be Paid for Periods Prior to Date of Application.

(1) Assistance payments for any program listed in Section 102 above cannot be made for any time period prior to the day on which the application for assistance was received by the Department.

(2) If an application for assistance is received after the first day of the month, and the client is eligible to receive assistance, payment for the first month is prorated from the date of the application.

(3) If additional verifying information is needed to complete an application, it must be provided within 30 days of the date the application was received. If the client is at fault in not providing the information within 30 days, the first day the client can be eligible is the day on which the verification was received by the Department.

(4) If the verification is not received within 60 days of the date the application was received by the Department, a new application is required and assistance payments cannot be made for periods prior to the date the new application is received. (5) If an application for assistance was denied and no appeal taken within 90 days, or a decision unfavorable to the client was rendered on appeal, assistance cannot be claimed, requested, or paid for that time period.

R986-100-113. A Client Must Inform the Department of All Material Changes.

(1) A client must report all material changes which might affect household eligibility to the local office within 10 days of the day the change becomes known. A material change is any change which might affect eligibility and includes, but is not limited to:

(a) change in income source, both unearned and earned;

(b) change of more than \$25 in gross monthly unearned income;

(c) change in employment status including a change from full time to part time or from part time to full time and/or a change in wage rate, salary or income from employment;

(d) change in household size or marital status;

(e) change in residence and resulting change in shelter costs;

(f) gain of a licensed vehicle;

(g) change in available assets including an unlicensed vehicle.

Under this paragraph (g), for food stamps a client need only report a change in cash on hand, stocks, bonds, and money in a bank account or savings institution which reach or exceed a total of \$2,000;

(h) change in the legal obligation to pay child support; and

(i) for all programs except food stamps, changes of more than \$25 in total allowable deductions.

(2) Most changes which result in an increase of assistance will become effective the month following the month in which the report of the change was made. If verification is necessary, verification and changes will be made in the month following the month in which verification was received. If the change is to add a person to the household, the person will be added effective on the date reported, provided necessary verification is received within 30 days

of the change. If verification is received after 30 days, the increase will be made effective the date verification was received.

R986-100-114. A Client's Continuing Obligation to Provide Verification and Information.

(1) A client who is eligible for assistance must provide additional verification and information after the application is approved if requested by the Department.

(2) The client must provide information to determine if eligibility was appropriately established and if payments made under these rules were appropriate. This information may be requested by an employee of the Department or a person authorized to obtain the information under contract with the Department such as an employee of ORS.

R986-100-115. Underpayment Due to an Error on the Part of the Department.

(1) If it is determined that a client was entitled to assistance but, due to an error on the part of the Department, assistance was not paid, the Department will correct its error and make retroactive payment.

(2) If a client receives assistance payments and it is later discovered that due to Department error the assistance payment should have been made at a higher level than the client actually received, retroactive payment will be made to correct the Department's error.

(3) If the client's public assistance was terminated due to the error, the client will be notified and assistance, plus any retroactive payments, will commence immediately.

(4) An underpayment found to have been made within the last 12 calendar months may be corrected and issued to the client. Errors which resulted in an underpayment which were made more than 12 months prior to the date of the discovery of the error are not subject to a retroactive payment.

(5) Retroactive payment under this section cannot be made for any month prior to the date on which the application for assistance was completed.

(6) The client must not have been at fault in the creation of the error.

R986-100-116. Overpayments of Public Assistance.

(1) A client is responsible for repaying any overpayment of public assistance regardless of who was at fault in creating the overpayment.

(2) All suspected overpayments will be referred by the Department to ORS.

(3) Underpayments may be offset against overpayments.

(4) If a change is not reported as required by R986-100-113 it may result in an overpayment.

R986-100-117. Disqualification For Fraud (intentional program violations or IPV).

(1) Any person who obtains, or attempts to obtain, public assistance from any of the programs listed in R986-100-102 or otherwise intentionally breaches any program rule either personally or through a representative is guilty of an intentional program violation (IPV). Acts which constitute an IPV include but are not limited to:

(a) knowingly making false or misleading statements;

(b) misrepresenting, concealing, or withholding facts or information;

(c) posing as someone else;

(d) not reporting the receipt of a public assistance payment the individual knew or should have known they were not eligible to receive;

(e) not reporting a material change within 10 days after the change occurs in accordance with these rules; and

(f) committing an act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity.

(2) An IPV occurs when a person commits any of the above acts in an attempt to obtain, maintain, increase or prevent the decrease or termination of any public assistance payment(s).

(3) If the Department suspects any person of having committed an IPV, the Department will refer the matter to ORS for a determination. If ORS determines the person has committed an IPV, ORS will notify the Department and refer the matter for criminal prosecution if appropriate.

(4) When the Department receives notice from ORS or a court that fraud or an IPV has occurred, the individual is disqualified from receiving assistance of the same type for the following time periods:

(a) one year for the first IPV;

(b) two years for the second IPV; and

(c) permanently for the third IPV.

(5) The disqualification period begins the month after the month in which the Department receives notification of the IPV.

(6) Disqualifications run consecutively. If an individual is disqualified for a second IPV before the expiration of the one year disqualification for the first IPV, the two year disqualification period does not begin to run on the second IPV until the expiration of the first disqualification period.

(7) All income and assets of a person who has been disqualified from assistance for an IPV continue to be counted and affect the eligibility and assistance amount of the household assistance unit in which the person resides.

(8) If an individual has been disqualified in another state, the disqualification period for the IPV in that State will apply in Utah provided the act which resulted in the disqualification would have resulted in a disqualification had it occurred in Utah. If the individual has been disqualified in another state for an act which would have led to disqualification had it occurred in Utah and is found to have committed an IPV in Utah, the prior periods of disqualification in any other State count toward determining the length of disqualification in Utah.

(9) Upon notice from ORS that an IPV disqualification is in effect, the Department will notify the client. The disqualification period begins the month after notification from ORS and in consecutive months until the disqualification period has expired.

(10) Nothing in these rules is intended to limit or prevent a criminal prosecution for fraud based on the same facts used to determine the IPV.

R986-100-118. Additional Penalty for a Client Who Intentionally Misrepresents Residence.

A person who has been convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence in order to receive assistance simultaneously from two or more states is disqualified from

receiving assistance for any and all programs listed in R986-100-102 above, for a period of 10 years. This applies even if Utah was not one of the states involved in the original fraudulent misrepresentation.

R986-100-119. Reporting Possible Child Abuse or Neglect.

When a Department employee has reason to believe that a child has been subjected to abuse or neglect, it shall be reported under the provisions of Section 62A-4a-401 et seq.

R986-100-120. Discrimination Complaints.

(1) Complaints of discrimination can be made in person, by phone, or in writing to the local office or to the Office of the Executive Director or the Director's designee.

(2) Complaints shall be resolved and responded to as quickly as possible.

(3) A record of complaints will be maintained by the local office including the response to the complaint.

(4) If a complaint is made to the local office, a copy of the complaint together with a copy of the written response will be sent to the Office of the Executive Director or the Director's designee.

(5) Discrimination complaints pertaining to the Food Stamp Program will also be sent to the Secretary of Agriculture or the Administrator of Food and Nutrition Service, Washington, D.C., 20250 in accordance with the provisions of 7 CFR 272.6 (1999).

R986-100-121. Agency Conferences.

(1) Agency conferences are used to resolve disputes between the client and Department staff.

(2) Clients or Department staff may request an agency conference at any time to resolve a dispute regarding a denial or reduction of assistance.

(3) Clients may have an authorized representative attend the agency conference.

(4) An agency conference will be attended by the client's employment counselor and the counselor's supervisor unless the client or the supervisor request that the employment counselor not attend the conference.

(5) If an agency conference has previously been held on the same dispute, the Department may decline to hold the requested conference if, in the judgment of the employment counselor's supervisor, it will not result in the resolution of the dispute.

(6) If the Department requests the agency conference and the client fails to respond, attend or otherwise cooperate in this process, documentation in the case file of attempts by the staff to follow these steps will be considered as compliance with the requirement to attempt to resolve the dispute.

(7) An agency conference may be held after a client has made a request for hearing in an effort to resolve the dispute. If so, the client must be notified that failure to participate or failure to resolve the dispute at the agency conference will not affect the client's right to proceed with the hearing.

R986-100-122. Advance Notice of Department Action.

(1) Except as provided in (2) below, clients will be notified in writing when a decision concerning eligibility, amount of assistance payment or action on the part of the Department which affects the client's eligibility or amount of assistance has been made. Notice

will be sent prior to the effective date of any action to reduce or terminate assistance payments.

(2) Advance notice is not required when:

(a) the client requests in writing that the case be closed;

(b) the client has been admitted to an institution under governmental administrative supervision;

(c) the client has been placed in skilled nursing care, intermediate care, or long-term hospitalization;

(d) the client's whereabouts are unknown and mail sent to the client has been returned by the Post Office with no forwarding address;

(e) it has been determined the client is receiving public assistance in another State;

(f) a child in the household has been removed from the home by court order or by voluntary relinquishment;

(g) a special allowance provided for a specific period is ended and the client was informed in writing at the time the allowance began that it would terminate at the end of the specified period;

(h) an individual in the household has been disqualified from assistance because of an intentional program violation;

(i) the Department has received factual information confirming the death of a client or payee if there is no other relative able to serve as a new payee;

(j) the client's certification period has expired;

(k) the action to terminate assistance is based on the expiration of the time limits imposed by the program;

(l) the client has provided information to the Department, or the Department has information obtained from another source, that the client is not eligible or that payment should be reduced or terminated; or

(m) the Department determines that the client willfully withheld information.

(3) For food stamps, no action will be taken until 10 days after notice was sent unless one of the exceptions in (2)(a) through (k) above apply.

R986-100-123. The Right To a Hearing and How to Request a Hearing.

(1) A client has the right to a review of an adverse Department action by requesting a hearing.

(2) A client must request a hearing in writing or orally within 90 days of the effective date of the action with which the client disagrees. Any oral request for a hearing will be reduced to writing by the Department and the client will be requested to sign the request.

(3) Only a clear expression by the client to the effect that the client wants an opportunity to present his or her case is required.

(4) The request for a hearing can be made at the local office or the Division of Adjudication.

(5) If the client disagrees with the level of food stamp benefits paid or payable, the client can request a hearing within the certification period, even if that is longer than 90 days.

(6) If a request for restoration of lost food stamp benefits is made within one year of the loss of benefits a client may request a hearing within 90 days of the date of the denial of restoration.

(7) If the appeal involves an overpayment, the portion of the appeal which involves an overpayment will be referred to ORS.

R986-100-124. How Hearings Are Conducted.

(1) Hearings are held at the state level and not at the local level.

(2) Where not inconsistent with federal law or regulation governing hearing procedure, the Department will follow the Utah Administrative Procedures Act.

(3) Hearings for all programs listed in R986-100-102 are declared to be informal.

(4) Hearings are conducted by an ALJ in the Division of Adjudication.

(5) Hearings may be conducted by telephone at the option of the ALJ.

R986-100-125. When a Client Needs an Interpreter at the Hearing.

(1) If an interpreter is needed at the hearing by a client or the client's witness(es), the client may arrange for an interpreter to be present at the hearing who is an adult with fluent ability to understand and speak English and the language of the person testifying, or notify the Division of Adjudication at the time the appeal is filed that assistance is required in arranging for an interpreter.

(2) If a client notifies the Department that an interpreter is needed at the time the request for hearing is made, the Department will arrange for an interpreter at no cost to the client.

R986-100-126. Procedure For Use of an Interpreter.

(1) The ALJ will be assured that the interpreter:

(a) understands the English language; and

(b) understands the language of the client or witness for whom the interpreter will interpret.

(2) The ALJ will instruct the interpreter to interpret, word for word, and not summarize, add, change, or delete any of the testimony or questions.

(3) The interpreter will be sworn to truthfully and accurately translate all statements made, all questions asked, and all answers given.

(4) The interpreter will be instructed to translate to the client the explanation of the hearing procedures as provided by the ALJ.

R986-100-127. Notice of Hearing.

(1) All interested parties will be notified by mail at least seven days prior to the hearing.

(2) Advance written notice of the hearing can be waived if the client and Department agree.

(3) The notice shall contain:

(a) the time, date, and place, or conditions of the hearing. If the hearing is to be by telephone, the notice will provide the number for the client to call and a notice that the client can call the number collect;

(b) the legal issues or reason for the hearing;

(c) the consequences of not appearing;

(d) the procedures and limitations for requesting rescheduling;

and
(e) notification that the client can examine the case file prior to the hearing.

(4) If a client has designated a person or professional organization as the client's agent, notice of the hearing will be sent

to that agent. It will be considered that the client has been given notice when notice is sent to the agent.

(5) When a new issue arises during the hearing or under other unusual circumstances, advance written notice may be waived, if the Department and the client agree, after a full verbal explanation of the issues and potential results.

(6) The client must notify any representatives, including counsel and witnesses, of the time and place of the hearing and make necessary arrangements for their participation.

(7) The notice of hearing will be translated, either in writing or verbally, for certain clients participating in the RRP program in accordance with RRP regulations.

R986-100-128. Hearing Procedure.

(1) Hearings are not open to the public.

(2) A client may be represented at the hearing or invite friends or relatives to attend as space permits.

(3) Representatives from the Department or other state agencies may be present.

(4) All hearings will be conducted informally and in such manner as to protect the rights of the parties. The hearing may be recorded.

(5) All issues relevant to the appeal, except overpayment if any, will be considered and decided upon.

(6) The decision of the ALJ will be based solely on the testimony and evidence presented at the hearing.

(7) All parties may testify, present evidence or comment on the issues.

(8) All testimony of the parties and witnesses will be given under oath or affirmation.

(9) Any party to an appeal will be given an adequate opportunity to be heard and present any pertinent evidence of probative value and to know and rebut by cross-examination or otherwise any other evidence submitted.

(10) The ALJ will direct the order of testimony and rule on the admissibility of evidence.

(11) Oral or written evidence of any nature, whether or not conforming to the legal rules of evidence including hearsay, may be accepted and will be given its proper weight.

(12) Official records of the Department, including reports submitted in connection with any program administered by the Department or other State agency may be included in the record.

(13) The ALJ may request the presentation of and may take such additional evidence as the ALJ deems necessary.

(14) The parties, with consent of the ALJ, may stipulate to the facts involved. The ALJ may decide the issues on the basis of such facts or may set the matter for hearing and take such further evidence as deemed necessary to determine the issues.

(15) The ALJ may require portions of the evidence be transcribed as necessary for rendering a decision.

(16) Unless the client requests a continuance, the decision of the ALJ will be issued within 60 days of the date on which the client requests a hearing.

(17) A decision of the ALJ which results in a reversal of the Department decision shall be complied with within 10 days of the issuance of the decision.

R986-100-129. Rescheduling or Continuance of Hearing.

(1) The ALJ may adjourn, reschedule, continue or reopen a hearing on the ALJ's own motion or on the motion of the client or the Department.

(2) A party who is unable to proceed with or participate in the hearing on the date or time scheduled, must request that the hearing be rescheduled to another day or time.

(a) The request for rescheduling must be made prior to the hearing.

(b) The request must be made orally or in writing to the ALJ who is scheduled to hear the case.

(c) The party who requests rescheduling must show a reasonable reason for the request.

(d) More than one request to reschedule will not normally be granted.

(3) The rescheduled hearing must be held within 30 days of the original hearing date.

R986-100-130. Failure to Appear For or Participate In a Hearing.

If one of the parties fails to appear at or participate in the hearing, either in person or through a representative, the ALJ will, unless a continuance or rescheduling has been requested, issue a decision based on the available evidence.

R986-100-131. Reopening the Hearing After the Hearing Has Been Concluded.

(1) Any party who fails to participate personally or by authorized representative at a hearing may request that the hearing be reopened.

(2) If the request is made by a client prior to the ALJ issuing a decision or within 10 days of the issuance of the decision, the request to reopen will be granted if it is the first time the client has been granted a request to reopen for failure to participate.

(3) If the client requests reopening more than 10 days after the decision of the ALJ has been issued, or the client has already been granted a reopening on one or more occasions, the decision can be set aside and the hearing reopened only if:

(a) the request is made in writing; and

(b) the client shows good cause for not participating; and

(c) the client shows good cause for not requesting reopening within 10 days.

(4) If the request to reopen for failure to participate is made by the Department, the request will only be considered if it is in writing and establishes good cause for failure to participate. A request made by the Department more than ten days after the decision will not be granted.

(5) If a request for reopening is not granted, the ALJ will issue a decision denying the request to reopen. A copy of the decision will be given or mailed to each party, with a clear statement of the right of appeal or judicial review.

R986-100-132. What Constitutes Good Cause for Failure to Participate in the Hearing.

(1) Failure to report as instructed at the time and place of the scheduled hearing is the equivalent of failing to participate, even if the party reports at another time or place. In such circumstances the party must request that the hearing be reopened.

(2) Good cause for failing to participate in a hearing may not include such things as:

(a) failure to read and follow instructions on the notice of hearing;

(b) failure to arrange personal circumstances such as transportation or child care;

(c) failure to arrange for receipt or distribution of mail;

(d) failure to delegate responsibility for participation in the hearing; or

(e) forgetfulness.

R986-100-133. Canceling an Appeal and Hearing.

When a client notifies the Division of Adjudication or the ALJ that the client wants to cancel the hearing and not proceed with the appeal, a decision dismissing the appeal will be issued. This decision will have the effect of upholding the Department decision. The client will have 30 days in which to reinstate the appeal by filing a written request for reinstatement with the Division of Adjudication.

R986-100-134. Payments of Assistance Pending the Hearing.

(1) A client is entitled to receive continued assistance pending a hearing contesting a Department decision to reduce or terminate food stamps, RRP, FEPTP, or FEP financial assistance if the client's request for a hearing is received no later than ten days after the reduction, denial, or termination became effective. The assistance will continue unless the certification period expires until a decision is issued by the ALJ. If the certification period expires while the hearing or decision is pending, assistance will be terminated. If a client becomes ineligible or the assistance amount is reduced for another reason pending a hearing, assistance will be terminated or reduced for the new reason unless a hearing is requested on the new action.

(2) If the client can show good cause for not requesting the hearing within 10 of the action, assistance may be continued if the client can show good cause for failing to file in a timely fashion. Good cause in this paragraph means that the client made every effort to comply. Because the Department allows a client to request a hearing by telephone or mail, good cause does not mean illness, lack of transportation or temporary absence.

(3) A client can request that payment of assistance not be continued pending a hearing but the request must be in writing.

(4) If payments are continued pending a hearing, the client is responsible for any overpayment in the event of an adverse decision.

(5) If the decision of the ALJ is adverse to the client, the client is not eligible for continued assistance pending any appeal of that decision.

(6) If a decision favorable to the client is rendered after a hearing, and payments were not made pending the decision, retroactive payment will be paid back to the date of the adverse action if the client is otherwise eligible.

(7) A client's CC subsidy or financial assistance payments under GA or WTE will not continue during the hearing process regardless of when the appeal is filed.

(8) Financial assistance under the RRP will not extend for longer than the eight-month time limit for that program under any circumstances.

(9) Clients receiving financial assistance under the FEPTP program must continue to participate to receive financial assistance during the hearing process.

(10) Financial assistance under the FEPTP program will not extend for longer than the seven-month time limit for that program under any circumstance.

(11) Assistance is not allowed pending a hearing from a denial of an application for assistance.

R985-100-135. Further Appeal From the Decision of the ALJ.

Either party has the option of appealing the decision of the ALJ to either the Executive Director or designee or to the District Court. Either appeal must be filed, in writing, within 30 days of the issuance of the decision of the ALJ.

**KEY: employment support procedures
October 2, 2000**

35A-3-101 et seq.
35A-3-301 et seq.
35A-3-401 et seq.



**Workforce Services, Employment
Development
R986-200
Family Employment Program**

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23048
FILED: 08/01/2000, 18:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The 20% extension criteria has been changed in response to public comment. The "catchall" provision has been replaced with four narrow categories: when a delay in the delivery of services was caused by the department; when a client, through no fault of their own, was unable to complete education and training necessary for employment; when a client moved to the state and did not receive required services in the state of origin; and when a client completes education and training at the 36th month and needs time to find employment. The department has eliminated "other exceptions" as a reason for noncooperation with the Office of Recovery Services (ORS). Other nonsubstantive changes were made including several provisions from the department's policy manual which were more appropriate to a rule.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule is being proposed to replace old rules being repealed in a separate rulemaking action. It is not anticipated that the new rule will require the expenditure of any additional funds. Additionally, the state has a maintenance of effort requirement which must be met before we receive federal funding. That maintenance of effort amount will not change so there are no costs or savings associated with this new rule.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: It is not anticipated that these changes will result in a loss of assistance to anyone as the Department is reenacting new provisions based on the old rules, policy already in place and prior Department practice regarding client's who previously were granted the 20% extension.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs associated with this new rule because all costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on business as a result of these changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director



R986. Workforce Services, Employment Development.**R986-200. Family Employment Program.****R986-200-201. Authority for Family Employment Program (FEP) and Family Employment Program Two Parent (FEPTP) and Other Applicable Rules.**

(1) The Department provides services to eligible families under FEP and FEPTP under the authority granted in the Employment Support Act, UCA 35A-3-301 et seq. Funding is provided by the federal government through Temporary Aid to Needy Families (TANF) as authorized by PROWORA. Utah is required to file a "State Plan" to obtain the funding. A copy of the State Plan is available at Department administrative offices. The regulations contained in 45 CFR 260 through 45 CFR 265 (1999) are also applicable and incorporated herein by reference.

(2) Rule R986-100 applies to FEP and FEPTP unless expressly noted otherwise.

R986-200-202. Family Employment Program (FEP).

(1) The goal of FEP is to increase family income through employment, and where appropriate, child support and/or disability payments.

(2) FEP is for families with only one able bodied parent in the household. If the family has two able bodied parents in the household, the family is not eligible for FEP but may be eligible for FEPTP. Able bodied means capable of earning at least \$500 per month.

(3) If a household has two parents, and at least one parent is incapacitated, the parent claiming incapacity must verify that incapacity in one of the following ways:

(a) receipt of disability benefits from SSA;

(b) 100 percent disabled by VA; or

(c) by submitting a written statement from:

(i) a licensed medical doctor;

(ii) a doctor of osteopathy; or

(iii) a licensed/certified psychologist.

(4) Incapacity means not capable of earning \$500 per month. The incapacity must be expected to last 30 days or longer.

(5) An applicant or client must cooperate in the obtaining of a second opinion regarding incapacity if requested by the Department. Only the costs associated with a second opinion requested by the Department will be paid for by the Department. The Department will not pay the costs associated with obtaining a second opinion if the client requests the second opinion.

(6) An incapacitated parent is included in the FEP household assistance unit and the parent's income and assets are counted toward establishing eligibility unless the parent is a SSI recipient. If the parent is a SSI recipient, none of the income or assets of the SSI recipient is counted.

(7) An incapacitated parent must still negotiate, sign and agree to participate in an employment plan. If the incapacity is such that employment is not feasible now or in the future, participation may be limited to cooperating with ORS and filing for any assistance or benefits to which the parent may be entitled. If it is believed the incapacity might not be permanent, the parent will also be required to seek assistance in overcoming the incapacity.

(8) If a household unit is eligible under both FEP and FEPTP, payment will be made under FEP.

R986-200-203. Citizenship and Alienage Requirements.

(1) All persons in the household assistance unit who are included in the financial assistance payment, including children, must meet citizenship or alienage criteria.

(2) An alien is not eligible for financial assistance unless the alien meets the definition of qualified alien. A qualified alien is an alien:

(a) who is paroled into the United States under section 212(d)(5) of the INA for at least one year; or

(b) who is admitted as a refugee under section 207 of the INA; or

(c) who is granted asylum under section 208 of the INA; or

(d) who is a Cuban or Haitian entrant in accordance with the requirements of 45 CFR Part 410; or

(e) who is an Amerasian from Vietnam and was admitted to the United States as an immigrant pursuant to Public Law 100-202 and Public Law 100-461; or

(f) whose deportation is being withheld under sections 243(h) or 241(b)(3) of the INA; or

(g) who is lawfully admitted for permanent residence under the INA, or

(h) who is granted conditional entry pursuant to section 203(a)(7) of the INA; or

(i) who meets the definition of certain battered aliens under Section 8 U.S.C. 1641(c).

(3) All aliens granted lawful temporary or permanent resident status under Sections 210, 302, or 303 of the Immigration Reform and Control Act of 1986, are disqualified from receiving financial assistance for a period of five years from the date lawful temporary resident status is granted.

(4) Aliens are required to provide proof, in the form of documentation issued by the INS, of immigration status.

R986-200-204. Eligibility Requirements.

(1) To be eligible for financial assistance under the FEP or FEPTP a household assistance unit must include:

(a) a pregnant woman when it has been medically verified that she is in the third calendar month prior to the expected month of delivery, or later, and who, if the child were born and living with her in the month of payment, would be eligible. The unborn child is not included in the financial assistance payment; or

(b) at least one minor dependent child who is a citizen or meets the alienage criteria. All minor children age 6 to 16 must attend school, or be exempt under 53A-11-102, to be included in the household assistance unit for a financial assistance payment for that child. If the only minor child in the household assistance unit is at least six years old but under 16 years old and not attending school, the family is not eligible for FEP or FEPTP assistance.

(i) A minor child is defined as being under the age of 18 years and not emancipated by marriage or by court order; or

(ii) an unemancipated child, at least 18 years old but under 19 years old, with no high school diploma or its equivalent, who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and the school has verified a reasonable expectation the 18 year old will complete the program before reaching age 19.

(2) Households must meet other eligibility requirements in R986-100 and of income, assets, and participation.

(3) Persons who are fleeing to avoid prosecution of a felony are ineligible for financial assistance.

R986-200-205. How to Determine Who Is Included in the Household Assistance Unit.

The amount of financial assistance for an eligible household is based on the size of the household assistance unit and the income and assets of all people in the household assistance unit.

(1) The income and assets of the following individuals living in the same household must be counted in determining eligibility of the household assistance unit:

(a) all natural parents, adoptive parents and stepparents, unless expressly excluded below, who are related to and residing in the same household as an eligible dependent child. Natural parentage is determined as follows:

(i) A woman is the natural parent if her name appears on the birth record of the child.

(ii) For a man to be determined to be the natural parent, that relationship must be established or acknowledged. If the parents have a solemnized marriage at the time of birth, relationship is established;

(b) household members who would otherwise be included but who are absent solely by reason of employment, school or training, or who will return home to live within 30 days;

(c) all minor siblings, half-siblings, and adopted siblings living in the same household as an eligible dependent child; and

(d) all spouses living in the household.

(2) The following individuals in the household are not counted in determining the household size for determining payment amount nor are the assets or income of the individuals counted in determining household eligibility:

(a) a recipient of SSI benefits. If the SSI recipient is the parent and is receiving FEP assistance for the child(ren) residing in the household, the SSI parent must cooperate with establishing paternity and child support enforcement for the household to be eligible. If the only dependent child is a SSI recipient, the parent or specified relative may receive a FEP assistance payment which does not include that child, provided the parent or specified relative is not on SSI and can meet all other requirements;

(b) a child during any month in which a foster care maintenance payment is being provided to meet the child's needs. If the only dependent child in the household is receiving a foster care maintenance payment, the parent or specified relative may still receive a FEP assistance payment which does not include the child, provided all other eligibility, income and asset requirements are met;

(c) an absent household member who is expected to be gone from the household for 180 days or more unless the absence is due to employment, school or training. If the absence is due to employment, school or training the household member must be included.

(3) The household assistance unit can choose whether to include or exclude the following individuals living in the household. If included, all income and assets of that person are counted:

(a) all absent household members who are expected to be temporarily absent from the home for more than 30 but not more

than 180 consecutive days unless the absence is due to employment, school or training. If the absence is due to employment, school or training the household member must be included;

(b) Native American children, or deaf or blind children, who are temporarily absent while in boarding school, even if the temporary absence is expected to last more than 180 days;

(c) an adopted child who receives a federal, state or local government special needs adoption payment. If the adopted child receiving this type of payment is the only dependent child in the household and excluded, the parent(s) or specified relative may still receive a FEP or FEPTP assistance payment which does not include the child, provided all other eligibility requirements are met. If the household chooses to include the adopted child in the household assistance unit under this paragraph, the special needs adoption payment is counted as income;

(d) former stepchildren who have no blood relationship to a dependent child in the household. If assistance is requested for the former stepchildren, the rules for specified relative apply;

(e) a specified relative. If a household requests that a specified relative be included in the household assistance unit, only one specified relative can be included in the financial assistance payment regardless of how many specified relatives are living in the household. The income and assets of all household members are counted according to the provisions of R986-200-241.

(4) In situations where there are children in the home for which there is court ordered joint custody, the Department will determine if the children should be included in the household assistance unit based on the actual circumstances and not on the order. If financial assistance is allowed, the joint custody order might be modified by the court under the provisions of 30-3-10.2(4) and 30-3-10.4.

(5) The income and assets of the following individuals are counted in determining eligibility even though the individual is not included in the assistance payment:

(a) a household member who has been disqualified from the receipt of assistance because of an IPV, (fraud determination);

(b) a household member who does not meet the citizenship and alienage requirements; or

(c) a minor child who is not in school full time or participating in self sufficiency activities.

R986-200-206. Participation Requirements.

(1) Payment of any and all financial assistance is contingent upon all parents in the household, including adoptive and stepparents, participating, to the maximum extent possible, in:

(a) assessment and evaluation;

(b) the completion of a negotiated employment plan; and

(c) assisting ORS in good faith to:

(i) establish the paternity of all minor children; and

(ii) establish and enforce child support obligations.

(d) obtaining any and all other sources of income. If any household member is or appears to be eligible for UI or SSA benefits, Workers Compensation, VA benefits or any other benefits or forms of assistance, the Department will refer the client to the appropriate agency and the individual must apply for and pursue obtaining those benefits. If an individual refuses to apply for and pursue these benefits or assistance, the individual is ineligible for financial assistance. If the client is otherwise eligible for FEP or

FEPTP, financial assistance will be provided until eligibility for other benefits or assistance has been determined.

(2) Parents who have been determined to be ineligible to be included in the financial assistance payment are still required to participate.

(3) Children at least 16 years old but under 18 years old, unless they are in school full-time or in school part-time and working less than 100 hours per month are required to participate.

R986-200-207. Participation in Child Support Enforcement.

(1) Receipt of child support is an important element in increasing a family's income.

(2) Every natural, legal or adoptive parent has a duty to support his or her children and step children even if the children do not live in the parental home.

(3) A parent's duty to support continues until the child:

(a) reaches age 18; or

(b) is 18 years old and enrolled in high school during the normal and expected year of graduation; or

(c) is emancipated by marriage or court order; or

(d) is a member of the armed forces of the United States; or

(e) is self supporting.

(4) A client receiving financial assistance automatically assigns to the state any and all rights to child support for all children who are included in the household assistance unit while receiving financial assistance. The assignment of rights occurs even if the client claims or establishes "good cause or other exception" for refusal to cooperate. The assignment of rights to support, cooperation in establishing paternity, and establishing and enforcing child support is a condition of eligibility for the receipt of financial assistance.

(5) For each child included in the financial assistance payment, the client must also assign any and all rights to alimony or spousal support from the noncustodial parent while the client receives public assistance.

(6) The client must cooperate with the Department and ORS in establishing and enforcing the spousal and child support obligation from any and all natural, legal, or adoptive non-custodial parents.

(7) If a parent is absent from the home, the client must identify and help locate the non-custodial parent.

(a) If a child is conceived or born during a marriage, the husband is considered the legal father, even if the wife states he is not the natural father.

(b) If the child is born out of wedlock, the client must also cooperate in the establishment of paternity.

(8) ORS is solely responsible for determining if the client is cooperating in identifying the noncustodial parent and with child support establishment and enforcement efforts for the purposes of receipt of financial assistance. The Department cannot review, modify, or reject a decision made by ORS.

(9) Unless good cause is shown, financial assistance will terminate if a parent or specified relative does not cooperate with ORS in establishing paternity or enforcing child support obligations.

(10) Upon notification from ORS that the client is not cooperating, the Department will commence conciliation procedures as outlined in R986-200-212. If the client continues to refuse to

cooperate with ORS at the end of the conciliation process, financial assistance will be terminated.

(11) Termination of financial assistance for non cooperation is immediate, without a two month reduction period outlined in conciliation, if:

(a) the client is a specified relative who is not included in the household assistance unit; or

(b) the client is a parent receiving SSI benefits; or

(c) the client is participating in FEPTP.

(12) Once the financial assistance has been terminated due to the client's failure to cooperate with child support enforcement, the client must then reapply for financial assistance. This time, the client must cooperate with child support collection prior to receiving any financial assistance.

(13) A specified relative, illegal alien, SSI recipient, or disqualified parent in a household receiving FEP assistance must assign rights to support of any kind and cooperate with all establishment and enforcement efforts even if the parent or relative is not included in the financial assistance payment.

R986-200-208. Good Cause for Not Cooperating With ORS.

(1) The Department is responsible for determining if the client has good cause or other exception for not cooperating with ORS.

(2) To establish good cause for not cooperating, the client must file a written request for a good cause determination and provide proof of good cause within 20 days of the request.

(3) A client has the right to request a good cause determination at any time, even if ORS or court proceedings have begun.

(4) Good cause for not cooperating with ORS can be shown if one of following circumstances exists:

(a) The child, for whom support is sought, was conceived as a result of incest or rape. To prove good cause under this paragraph, the client must provide:

(i) birth certificates;

(ii) medical records;

(iii) Department records;

(iv) records from another state or federal agency;

(v) court records;

(vi) law enforcement records; or

(vii) if no other evidence is available, through sworn statements from people who have personal knowledge of the circumstances. The statements must substantiate and support the client's account and credibility.

(b) Legal proceedings for the adoption of the child are pending before a court. Proof is established if the client provides copies of documents filed in a court of competent jurisdiction.

(c) A public or licensed private social agency is helping the client resolve the issue of whether to keep or relinquish the child for adoption and the discussions between the agency and client have not gone on for more than three months. The client is required to provide written notice from the agency concerned.

(d) The client's cooperation in establishing paternity or securing support is reasonably expected to result in physical or emotional harm to the child or to the parent or specified relative. If harm to the parent or specified relative is claimed, it must be significant enough to reduce that individual's capacity to adequately care for the child.

(i) Physical or emotional harm is considered to exist when it results in, or is likely to result in, an impairment that has a substantial effect on the individual's ability to perform daily life activities.

(ii) The source of physical or emotional harm may be from individuals other than the noncustodial parent.

(iii) The client must provide proof that the individual is likely to inflict such harm or has done so in the past. Proof must be from an independent source such as:

(A) medical records or written statements from a mental health professional evidencing a history of abuse or current health concern. The record or statement must contain a diagnosis and prognosis where appropriate;

(B) court records;

(C) records from the Department or other state or federal agency;

(D) law enforcement records; or

(E) if no other evidence is available, through sworn statements from people who have personal knowledge of the circumstances. The statements must substantiate and support the client's account and credibility.

(5) When the claim of good cause for not cooperating, is based in whole or in part on anticipated physical or emotional harm, the Department must consider:

(a) the client's present emotional health and history;

(b) the intensity and probable duration of the resulting impairment;

(c) the degree of cooperation required; and

(d) the extent of involvement of the child in the action to be taken by ORS.

(6) The Department recognizes no other exceptions, apart from those recognized by ORS, to the requirement that a client cooperate in good faith with ORS in the establishment of paternity and establishment and enforcement of child support.

(7) If the client has exercised his or her right to an agency review or adjudicative proceeding under Utah Administrative Procedures Act on the question of non-cooperation as determined by ORS, the Department will not review, modify, or reverse the decision of ORS on the question of non-cooperation. If the client did not have an opportunity for a review with ORS, the Department will refer the request for review to ORS for determination.

(8) Once a request for a good cause determination has been made, all collection efforts by ORS will be suspended until the Department has made a decision on good cause.

(9) A client has the right to appeal a Department decision on good cause to an ALJ by following the procedures for appeal found in R986-100.

(10) If a parent requests a hearing on the basis of good cause for not cooperating, the resulting decision cannot change or modify the determination made by ORS on the question of good faith.

(11) Even if the client establishes good cause not to cooperate with ORS, if the Department supervisor determines that support enforcement can safely proceed without the client's cooperation, ORS may elect to do so. Before proceeding without the client's cooperation, ORS will give the client advance notice that it intends to commence enforcement proceedings and give the client an opportunity to object. The client must file his or her objections with ORS within 10 days.

(12) A determination that a client has good cause for non-cooperation may be reviewed and reversed by the Department upon a finding of new, or newly discovered evidence, or a change in circumstances.

R986-200-209. Participation in Obtaining an Assessment.

(1) Within 20 business days of the date the application for financial assistance has been completed and approved, the client will be assigned to an employment counselor and must complete an assessment.

(2) The assessment evaluates a client's needs and is used to develop an employment plan.

(3) Completion of the assessment requires that the client provide information about:

(a) family circumstances including health, needs of the children, support systems, and relationships;

(b) personal needs or potential barriers to employment;

(c) education;

(d) work history;

(e) skills;

(f) financial resources and needs;

(g) local job market information; and

(h) any other information relevant to the client's ability to become self-sufficient.

(4) The client may be required to participate in testing or completion of other assessment tools and may be referred to another person within the Department, another agency, or to a company or individual under contract with the Department to complete testing, assessment, and evaluation.

R986-200-210. Requirements of an Employment Plan.

(1) Within 15 business days of completion of the assessment, the following individuals in the household assistance unit are required to sign and make a good faith effort to participate to the maximum extent possible in a negotiated employment plan:

(a) All parents, including parents whose income and assets are included in determining eligibility of the household but have been determined to be ineligible or disqualified from being included in the financial assistance payment.

(b) Dependent minor children who are at least 16 years old, who are not parents, unless they are full-time students or are employed an average of 30 hours a week or more.

(2) The goal of the employment plan is obtaining marketable employment and it must contain the soonest possible target date for entry into employment consistent with the employability of the individual.

(3) An employment plan consists of activities designed to help an individual become employed. For each activity there will be:

(a) an expected outcome;

(b) an anticipated completion date;

(c) the number of participation hours agreed upon per week; and

(d) a definition of what will constitute satisfactory progress for the activity.

(4) Each activity must be directed toward the goal of increasing the household's income.

(5) Activities may require that the client:

(a) obtain immediate employment. If so, the parent client shall:

(i) promptly register for work and commence a search for employment for a specified number of hours each week; and

(ii) regularly submit a report to the Department on:

(A) how much time was spent in job search activities;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the Department.

(b) participate in the Workforce Reentry Program described in 35A-3-305;

(c) participate in an educational program to obtain a high school diploma or its equivalent, if the parent client does not have a high school diploma;

(d) obtain education or training necessary to obtain employment;

(e) obtain medical, mental health, or substance abuse treatment;

(f) resolve transportation and child care needs;

(g) relocate from a rural area which would require a round trip commute in excess of two hours in order to find employment;

(h) resolve any other barriers identified as preventing or limiting the ability of the client to obtain employment, and/or

(i) participate in rehabilitative services as prescribed by the State Office of Rehabilitation.

(6) The client must meet the performance expectations of each activity in the employment plan in order to stay eligible for financial assistance.

(7) The client must cooperate with the Department's efforts to monitor and evaluate the client's activities and progress under the employment plan, which includes providing the Department with a release of information, if necessary to facilitate the Department's monitoring of compliance.

(8) Where available, supportive services will be provided as needed for each activity.

(9) The client agrees, as part of the employment plan, to cooperate with other agencies, or with individuals or companies under contract with the Department, as outlined in the employment plan.

(10) An employment plan may, at the discretion of the Department, be amended to reflect new information or changed circumstances.

R986-200-211. Education and Training As Part of an Employment Plan.

(1) A parent client's participation in education or training beyond that required to obtain a high school diploma or its equivalent is limited to the lesser of:

(a) 24 months which need not be continuous; or

(b) the completion of the education and training requirements of the employment plan.

(2) Post high school education or training will only be approved if all of the following are met:

(a) The client can demonstrate that the education or training would substantially increase the income level that the client would be able to achieve without the education and training, and would offset the loss of income the household incurs while the education or training is being completed.

(b) The client does not already have a degree or skills training certificate in a currently marketable occupation.

(c) An assessment specific to the client's education and training aptitude has been completed showing the client has the ability to be successful in the education or training.

(d) The mental and physical health of the client indicates the education or training could be completed successfully and the client could perform the job once the schooling is completed.

(e) The specific employment goal that requires the education or training is marketable in the area where the client resides or the client has agreed to relocate for the purpose of employment once the education/training is completed.

(f) The client, when determined appropriate, is willing to complete the education/training as quickly as possible, such as attending school full time which may include attending school during the summer.

(g) The client can realistically complete the requirements of the education or training program within the required time frames or time limits of the financial assistance program, including the 36 month lifetime limit for FEP and FEPTP, for which the client is eligible.

(3) A parent client may participate in education or training for up to six months beyond the 24-month limit if:

(a) the parent client is employed for 80 or more hours per month during each month of the extension; or

(b) circumstances beyond the control of the client prevented completion within 24 months; or

(c) the Department director or designee determines that extending the 24 month limit is prudent because other employment, education, or training options do not enable the family to meet the objective of the program.

(4) A parent client with a high school diploma or equivalent who has received 24 months of education or training while receiving financial assistance must participate in full time work activities. Full time work activities is defined as at least part time education or training and 80 hours or more of work per month with a combined minimum of 30 hours work, education, training, and/or job search of 30 hours per week.

(5) Graduate work can never be approved or supported as part of an employment plan.

R986-200-212. Conciliation and Termination of Financial Assistance for Failure to Comply.

If a client who is required to participate in an employment plan consistently fails to show good faith in complying with the employment plan, the Department will terminate all or part of the financial assistance. This will apply if the Department is notified that the client has failed to cooperate with ORS as provided in R986-200-207. A termination for the reasons mentioned in this paragraph will occur only after the Department attempts conciliation through the following three-step process:

(1) In step one, the employment counselor will attempt to discuss compliance with the client and explore solutions. If compliance is not resolved the counselor will move to the second step.

(2) In step two, the employment counselor will request a meeting with the client, the employment counselor, the counselor's supervisor and any other Department or allied entity representatives, if appropriate, who might assist in encouraging participation. If a resolution cannot be reached or the client does not attend the meeting, the household assistance unit's financial assistance

payment will be reduced by \$100 per month. As soon as the client makes a good faith effort to comply, the \$100 reduction will cease.

(3) In step three, the employment counselor will continue to attempt a face to face meeting between the client and appropriate Department and allied entity representatives, if appropriate, to prevent the termination of financial assistance. If after two months the client continues to show a failure to make a good faith effort to participate, financial assistance will terminate.

(a) The two month reduction in assistance must be consecutive. If a client's assistance is reduced for one month and then the client agrees and demonstrates a willingness to participate to the maximum extent possible, assistance is restored at the full amount. If the client later stops participating to the maximum extent possible, the client's assistance must be reduced for two additional consecutive months before a termination can occur.

(b) The two month reduction must immediately precede the termination. If the client's assistance was reduced during months other than the two months immediately prior to the termination, those months do not satisfy the requirements of this rule.

(c) If a client's assistance has been reduced for failure to participate, and the client then agrees to participate within the same month, the Department may restore the \$100. Any month in which the \$100 was restored will not count toward the two month reduction period necessary to terminate assistance.

(d) If a client has demonstrated a pattern and practice of having assistance reduced, agreeing to participate and having the reduction restored, but failing to follow through so that another period of reduction results, the Department may continue the reduction even if the client agrees to participate until such time as the client demonstrates a genuine willingness to participate.

(4) Termination of assistance for non-participation is immediate without a two month reduction of assistance for:

(a) a dependent child age 16 or older if that child is not attending school; or

(b) a parent on FEPTP.

R986-200-213. Financial Assistance for a Minor Parent.

(1) Financial assistance may be provided to a single minor parent who resides in a place of residence maintained by a parent, legal guardian, or other adult relative of the single minor parent, unless the minor parent is exempt.

(2) The single minor parent may be exempt when:

(a) The minor parent has no living parent or legal guardian whose whereabouts is known; or

(b) No living parent or legal guardian of the minor parent allows the minor parent to live in his or her home; or

(c) The minor parent lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of the dependent child or the parent's having made application for FEP; or

(d) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided in the same residence with the minor parent's parent or legal guardian. A referral will be made to DCFS if allegations are made under this paragraph.

(3) Prior to authorizing financial assistance, the Department must approve the living arrangement of all single minor parents exempt under section (2) above. Approval of the living

arrangement is not a certification or guarantee of the safety, quality, or condition of the living arrangements of the single minor parent.

(4) All minor parents regardless of the living arrangement must, for not less than 20 hours per week:

(a) participate in education for parenting and life skills in infant and child wellness programs operated by the Department of Health;

(b) attend high school or an alternative to high school, if the minor parent does not have a high school diploma;

(c) participate in education and training; and/or

(d) participate in employment.

(5) If a single minor parent resides with a parent, the Department shall include the income of the parent of the single minor parent in determining the single minor parent's eligibility for financial assistance.

(6) If a single minor parent resides with a parent who is receiving financial assistance, the single minor parent is included in the parent's household assistance unit.

(7) If a single minor parent receives financial assistance but does not reside with a parent, the Department shall seek an order requiring that the parent of the single minor parent financially support the single minor parent.

R986-200-214. Assistance for Specified Relatives.

(1) Specified relatives include:

(a) grandparents;

(b) brothers and sisters;

(c) stepparents;

(d) stepbrothers and stepsisters;

(e) aunts and uncles;

(f) first cousins;

(g) first cousins once removed;

(h) nephews and nieces;

(i) people of prior generations as designated by the prefix grand, great, great-great, or great-great-great;

(j) a natural parent whose parental rights were terminated by court order;

(k) brothers and sisters by legal adoption;

(l) the spouse of any person listed above;

(m) the former spouse of any person listed above;

(n) persons who meet any of the above relationships by means of a step relationship even if the marriage has been terminated; and

(o) individuals who can prove they met one of the above mentioned relationships via a blood relationship even though the legal relationship has been terminated.

(2) The Department shall require compliance with Section 30-1-4.5

(3) A specified relative may apply for financial assistance for the child. If the child is otherwise eligible, the FEP rules apply with the following exceptions:

(a) Both parents must be absent from the home where the child lives; and

(b) The child must be currently living with, and not just visiting, the specified relative; and

(c) The parents' obligation to financially support their child will be enforced and the specified relative must cooperate with child support enforcement; and

(d) If the parent(s) state they are willing to support the child if the child would return to live with the parent(s), the child is

ineligible unless there is a court order removing the child from the parent(s)' home.

(4) If the specified relative is currently receiving FEP or FEPTP, the child must be included in that household assistance unit.

(5) The income and resources of the specified relative are not counted unless the specified relative requests inclusion in the household assistance unit.

(6) If the specified relative is not currently receiving FEP or FEPTP, and the specified relative does not want to be included in the financial assistance payment, the specified relative shall be paid, on behalf of the child, the full standard financial assistance payment for one person. The size of the financial assistance payment shall be increased accordingly for each additional eligible child in the household assistance unit excluding the dependent child(ren) of the specified relative. Since the specified relative is not included in the household assistance unit, the income and assets of the specified relative, or the relative's spouse, are not counted.

(7) The specified relative may request to be included in the household assistance unit. If the specified relative is included in the household assistance unit, the household must meet all FEP eligibility requirements including participation requirements and asset limits.

(8) Income eligibility for a specified relative who wants to be included in the household assistance unit is calculated according to R986-200-241.

R986-200-215. Family Employment Program Two Parent Household (FEPTP).

(1) FEPTP is for households otherwise eligible for FEP but with two able-bodied parents in the household.

(2) Families may only participate in this program for seven months out of any 13-month period. Months of participation count toward the 36-month time limit in Sections 35A-3-306 and R986-200-217.

(3) One parent must participate 40 hours per week, as defined in the employment plan. That parent is referred to as the primary parent. The primary parent does not need to be the primary wage earner of the household. The primary parent must spend;

(a) 32 hours a week in paid employment and/or work experience and training. At least 16 hours of those 32 hours must be spent at a community work site or in paid employment. If the primary parent is under age 25 and has not completed high school or an equivalent course of education, time spent in educational activities to obtain a high school degree or its equivalent can count toward the minimum 16-hour work requirement. Training is limited to short term skills training, job search training, or adult education; and

(b) eight hours a week participating in job search activities. The Department may reduce the number of hours spent in job search activities if it is determined the parent has explored all local employment options. This would not reduce the total requirement of 40 hours of participation.

(4) The other parent is required to participate 20 hours per week as defined in the employment plan, unless there is good cause for not participating. Participation consists of a combination of paid employment, community work, job search, adult education, and skills training.

(5) Participation requirements for refugee parents can include English language instruction (English for Speakers of Other Languages (ESOL aka ESL) or refugee social adjustment services or targeted assistance activities or all three. English language instruction must be provided concurrently with, and not sequential to employment or employment related services.

(6) Participation may be excused only for the following reasons:

(a) Illness. Verification of illness will be required for an illness of more than three days, and may be required for periods of three days or less; or

(b) good cause as determined by the Department. Good cause may include, but is not limited to, such things as death or grave illness in the immediate family, unusual child care problems, or transportation problems.

(7) The parents cannot share the participation requirements, but the Department may agree to change the assignments at the end of a participation period.

(8) Payment is made twice per month and only after proof of participation. Payment is based on the number of hours of participation by the primary parent. The base amount of assistance is equal to the FEP payment for the household size. The base FEP payment is then prorated based on the number of hours which the primary parent participated up to a maximum of 40 hours of participation per week. In no event can the financial assistance payment per month for a FEPTP household be more than for the same size household participating in FEP.

(9) If it is determined by the employment counselor that one of the parents has failed to participate to the maximum extent possible:

(a) if it is the primary parent, assistance for the entire household unit will terminate immediately. There is no two month period of reduction of assistance; or

(b) if it is the other parent, that parent will be disqualified from the assistance unit. The disqualified parent's income and assets will still be counted for eligibility, but that parent will not be counted for determining the financial assistance payment.

(10) Because payment is made after performance, advance notice is not required to terminate or reduce assistance payments for households participating in FEPTP. However, if the client requests a hearing within 10 days of the termination, payment of financial assistance based on participation can continue during the hearing process as provided in R986-100-134.

(11) The parents must meet all other requirements of FEP including but not limited to, income and asset limits, cooperation with ORS if there are legally responsible persons outside of the household assistance unit, signing a participation agreement and employment plan and applying for other assistance or benefits to which they might be entitled.

R986-200-216. Diversion.

"Diversion" means a one-time FEP payment that may equal up to a maximum of three months of financial assistance pursuant to Section 35A-3-303. A diversion payment may be available under the following conditions:

(1) The household unit must demonstrate a need for financial assistance to pay for housing or substantial and unforeseen expenses or work related expenses which cannot be met with current or anticipated resources.

(2) The expectation must be that within the diversion period the family will be employed or have other specific means of self support.

(3) The household unit must appear to meet all eligibility criteria for a FEP financial assistance payment based on the client's declaration and the best judgement of the employment counselor. Documentation of identity of parent(s) and SSN for all household members will be required. The client is required to provide additional verification if requested by the Department.

(4) If the Department and the client agree diversion is appropriate, the client must sign a diversion agreement listing conditions and expectations.

(5) The diversion payment may not exceed three times the monthly financial assistance payment for the household size. All income expected to be received during the three-month period including wages and child support must be considered when negotiating the appropriate diversion payment amount.

(6) Child support will belong to the client during the three-month period, whether received by the client directly or collected by ORS. ORS will not use the child support to offset or reimburse the diversion payment.

(7) The client must agree to have the financial assistance portion of the application for assistance denied.

(8) If a diversion payment is made and the client later decides to reapply for financial assistance within three months of the date of the original application, the initial application date will be used and the amount of the diversion payment previously issued will be prorated over the three months and subtracted from the payment(s) for which the household unit is eligible.

(9) The diversion program is not available to clients participating in FEPTP. This is because FEPTP is based on performance and payment can only be made after performance.

R986-200-217. Time Limits.

(1) Except as provided in R986-212-218 and in Section 35A-3-306, a family cannot receive financial assistance under the FEP or FEPTP for more than 36 months.

(2) The following months count toward the 36-month time limit regardless of whether the financial assistance payment was made in this or any other state:

(a) each month when the family received financial assistance beginning with the month of January, 1997;

(b) each month beginning with January, 1997, where a parent resided in the household, the parent's income and assets were counted in determining the household's eligibility, but the parent was disqualified from being included in the financial payment. Disqualification occurs when a parent has been determined to have committed fraud in the receipt of public assistance or when the parent is an ineligible alien;

(c) each month when financial assistance was reduced or a partial financial assistance payment was received beginning with the month of January, 1997; and

(d) months when the family received diversion assistance beginning with the month of January, 1997.

(3) Months which do not count toward the 36 month time limit are:

(a) months where both parents were absent from the home and dependent children were cared for by a specified relative who elected to be excluded from the household unit;

(b) months where the client received financial assistance as a minor child and was not the head of a household or married to the head of a household;

(c) months during which the parent lived in Indian country, as defined in Title 18, Section 1151, United States Code 1999, or an Alaskan Native village, if the most reliable data available with respect to the month, or a period including the month, indicate that at least 50% of the adults living in Indian country or in the village were not employed; or

(d) months when a parent resided in the home but were excluded from the household assistance unit. A parent is excluded when they receive SSI benefits.

R986-200-218. Exceptions to the Time Limit.

Exceptions to the time limit may be allowed on a month by month basis for up to 20 percent of the average monthly number of families receiving financial assistance from FEP and FEPTP during the previous Federal fiscal year for the following reasons:

(1) A hardship under Section 35A-3-306 is determined to exist when a parent:

(a) is determined to be medically unable to work. The client must provide proof of inability to work in one of the following ways:

(i) receipt of disability benefits from SSA; or

(ii) receipt of VA Disability benefits based on the parent being 100 percent disabled; or

(iii) placement on the Division of Services to People with Disabilities' waiting list. Being on the waiting list indicates the person has met the criteria for a disability; or

(iv) is currently receiving Temporary Total or Permanent Total disability Worker's Compensation benefits; or

(v) a medical statement completed by a medical doctor, or doctor of osteopathy, stating the parent has a medical condition supported by medical evidence, which prevents the parent from engaging in work activities capable of generating income of at least \$500 a month. The statement must be completed by a professional skilled in both the diagnosis and treatment of the condition; or

(vi) a statement completed by a licensed clinical social worker, licensed psychologist, or psychiatrist stating that the parent has been diagnosed with a mental health condition that prevents the parent from engaging in work activities capable of generating income of at least \$500 a month. Substance abuse is considered the same as mental health condition; or

(b) is under age 19 through the month of their nineteenth birthday; or

(c) is currently engaged in an approved full-time job preparation, educational or training activity which the parent was expected to complete but completion within the 36 months was not possible through no fault of the parent. Additionally, if the parent has previously received, beginning with the month of January 1997, 24 months of financial assistance while attending educational or training activities, good cause for additional months must be shown and approved; or

(d) was without fault and a delay in the delivery of services provided by the Department occurred. The delay must have had an adverse effect on the parent causing a hardship and preventing the parent from obtaining employment. An extension under this section cannot be granted for more than the length of the delay; or

(e) moved to Utah after exhausting 36 months of assistance in another state or states and the parent did not receive supportive services in that state or states as required under the provisions of PRWORA. To be eligible for an extension under this section, the failure to receive supportive services must have occurred through no fault of the parent and must contribute to the parent's inability to work. An extension under this section can never be for longer than the delay in services; or

(f) completed an educational or training program at the 36th month and needs additional time to obtain employment; or

(g) is unable to work because the parent is required in the home to meet the medical needs of a dependent. Proof, consisting of a medical statement from a medical doctor, doctor of osteopathy, licensed clinical social worker or licensed psychologist, is required unless the dependent is on the Travis C medicaid waiver program. The medical statement must include all of the following:

(i) the diagnosis of the dependent's condition,

(ii) the recommended treatment needed or being received for the condition,

(iii) the length of time the client will be required in the home to care for the dependent, and

(iv) whether the client is required to be in the home full-time or part-time.

(2) Additional months of financial assistance may be provided if the family includes an individual who has been battered or subjected to extreme cruelty which is a barrier to employment and the implementation of the time limit would make it more difficult to escape the situation. Battered or subjected to extreme cruelty means:

(a) physical acts which resulted in, or threatened to result in, physical injury to the individual;

(b) sexual abuse;

(c) sexual activity involving a dependent child;

(d) being forced as the specified relative of a dependent child to engage in nonconsensual sexual acts or activities;

(e) threats of, or attempts at, physical or sexual abuse;

(f) mental abuse which includes stalking and harassment; or

(g) neglect or deprivation of medical care.

(3) An exception to the time limit can be granted for a maximum of an additional 24 months if:

(a) during the previous month, the parent client was employed for no less than 80 hours; and

(b) during at least six of the previous 24 months, the parent client was employed for no less than 80 hours a month.

(c) If, at the end of the 24-month extension, the parent client qualifies for an extension under Sections (1) or (2) of this rule, an additional extension can be granted under the provisions of those sections.

(4) All clients receiving an extension must continue to participate, to the maximum extent possible, in an employment plan. This includes cooperating with ORS in the collection of establishment and enforcement of child support and the establishment of paternity, if necessary.

(5) If a household filing unit contains more than one parent, and one parent has received at least 36 months of assistance as a parent, then the entire filing unit is ineligible unless both parents meet one of the exceptions listed above. Both parents need not meet the same exception.

(6) A family in which the only parent or both parents are ineligible aliens cannot be granted an extension under Section (3) above or for any of the reasons in Subsections (1)(c),(d),(e) or (f). This is because ineligible aliens are not legally able to work and supportive services for work, education and training purposes are inappropriate.

(7) A client who is no longer eligible for financial assistance may be eligible for other kinds of public assistance including Food Stamps, Child Care Assistance and medical coverage. The client must follow the appropriate application process to determine eligibility for assistance from those other programs.

R986-200-219. Emergency Assistance (EA) for Needy Families With Dependent Children.

(1) EA is provided in an effort to prevent homelessness. It is a payment which is limited to use for utilities and rent or mortgage.

(2) To be eligible for EA the family must meet all other FEP requirements except:

(a) the client need only meet the "gross income" test. Gross income which is available to the client must be equal to or less than 185 percent of the standard needs budget for the client's filing unit; and

(b) the client is not required to enter into an employment plan or cooperate with ORS in obtaining support.

(3) The client must be homeless, in danger of becoming homeless or having the utilities at the home cut off due to a crisis situation beyond the client's control. The client must show that:

(a) The family is facing eviction or foreclosure because of past due rent or mortgage payments or unpaid utility bills which result from the crisis; and

(b) A one-time EA payment will enable the family to obtain or maintain housing or prevent the utility shut off while they overcome the temporary crisis; and

(c) Assistance with one month's rent or mortgage payment is enough to prevent the eviction, foreclosure or termination of utilities; and

(d) The client has the ability to resolve past due payments and pay future months' rent or mortgage payments and utility bills after resolution of the crisis; and

(e) The client has exhausted all other resources.

(4) Emergency assistance is available for only 30 consecutive days during a year to any client or that client's household. If, for example, a client receives an EA payment of \$300 for rent on April 1 and requests an additional EA payment of \$200 for utilities on or before April 30 of that same year, the request for an EA payment for utilities will be considered. If the request for an additional payment for utilities is made after April 30, it cannot be considered for payment. The client will not be eligible for another EA payment until April 1 of the following year. A year is defined as 365 days following the initial date of payment of EA.

(5) Payments will not exceed \$300 per family for one month's rent payment or \$500 per family for one month's mortgage payment, and \$200 for one month's utilities payment.

R986-200-220. Mentors.

(1) The Department will recruit and train volunteers to serve as mentors for parent clients. The Department may elect to contract for the recruitment and training of the volunteers.

(2) A mentor may advocate on behalf of a parent client and help a parent client;

- (a) develop life skills;
- (b) implement an employment plan; or
- (c) obtain services and support from:
 - (i) the volunteer mentor;
 - (ii) the Department; or
 - (iii) civic organizations.

R986-200-230. Assets Counted in Determining Eligibility.

(1) All available assets, unless exempt, are counted in determining eligibility. An asset is available when the applicant or client owns it and has the ability and the legal right to sell it or dispose of it. An item is never counted as both income and an asset in the same month.

(2) The value of an asset is determined by its equity value. Equity value is the current market value less any debts still owing on the asset. Current market value is the asset's selling price on the open market as set by current standards of appraisal.

(3) Both real and personal property are considered assets. Real property is an item that is fixed, permanent, or immovable. This includes land, houses, buildings, and trailer homes. Personal property is any item other than real property.

(4) If an asset is potentially available, but a legal impediment to making it available exists, it is exempt until it can be made available. The applicant or client must take appropriate steps to make the asset available unless:

- (a) Reasonable action would not be successful in making the asset available; or
- (b) The probable cost of making the asset available exceeds its value.

(5) The value of countable real and personal property cannot exceed \$2,000.

(6) If the household assets are below the limits on the first day of the month the household is eligible for the remainder of the month.

R986-200-231. Assets That Are Not Counted (Exempt) for Eligibility Purposes.

The following are not counted as an asset when determining eligibility for financial assistance:

(1) the home and its contents, unless any single item of personal property has a value over \$1,000, then only that item is counted toward the \$2,000 limit;

(2) the value of the lot on which the home stands is exempt if it does not exceed the average size of residential lots for the community in which it is located. The value of the property in excess of an average size lot is counted if marketable;

(3) Water rights attached to the home property are exempt;

(4) a maximum of \$8,000 equity value of one vehicle. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the asset limit even if the vehicle has a value in excess of \$8,000;

(5) with the exception of real property, the value of income producing property necessary for employment;

(6) the value of any reasonable assistance received for post-secondary education;

(7) bona fide loans, including reverse equity loans;

(8) per capita payments or any asset purchased with per capita payments made to tribal members by the Secretary of the Interior or the tribe;

(9) maintenance items essential to day-to-day living;

(10) life estates;

(11) an irrevocable trust where neither the corpus nor income can be used for basic living expenses;

(12) For refugees, as defined under R986-300-303(1), assets that remain in the refugee's country of origin are not counted;

(13) one burial plot per member of the household. A burial plot is a burial space and any item related to repositories used for the remains of the deceased. This includes caskets, concrete vaults, urns, crypts, grave markers, etc. If the individual owns a grave site, the value of which includes opening and closing, the opening and closing is also exempt;

(14) a burial/funeral fund up to a maximum of \$1,500 per member of the household;

(a) The value of any irrevocable burial trust is subtracted from the \$1,500 burial/funeral fund exemption. If the irrevocable burial trust is valued at \$1,500 or more, it reduces the burial/funeral fund exemption to zero.

(b) After deducting any irrevocable burial trust, if there is still a balance in the burial/funeral fund exemption amount, the remaining exemption is reduced by the cash value of any burial contract, funeral plan, or funds set aside for burial up to a maximum of \$1,500. Any amount over \$1,500 is considered an asset;

(15) Any interest which is accrued on an exempt burial contract, funeral plan, or funds set aside for burial is exempt as income or assets. If an individual removes the principal or interest and uses the money for a purpose other than the individual's burial expenses, the amount withdrawn is countable income; and

(16) any other property exempt under federal law.

R986-200-232. Considerations in Evaluating Real Property.

(1) Any nonexempt real property that an applicant or client is making a bona fide effort to sell is exempt for a nine-month period provided the applicant or client agrees to repay, from the proceeds of the sale, the amount of financial assistance received. Bona fide effort to sell means placing the property up for sale at a price no greater than the current market value. Additionally, to qualify for this exemption, the applicant or client must assign, to the state of Utah, a lien against the real property under consideration. If the property is not sold during the period of time the client was receiving financial assistance or if the client loses eligibility for any reason during the nine-month period, the lien will not be released until repayment is made.

(2) Payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days of receipt and the purchase is completed within 90 days. If more than 90 days is needed to complete the actual purchase, one 90-day extension may be granted. Proceeds are defined as all payments made on the principal of the contract. Proceeds do not include interest earned on the principal which is counted as income.

R986-200-233. Considerations in Evaluating Household Assets.

(1) The assets of a disqualified household member are counted.

(2) The assets of a ward that are controlled by a legal guardian are considered available to the ward.

(3) The assets of an ineligible child are exempt.

(4) When an ineligible alien is a parent, the assets of that alien parent are counted in determining eligibility for other family members.

(5) Certain aliens who have been legally admitted to the United States for permanent residence must have the income and assets of their sponsors considered in determining eligibility for financial assistance under applicable federal authority in accordance with R986-200-243.

R986-200-234. Income Counted in Determining Eligibility.

(1) The amount of financial assistance is based on the household's monthly income and size.

(2) Household income means the payment or receipt of countable income from any source to any member counted in the household assistance unit including but not limited to:

(a) children; and

(b) people who are disqualified from being counted because of a prior determination of fraud (IPV) or because they are an ineligible alien.

(3) The income of SSI recipients is not counted.

(4) Countable income is gross income, whether earned or unearned, less allowable exclusions listed below.

(5) Money is not counted as income and an asset in the same month.

(6) If an individual has elected to have a voluntary reduction or deduction taken from an entitlement to earned or unearned income, the voluntary reduction or deduction is counted as gross income. Voluntary reductions include, but are not limited to, insurance premiums, savings, and garnishments to pay an owed obligation.

R986-200-235. Unearned Income.

(1) Unearned income is income received by an individual for which the individual performs no service.

(2) Countable unearned income includes but is not limited to:

(a) pensions and annuities such as Railroad Retirement, Social Security, VA, Civil Service;

(b) disability benefits such as sick pay and workers' compensation payments unless considered as earned income;

(c) unemployment Insurance;

(d) strike or union benefits;

(e) VA allotment;

(f) income from the GI Bill;

(g) assigned support retained in violation of statute is counted when a request to do so has been generated by ORS;

(h) payments received from trusts made for basic living expenses;

(i) payments of interest from stocks, bonds, savings, loans, insurance, a sales contract, or mortgage. This applies even if the payments are from the sale of an exempt home. Payments made for the down payment or principal are counted as assets;

(j) inheritances;

(k) life insurance benefits;

(l) payments from an insurance company or other source for personal injury, interest, or destroyed, lost or stolen property unless the money is used to replace that property;

(m) cash contributions or gifts over \$30 per quarter from any source including but not limited to family, a church or other charitable organization;

(n) rental income if the rental property is managed by another individual or company for the owner. Income from rental property managed by someone in the household assistance unit is considered earned income; or

(o) financial assistance payments received from another state or the Department from another type of financial assistance program including a diversion payment.

(3) Unearned income which is not counted (exempt):

(a) cash gifts for special occasions which do not exceed \$30 per quarter for each person in the household assistance unit. The gift can be divided equally among all members of the household assistance unit;

(b) bona fide loans, including reverse equity loans on an exempt property. A bona fide loan means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment;

(c) the value of food stamps, food donated from any source, and the value vouchers issued under the Women Infants and Children program;

(d) any per capita payments made to individual tribal members by either the secretary of interior or the tribe are excluded. Income to tribal members derived from privately owned land is not exempt;

(e) any payments made to household members that are declared exempt under federal law;

(f) the value of governmental rent and housing subsidies, federal relocation assistance, or EA issued by the Department;

(g) money from a trust fund to provide for or reimburse the household for a specific item NOT related to basic living expenses. This includes, but is not limited to, medical expenses and educational expenses. Money from a trust fund to provide for or reimburse a household member for basic living expenses is counted;

(h) travel and training allowances and reimbursements if they are directly related to training, education, work, or volunteer activities;

(i) all unearned income in-kind. In-kind means something, such as goods or commodities, other than money;

(j) thirty dollars of the income received from rental income unless greater expenses can be proven. Expenses in excess of \$30 can be allowed for:

(i) taxes;

(ii) attorney fees expended to make the rental income available;

(iii) upkeep and repair costs necessary to maintain the current value of the property; and

(iv) interest paid on a loan or mortgage made for upkeep or repair. Payment on the principal of the loan or mortgage cannot be excluded;

(k) if meals are provided to a roomer/boarder, the value of a one-person food stamp allotment for each roomer/boarder;

(l) payments for energy assistance including H.E.A.T payments, assistance given by a supplier of home energy, and in-kind assistance given by a private non-profit agency;

(m) federal and state income tax refunds and earned income tax credit payments;

(n) payments made by the Department to reimburse the client for education or work expenses, or a CC subsidy;

(o) income of an SSI recipient. Neither the payment from SSI nor any other income, including earned income, of an SSI recipient is included;

(p) payments from a person living in the household who is not included in the household assistance unit, as defined in R986-200-205, when the payment is intended and used for that person's share of the living expenses;

(q) educational assistance and college work study except Veterans Education Assistance intended for family members of the student; and

(r) for a refugee, as defined in R986-300-303(1), any grant or assistance, whether cash or in-kind, received directly or indirectly under the Reception and Placement Programs of Department of State or Department of Justice.

R986-200-236. Earned Income.

(1) All earned income is counted when it is received even if it is an advance on wages, salaries or commissions.

(2) Countable earned income includes, but is not limited to:

(a) wages, including payments from Job Corps and Americorps living allowances;

(b) salaries;

(c) commissions;

(d) tips;

(e) sick pay which is paid by the employer;

(f) temporary disability insurance or temporary workers' compensation payments which are employer funded and made to an individual who remains employed during recuperation from a temporary illness or injury pending the employee's return to the job;

(g) severance pay, including the cash out of vacation, holiday, and sick pay;

(h) rental income only if managerial duties are performed by the owner to receive the income. The number of hours spent performing those duties is not a factor. If the property is managed by someone other than the individual, the income is counted as unearned income;

(i) net income from self-employment less allowable expenses, including income over a period of time for which settlement is made at one given time. The periodic payment is annualized prospectively. Examples include the sale of farm crops, livestock, and poultry;

(k) training incentive payments and work allowances; and

(l) earned income of dependent children.

(3) Income that is not counted as earned income:

(a) income for an SSI recipient;

(b) reimbursements from an employer for any bona fide work expense;

(c) allowances from an employer for travel and training if the allowance is directly related to the travel or training and identifiable and separate from other countable income; or

(d) Earned Income Tax Credit (EITC) payments.

R986-200-237. Lump Sum Payments.

(1) Lump sum payments are one-time windfalls or retroactive payments of earned or unearned income. Lump sums include but are not limited to, inheritances, insurance settlements, awards, winnings, and gifts. They also include lump sum payments from Social Security, VA, UI, Worker's Compensation, and other one-time payments. Payments from SSA that are paid out in

installments are not considered lump sum payments but as income, even if paid less often than monthly.

(2) The following lump sum payments are not counted as income or assets:

(a) any kind of lump sum payment of excluded earned or unearned income. If the income would have been excluded, the lump sum payment is also excluded. This includes SSI payments and any EITC; and

(b) insurance settlements for destroyed exempt property when used to replace that property.

(3) The net lump sum payment is counted as income for the month it is received. Any amount remaining after the end of that month is considered an asset.

(4) The net lump sum is the portion of the lump sum that is remaining after deducting:

(a) legal fees expended in the effort to make the lump sum available;

(b) payments for past medical bills if the lump sum was intended to cover those expenses; and

(c) funeral or burial expenses, if the lump sum was intended to cover funeral or burial expenses.

(5) A lump sum paid to an SSI recipient is not counted as income or an asset except for those recipients receiving financial assistance from GA or WTE.

R986-200-238. How to Calculate Income.

(1) To determine if a client is eligible for, and the amount of, a financial assistance payment, the Department estimates the anticipated income, assets and household size for each month in the certification period.

(2) The methods used for estimating income are:

(a) income averaging or annualizing which means using a history of past income that is representative of future income and averaging it to determine anticipated future monthly income. It may be necessary to evaluate the history of past income for a full year or more; and

(b) income anticipating which means using current facts such as rate of pay and hourly wage to anticipate future monthly income when no reliable history is available.

(3) Monthly income is calculated by multiplying the average weekly income by 4.3 weeks. If a client is paid every two weeks, the income for those two weeks is multiplied by 2.15 weeks to determine monthly income.

(4) The Department's estimate of income, when based on the best available information at the time it was made, will be determined to be an accurate reflection of the client's income. If it is later determined the actual income was different than the estimate, no adjustment will be made. If the client notifies the Department of a change in circumstances affecting income, the estimated income can be adjusted prospectively but not retrospectively.

R986-200-239. How to Determine the Amount of the Financial Assistance Payment.

(1) Once the household's size and income have been determined, the gross countable income must be less than or equal to 185 percent of the Standard Needs Budget (SNB). This is referred to as the "gross test".

(2) If the gross countable income is less than or equal to 185 percent of the SNB, the following deductions are allowed:

(a) a work expense allowance of \$100 for each person in the household unit who is employed;

(b) a dependent care deduction as described in (3) below;

(c) child support paid by a household member if legally owed to someone not included in the household; and

(d) fifty percent of the remaining earned income, after the deductions in (a), (b) and (c) above, if the individual has received a financial assistance payment from the Department for one or more of the immediately preceding four months.

(3) The amount of the dependant care deduction is set by the Department and based on the number of hours worked by the parent and the age of the dependant needing care. It can only be deducted if the dependant care:

(a) is paid for the care of a child or adult member of the household assistance unit, or a child or adult who would be a member of the household assistance unit except that this person receives SSI. An adult's need for care must be verified by a doctor; and

(b) is not subsidized, in whole or in part, by a CC payment from the Department; and

(c) is not paid to an individual who is in the household assistance unit.

(4) After deducting the amounts allowed under paragraph (2) above, the resulting net income must be less than 100 percent of SNB for size of the household assistance unit. If the net income is equal to or greater than the SNB, the household is not eligible.

(5) If the net income is less than 100 percent of the SNB the following amounts are deducted:

(a) Fifty percent of earned countable income for all employed household assistance unit members if the household was not eligible for the 50 percent deduction under paragraph (2)(d) above; and/or

(b) All of the earned income of all children in the household assistance unit, if not previously deducted, who are:

(i) in school or training full-time, OR

(ii) in part-time education or training if they are employed less than 100 hours per month. "Part-time education or training" means enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours per day, whichever is less.

(6) The resulting net countable income is compared to the full financial assistance payment for the household size. If the net countable income is more than the financial assistance payment, the household is not eligible. If it is less, the net countable income is deducted from the financial assistance payment and the household is paid the difference.

(7) The amount of the standard financial assistance payment is set by the State Legislature and available at all Department offices.

R986-200-240. Additional Payments Available Under Certain Circumstances.

(1) Each parent eligible for financial assistance in the FEP or FEPTP programs who takes part in at least one enhanced participation activity may be eligible to receive \$40 each month in

addition to the standard financial assistance payment. Enhanced participation activities are limited to:

(a) public and private internships of at least 24 hours a week;

(b) full-time attendance in an education or employment training program;

(c) employment of 20 hours or more a week in addition to attending school or training; or

(d) employment with gross earnings of at least \$500 per month.

(2) An additional payment of \$15 per month for a pregnant woman in the third month prior to the expected month of delivery. Eligibility for the allowance begins in the month the woman provides medical proof that she is in the third month prior to the expected month of delivery. The pregnancy allowance ends at the end of the month the pregnancy ends.

(3) A limited number of funds are available to individuals for work and training expenses. The funds can only be used to alleviate circumstances which impede the individual's ability to begin or continue employment, job search, training, or education. The payment of these funds is completely discretionary by the Department. The individual does not need to meet any eligibility requirements to request or receive these funds.

(4) Limited funds are available, up to a maximum of \$300, to pay for burial costs not paid for by the county.

R986-200-241. Income Eligibility Calculation for a Specified Relative Who Wants to be Included in the Assistance Payment.

(1) The income calculation for a specified relative who wants to be included in the financial assistance payment is as follows:

(a) All earned and unearned countable income is counted, as determined by FEP rules, for the specified relative and his or her spouse, less the following allowable deductions:

(i) one hundred dollars for each employed person in the household. This deduction is only allowed for the specified relative and/or spouse and not anyone else in the household even if working; and

(ii) the child care expenses paid by the specified relative and necessary for employment up to the maximum allowable deduction as set by the Department.

(2) The household size is determined by counting the specified relative, his or her spouse if living in the home, and their dependent children living in the home who are not in the household assistance unit.

(3) If the income less deductions exceeds 100 percent of the SNB for a household of that size, the specified relative cannot be included in the financial assistance payment. If the income is less than 100 percent of the SNB, the total household income is divided by the household size calculated under paragraph (2) above. This amount is deemed available to the specified relative as countable unearned income. If that amount is less than the maximum financial assistance payment for the household assistance unit size, the specified relative may be included in the financial assistance payment.

R986-200-242. Income Calculation for a Minor Parent Living with His or Her Parent or Stepparent.

(1) All earned and unearned countable income of all parents, including stepparents living in the home, is counted when

determining the eligibility of a minor parent residing in the home of the parent(s).

(2) From that income, the following deductions are allowed:

(a) one hundred dollars from income earned by each parent or stepparent living in the home, and

(b) an amount equal to 100 percent of the SNB for a group with the following members:

(i) the parents or stepparents living in the home;

(ii) any other person in the home who is not included in the financial assistance payment of the minor parent and who is a dependent of the parents or stepparents;

(c) amounts paid by the parents or stepparents living in the home to individuals not living at home but who could be claimed as dependents for Federal income tax purposes; and

(d) alimony and child support paid to someone outside the home by the parents or stepparents living in the home.

(3) The resulting amount is counted as unearned income to the minor parent.

(4) If a minor parent lives in a household already receiving financial assistance, the child of the minor parent is included in the larger household assistance unit.

R986-200-243. Counting the Income of Sponsors of Eligible Aliens.

(1) Certain aliens who have been legally admitted into the United States for permanent residence must have a portion of the earned and unearned countable income of their sponsors counted as unearned income in determining eligibility and financial assistance payment amounts for the alien.

(2) The following aliens are not subject to having the income of their sponsor counted:

(a) paroled or admitted into the United States as a refugee or asylee;

(b) granted political asylum;

(c) admitted as a Cuban or Haitian entrant;

(d) other conditional or paroled entrants;

(e) not sponsored or who have sponsors that are organizations or institutions;

(f) sponsored by persons who receive public assistance or SSI;

(g) permanent resident aliens who were admitted as refugees and have been in the United States for eight months or less.

(3) The income of the sponsor of an alien who applies for financial assistance after April 1, 1983 and who has been legally admitted into the United States for permanent residence must be counted for five years after the entry date into the United States. The entry date is the date the alien was admitted for permanent residence. The time spent, if any, in the United States other than as a permanent resident is not considered as part of the five year period.

(4) The amount of income deemed available for the alien is calculated by:

(a) deducting 20 percent from the total earned income of the sponsor and the sponsor's spouse up to a maximum of \$175 per month; then,

(b) adding to that figure all of the monthly unearned countable income of the sponsor and the sponsor's spouse; then the following deductions are allowed:

(i) an amount equal to 100 percent of the SNB amount for the number of people living in the sponsor's household who are or

could be claimed as dependents under federal income tax policy; then,

(ii) actual payments made to people not living in the sponsor's household whom the sponsor claims or could claim as dependents under federal income tax policy; then,

(iii) actual payments of alimony and/or child support the sponsor makes to individuals not living in the sponsor's household.

(c) The remaining amount is counted as unearned income against the alien whether or not the income is actually made available to the alien.

(5) Actual payments by the sponsor to aliens will be counted as income only to the extent that the payment amount exceeds the amount of the sponsor's income already determined as countable.

(6) A sponsor can be held liable for an overpayment made to a sponsored alien if the sponsor was responsible for, or signed the documents which contained, the misinformation that resulted in the overpayment. The sponsor is not held liable for an overpayment if the alien fails to give accurate information to the Department or the sponsor is deceased, in prison, or can prove the request for information was incomplete or vague.

**KEY: family employment program
October 2, 2000**

35A-3-301 et seq.



Workforce Services, Employment
Development
R986-211
Financial Assistance General
Provisions

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23055

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. The only significant changes were changes to program names and to correct outdated legal references. Subsections R986-211-105(3), R986-211-105(4), and R986-211-105(5) were removed as inappropriate for a rule. They remain in the department's policy manual. This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-1-104 and 35A-3-301

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-211. Financial Assistance General Provisions.~~

~~R986-211-100. Incorporation by Reference.~~

~~Unless otherwise indicated, all references to 45 CFR refer to the Code of Federal Regulations, 45, Parts 200 through 499, 1991 ed. Reference to Title IV-A or Title IV-D means Title IV-A or Title IV-D of the Social Security Act, 1992 ed. which are incorporated by reference. All referenced materials are available for public review at the Division of Employment Development.~~

~~R986-211-101. Authority.~~

~~1. These rules establish standards for the administration of the following financial assistance programs:~~

- ~~a. Aid to Families with Dependent Children~~
- ~~b. Refugee Cash Assistance~~
- ~~c. The Emergency Work Program~~
- ~~d. General Assistance/Self-Sufficiency Program~~
- ~~2. The legal authority for the Department of Workforce Services to carry out its responsibilities is found in Section 35A-1-104.~~

~~R986-211-103. Definitions.~~

~~The following definitions will be used throughout R986-211 to R986-220:~~

- ~~a. "Applicant" means any person requesting assistance under any of the programs discussed.~~
- ~~b. "Assistance" means payments made to individuals under the programs listed in Section 101 above.~~
- ~~c. "Assistance unit or household" means the group of related individuals who are living together, or who are considered to be living together, and for whom assistance is requested or issued.~~
- ~~d. "Department" means the Department of Workforce Services.~~
- ~~e. "Local office" means the local office of the Department of Workforce Services.~~
- ~~f. "Recipient" means any individual receiving assistance under any of the programs mentioned above.~~
- ~~g. "Confidential information" means information that has limited access as provided under the provisions of Section 63-2-201.~~
- ~~h. "AFDC" means Aid to Families with Dependent Children~~
- ~~i. "RCA" means Refugee Cash Assistance~~
- ~~j. "EWP" means Emergency Work Program~~
- ~~k. "GA" means General Assistance~~
- ~~l. "SSI" means Supplemental Security Income~~
- ~~m. "SSA" means Social Security Administration~~
- ~~n. "SSN" means Social Security Number~~
- ~~o. "OFS" means Office of Family Support~~
- ~~p. "UC" means Unemployment Compensation~~
- ~~q. "JTPA" means Job Training and Partnership Act~~
- ~~r. "GASSP" means General Assistance Self-Sufficiency Program~~

~~R986-211-104. Availability of Program Manuals.~~

~~The department adopts 45 CFR 205.70, 1991 ed. which is incorporated by reference.~~

~~R986-211-105. Client Rights and Responsibilities.~~

- ~~1. Any client may apply or reapply at any time for any OFS program.~~
- ~~2. If the client needs help to apply, help will be given by the local office staff.~~
- ~~3. The worker will identify himself to the client.~~
- ~~4. The client will be treated with courtesy, dignity, and respect.~~
- ~~5. Verification and information will be requested clearly and courteously.~~
- ~~6. If the client must be visited after working hours, an appointment will be made.~~
- ~~7. The client's home will not be entered without his permission.~~

- ~~8. The client may have an agency conference to talk about his case.~~
- ~~9. The client may look at information concerning his case except confidential information.~~
- ~~10. Anyone may look at a copy of the program manuals located at any local office.~~
- ~~11. The client must give complete and correct information and verification.~~
- ~~12. The client must report certain changes to the local office within 10 days of the day the change becomes known.~~
- ~~At the time of application, clients will be given information about self-sufficiency program opportunities, supportive services and child care. Within one month after their application or review is approved, clients who are not required to participate in self sufficiency will receive information about this program, the availability of supportive services and how to volunteer for self sufficiency activities.~~

~~KEY: public assistance programs
 June 1, 1995 35A-1-104
 Notice of Continuation February 10, 1997 35A-3-301]~~



Workforce Services, Employment
 Development
R986-212
 Financial Assistance Coverage and
 Conditions of Eligibility

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE NO.: 23056
 FILED: 08/01/2000, 18:41
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: In new rules published simultaneous with this repeal, program names have changed and outdated legal references have been removed and replaced with appropriate references. A parent eligible for both FEP (Family Employment Program - Single Parent) and FEPTP (Family Employment Program Two Parent) (AFCD (Aid to Families with Dependent Children)-EWP (Emergency Work Program)) were able to choose which program they wanted to participate in. Now they must participate in FEP. Provisions that applied to JTPA (Job Training Partnership Act) and the Federal Demonstration project have been removed as those programs no longer exist. The term "deprived of support" is not included in the new rules. The outdated references to the specific dollar amounts allowed as

a deduction for child care expenses have been removed and those figures are now available at the department. Recent legislative changes have changed a stepparent's legal duty to support a stepchild and references to the old law have been removed. The provision that the state will not require clients to accept employment which results in a net loss of income is not in the new rules. Full-time work is now determined for each program usually as 30 hours per week and not 100 hours per month. Refugees who are no longer eligible for financial assistance under General Assistance. This is due to lack of funding. Residents of a group home are no longer eligible for assistance but residents of substance abuse or mental health facility may be eligible. This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-301

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
 - ❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.
 - ❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-212. Financial Assistance Coverage and Conditions of Eligibility.~~

~~**R986-212-201. Citizenship and Alienage:**~~

~~— The department adopts 45 CFR 233.50, 1991 edition which is incorporated by reference.~~

~~**R986-212-202. Residence:**~~

~~— 1. The department adopts 45 CFR 233.40, 1991 edition which is incorporated by reference.~~

~~— 2. Current department practices:~~

~~— a. Applicants are required to apply in the local office area where they reside.~~

~~— b. Persons in the custody of the criminal justice system, residents of facilities administered by the criminal justice system, residents of nursing homes, and residents in an institution or group home that is administered under a contract with a governmental unit or administered by a governmental unit are not eligible. Individuals who reside in a temporary shelter for a limited period of time are not considered permanent residents of that facility.~~

~~— c. Temporary absence from the home for purposes of schooling, vacation, or medical treatment shall not constitute non-resident status.~~

~~— d. An American Indian child in a boarding school and a child in a school for the deaf and blind are considered temporarily absent from the household.~~

~~**R986-212-203. Covered Individuals:**~~

~~— 1. The department adopts 45 CFR 233.39(b)(1)(ii), 233.10(b)(2), and 233.90(b)(3), 1991 edition which are incorporated by reference.~~

~~— 2. Current department practices:~~

~~— The department provides coverage for children between the ages of 18 and 19 who are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and who are reasonably expected to complete the program before reaching age 19.~~

~~**R986-212-204. Unemployed Parent:**~~

~~— 1. Utah adopts the Unemployed Parent AFDC (AFDC-EWP) program required by Section 407 of the Compilation of the Social Security Laws, 1991 edition, U.S. Government Printing Office, Washington, D.C., and 45 CFR 282, 1991 edition, which are incorporated by reference. Rules governing the AFDC program also apply to AFDC-EWP except as outlined in this section.~~

~~— 2. The following definitions apply to this section:~~

~~— a. "AFDC-EWP" means the AFDC Emergency Work Program.~~

~~— b. "Primary adult" means the household adult who earned the greater amount in the 24-month period prior to the application. Such decision is based upon the best available evidence.~~

~~— c. "Good Cause for refusing a job" means a definite job offer was made; the wage did not meet minimum wage requirements; the employment lacked workmen's compensation benefits; the position~~

~~offered is vacant due to a strike, lockout or other bona fide labor dispute; or the individual is unable to engage in employment for physical reasons or for lack of transportation.~~

~~— 3. Options taken by the State:~~

~~— a. Families may only participate in this program for seven months out of any twelve-month period.~~

~~— b. Payment is made after performance of the primary adult and is based on the number of hours which the primary adult performed.~~

~~— c. 40 hours of participation are required of one adult. Payment is based on this performance.~~

~~— d. Up to 20 hours of participation are required of the second adult unless there is good cause for not performing.~~

~~— e. Failure to participate may result in case closure.~~

~~— 4. Current department practices:~~

~~— a. Application for other assistance programs:~~

~~— i. Refugees eligible for AFDC-EWP are not eligible to receive Refugee Cash Assistance.~~

~~— ii. With two exceptions, a household that appears eligible for AFDC must apply for AFDC. If the household is eligible for AFDC, the household is ineligible for AFDC-EWP. The two exceptions are:~~

~~— A. A two-parent household, eligible for AFDC because one parent is incapacitated, may choose to apply for AFDC-EWP.~~

~~— B. A household with two adults who acknowledge a relationship to a child in common may apply for AFDC-EWP.~~

~~— iii. Unemployment Compensation (UC):~~

~~— If any adult member of the household appears to be eligible for Unemployment Compensation, the individual must apply for Unemployment Compensation benefits. The household is ineligible for AFDC-EWP if the UC benefits paid to the household in a participation period are more than the AFDC-EWP payment.~~

~~— 5. AFDC-EWP households may continue eligibility beyond the seven-month time limit as participants in GA-EWP under the following conditions:~~

~~— a. At the request of the local Jobs Training Partnership Act agency or local department office, an extension for up to three months may be approved by the Division of Employment Development AFDC OR GA program specialist. The extension may be granted to allow completion of short-term skill training; or to provide interim assistance until a participant is hired under a definite job offer; or to provide time for special efforts to be made which are reasonably likely to result in employment.~~

~~— c. Federal Demonstration project:~~

~~— i. As part of a national demonstration project, the 100-hour employment policy does not apply to AFDC-EWP recipients with case numbers that end with zero through six. For these cases, if the principle wage earner becomes employed 100 hours or more in a month, the family continues to be eligible if they meet income standards:~~

~~— ii. This exception does not apply to Navajo Indians living on the Navajo reservation.~~

~~— d. State Demonstration project:~~

~~— i. As part of the State single parent employment demonstration project, the covered quarter requirement and the 100-hour employment policy does not apply to AFDC-EWP households who reside in those selected offices where the Single Parent Employment Program is run.~~

R986-212-205. Pregnant Woman With No Other Children:

— 1. The department adopts 45 CFR 233.90(c)(2)(iv), 1991 edition which is incorporated by reference.

— 2. Current department practices:

— a. The department provides assistance to pregnant women when it has been medically verified that she is in the third calendar month prior to the expected month of delivery, or later, and who, if the child were born and living with her in the month of payment, would be eligible for AFDC.

— b. The unborn child is not included in the grant.

R986-212-206. Strikers:

— 1. The department adopts 45 CFR 233.106, 1991 edition which is incorporated by reference.

R986-212-207. Possible Child Abuse:

— The department adopts 45 CFR 233.90(a)(2) and 233.90(b), 1991 edition which are incorporated by reference.

R986-212-208. Specified Relative:

— 1. The department adopts 45 CFR 233.90(c)(1)(v) and 233.10(b)(2)(ii), 1991 edition which are incorporated by reference.

— 2. The department shall require compliance with Section 30-1-4.5.

— 3. The department shall require compliance with Section 78-45-4.1. The determination that a child has been deprived of parental support or care is made in relation to the stepparent who is required to support a stepchild to the same extent as a natural or adoptive parent until the termination of the marriage between the stepparent and the child's natural parent.

— 4. Current department practices:

— a. For the purposes of actions taken under this rule, specified relatives shall include the child's natural parents; grandparents; brothers and sisters; stepparents; stepbrothers and stepsisters; aunts and uncles; first cousins; first cousins once removed; nephews and nieces; people of prior generations as designated by the prefix grand, great, great-great, or great-great-great; parents, brothers, and sisters by legal adoption; the spouse of any person listed above, the former spouse of any person listed above:

— b. When a woman's name appears on the birth record of a child, she is a natural parent. For a man to be a natural parent, paternity must be established. If the parents have a solemnized marriage at the time of birth, paternity is established.

— c. A specified relative other than the child's parents may apply for assistance for the child. In addition to regular requirements, the following rules apply to an AFDC application made by a specified relative:

— i. The child must be currently deprived of support as a result of both parents being absent from the home where he lives. See R986-212-209 for deprivation of support rules.

— ii. The child must be currently living with, and not just visiting, the caretaker relative.

— iii. The parents' obligation to financially support their child shall be enforced.

— iv. The income and resources of the caretaker relative are not be counted unless the caretaker relative is also included in the grant.

— v. If the caretaker relative currently has an eligible AFDC household, the child must be included in the grant of the caretaker relative.

— vi. If the caretaker relative is not an AFDC recipient, the grant shall be the full standard grant for one person. The size of the grant shall be increased accordingly for additional siblings.

— vii. If the caretaker relative does not meet deprivation of support criteria, he may be included on the grant for the child, provided he requests the assistance and meets all other AFDC requirements. In this situation the following income rules apply:

— A. The monthly gross earned income of the caretaker relative and his spouse shall be combined.

— B. For each employed person, \$75 shall be deducted from the monthly gross income.

— C. Child care expenses necessary for employment shall be deducted for only the caretaker relative's children. The maximum allowable deduction shall be \$160 per child each month for full-time employment or \$130 per child each month for part-time employment.

— D. To this figure, the total of all monthly unearned income of the caretaker relative and his spouse shall be added.

— E. The figure derived from the above calculation shall be compared to the standard budget for the caretaker relative, his spouse, and their dependent children living in the home. If the income exceeds the standard budget, the caretaker relative shall not be included in the grant. If the income is less than the standard budget, the total household income is divided by the number of family members who are not in the grant. This amount is deemed available to the caretaker relative as countable unearned income.

R986-212-209. Deprivation of Support:

— 1. The department adopts 45 CFR 233.10(b)(2) and 233.90(c)(1)(i) through 233.90(c)(1)(iv), 1991 edition which are incorporated by reference.

— 2. Current department practices:

— a. The following situations do not meet the definition of absence:

— i. Parental absences which are caused solely by reason of employment, school, or training;

— ii. An absent parent who will return home to live within 30 days from the date of application;

— iii. An absent parent is the primary child care provider for the children, and child care is frequent enough that the children are not deprived of parental support, care, or guidance.

— b. Joint custody situations are evaluated based on the actual circumstances. The same policy is applied for joint custody cases as is applied in other absent parent cases.

— c. The Department imposes no "suitable home" requirement as described under 45 CFR 233.90(b)(1), 1991 edition.

— d. A parent who either does not receive SSI or is not considered disabled by the Social Security Administration or 100% disabled by the Veterans Administration, must verify the incapacity by submitting a written statement from either a physician or a licensed/certified psychologist.

— e. Financial assistance is not continued for a temporary period while the effects of deprivation of support are being overcome.

R986-212-210. Child Support Enforcement:

— 1. The department adopts 45 CFR 232, 1991 edition which is incorporated by reference.

— 2. Current department practices:

— a. An individual who receives financial assistance automatically transfers to the state any rights to alimony and child support, court ordered or otherwise, which that individual has or claims. The transfer of rights occurs even if the person claims or has good cause for refusal to cooperate with the Office of Recovery Services in obtaining support for the child.

— b. A stepparent is legally obligated to support a stepchild to the same extent as a natural or adoptive parent. However, the support obligation terminates on the termination of the marriage between the stepparent and the child's natural or adoptive parent. The natural or adoptive parent is not relieved of the primary obligation of support. A stepparent has the same right to recover support for a stepchild as the natural or adoptive parent.

— c. The department must make a decision to approve or deny a good cause claim for non-cooperation with child support enforcement requirements within 45 days of the original request for good cause.

— d. If the individual does not comply with child support enforcement requirements after 30 days of grant reduction, and does not have good cause, any assistance for which the children are eligible shall be issued in the form of protective payments.

R986-212-211. AFDC Self-Sufficiency Program:

— 1. The AFDC Self-Sufficiency Program helps AFDC participants achieve economic independence. This program plays a vital part in the Department of Workforce Services' goal of helping clients achieve and maintain self-sufficiency.

— 2. To reach this goal, the department shall operate the Jobs Opportunity and Basic Skills Program authorized by PL 100-485. The department adopts 45 CFR parts 205, 224, 233, 234, 238, 239, 240, 250, 255 and 256, 1991 edition and 45 CFR 233.10(a)(1)(ii)(B)), 1991 edition and 45 CFR parts 882 and 887, 1991 edition which are incorporated by reference.

— 3. The Self-Sufficiency Program offers the minimum required and optional components statewide. Where possible, more components are offered. AFDC clients' participation in education and training components beyond that required to obtain a high school diploma or its equivalent is time limited to 24 consecutive months. If the AFDC client cannot complete the educational or training component within the 24 consecutive month time limit, the State cannot include or support the education or training component as part of the AFDC client's Self-Sufficiency plan unless good cause is determined by the local office and approved by the Director of Division of Employment Development. The state does not operate the Work Supplement component.

— 4. Non-exempt clients shall be required to participate to the extent the state is able to assure supportive services are available to the client.

— 5. The fact that a parent meets incapacity criteria resulting in eligibility for AFDC does not automatically mean that the client is exempt from participation in the Self-Sufficiency Program. If reasonable accommodation to the incapacity, as determined by the worker, will facilitate service to the client, the client shall be required to participate.

— 6. The state shall not require clients to accept employment which results in a net loss of income.

— 7. Completion of a Self-Sufficiency Plan and Agreement is an eligibility requirement for all AFDC clients who are not determined exempt from participation requirements.

R986-212-212. Work Experience and Training (WEAT):

— 1. The department requires compliance with 45 CFR 233.10(a)(1)(ii)(B) 1991 edition, which is incorporated by reference. This department establishes procedures and standards for employable persons as allowed under Section 35A-3-401.

— 2. AFDC Self-Sufficiency Program Participants:

— AFDC clients participate in WEAT when it is part of their individual Self-Sufficiency plans. Any client for whom self-sufficiency is mandatory must comply with WEAT and other components of the self-sufficiency plan.

— 3. GA WEAT Clients:

— General Assistance recipients who are able to participate on WEAT are assigned, by the department, to a WEAT project immediately after the application is approved.

— 4. Performance:

— If WEAT is part of the plan of a client for whom self-sufficiency is mandatory, the self-sufficiency worker will establish with the client the hours of performance for each participation period:

— a. Participation Period:

— The participation period shall be from the 1st of the month to the end of the month:

— b. Proration:

— When the WEAT participation start date begins after the first of the month, the number of hours the person must perform on the WEAT assignment shall be prorated.

— 5. Participation Evaluations:

— The local office shall receive evaluations of performance on each participant, as requested by the self-sufficiency worker. The performance and progress of the participant will be used to determine the appropriateness of continuing the WEAT activity.

— a. Mandatory Participants:

— Failure to make satisfactory progress is not grounds for sanctioning a participant. A participant may be sanctioned for refusal to participate without good cause. The Self-Sufficiency worker shall initiate the conciliation and problem resolution process in order to avoid imposing self-sufficiency sanctions. See R986-219-903 for the rules on the conciliation and problem resolution process.

— b. For AFDC WEAT Volunteers:

— There is no sanction against the client.

— c. General Assistance:

— Those persons on General Assistance who performed less than the agreed amount of time per month without an acceptable excuse shall be closed at the end of the current month. The client is not eligible for General Assistance until compliance with the self-sufficiency plan is demonstrated.

R986-212-213. Minor Parent:

— 1. The department elects to restrict payments to households headed by a minor parent as defined in 45 CFR 233.107, 1995 edition, which is incorporated by reference.

R986-212-214. Refugee Resettlement Program:

— 1. The department adopts 45 CFR 400.1 - 400.300, 1991 edition and 45 CFR 401, 1991 edition which are incorporated by reference.

— 2. The following definitions apply to this subsection:

— a. "Appropriate employment" means employment that pays a wage that meets the applicable federal or state minimum wage law and has daily and weekly hours customary to the occupation. If these laws do not apply, the wage must equal what is normally paid for similar work and must never be less than three-fourths of the minimum wage rate.

— b. "Good cause criteria" means criteria as are used for quitting or refusing work because the job is vacant due to a strike, lockout, or other genuine labor dispute; or the individual is required to work contrary to his membership in the union governing that occupation; or the employment was deemed a risk to the health or safety of the worker; or the employment lacked Workman's compensation; or the individual is unable to engage in employment for physical reasons or lack of day care or transportation.

— c. "Full-Time Work" means 100 hours or more worked in a month.

— d. "Full-Time Training" means training that is defined by the institution as full time.

— 3. Current department practices:

— a. Due to limited federal funding, a refugee may qualify for Refugee Cash Assistance for up to eight months after entry into the United States:

— b. Child support enforcement requirements as found in R986-212-210 and specified relative rules as found in R986-212-208 do not apply:

— c. Countable income is determined as listed in R986-213-303 except recipients are not eligible for the \$30 and 1/3 earned income disregard:

— i. Sponsor's income is not counted.

— ii. In-kind services or shelter provided by the sponsor are not counted:

— d. Resource standards are the same as listed in R986-213-304. Resources that remain in the refugee's homeland and that are not available are not counted:

— e. Payment, need and amount of assistance are the same as listed in R986-213-306.

— 4. Employment and Training Requirements for Refugees Who are Eligible for Refugee Cash Assistance:

— The employment and training requirements shall be explained to refugee applicants. All refugee applicants shall be immediately referred to a designated local department worker for employment assessment and guidance for assistance in completing a self sufficiency plan. The self sufficiency plan must be completed prior to approval of the application. If the plan cannot be completed because of a lack of staff with language skills, the application shall be approved and the self sufficiency plan completed as soon as possible:

— a. Refugees are employable unless they are:

— i. Under age 16:

— ii. Age 16 or 17 and enrolled in school or training full-time:

— iii. Over age 60:

— iv. Ill or incapacitated. The local department office may require a second doctor's opinion to verify the illness or incapacity:

— v. Required to be in the home to care for another household member who is ill or incapacitated and another person is not available to provide the care:

— vi. Mothers or other caretaker relatives of children under age six:

— vii. Parents or other caretaker relatives when the other parent or adult relative is registered for work and has not refused to accept employment without good cause:

— 5. Work Requirements:

— An employable refugee must comply with the following requirements:

— a. Must not have voluntarily quit or refused appropriate work without good cause within 30 calendar days prior to the date of application. In this situation, if the rest of the family is otherwise eligible, they may receive RCA that excludes the ineligible household member:

— b. Except for refugees who are working full time or are participating in full-time, work related training, other than WEAT, refugees must:

— i. As a condition of eligibility, be registered for work with Job Service;

— ii. As a condition of eligibility, participate in job search activities as requested by Job Service; and

— iii. As a condition of eligibility, apply for and seek any job recommended by a case manager, a local department worker or a staff person with the training program in which the refugee is enrolled:

— iv. If the local Job Service office contains a special refugee unit, as a condition of eligibility, the refugee must be registered with that unit. WEAT participation does not exempt the refugee from requirements i through iv listed above:

— c. Not refuse to apply for or refuse to accept an appropriate offer of employment without good cause. This applies even if the refugee is in full time training. This does not apply to refugees who are already employed full time:

— d. Not voluntarily quit appropriate employment without good cause:

— 6. Training Requirements:

— An employable refugee must be involved 40 hours per week in a combination of work related training, English-as-a-second-language (ESL) training, and job search. Priority is given to work related training and job search. An employable refugee who is not working full time must comply with all of these requirements as a condition of eligibility:

— a. Apply for, accept, and participate in appropriate work-related training and/or ESL training. Appropriate work-related training lasts less than one year and has a definite employment objective:

— i. Refugees who work part-time must accept and participate in part-time ESL training or skill training:

— ii. The local department office must monitor attendance and progress in the training program on a quarterly basis. Those refugees who are not regularly attending or making progress in the training program are assigned to WEAT:

— b. If work-related training is not available or if full-time ESL training is not available, the refugees must accept a WEAT assignment and participate satisfactorily on a WEAT project:

— i. If ESL or skill training is available when the refugee is not participating in WEAT, the refugee must participate in the ESL or skill training program:

— ii. WEAT participation shall not be required for refugees who are in a full-time training program. WEAT participation may still be required for refugees in part-time training if a WEAT project is available during the hours that the refugee is not attending classes:

— iii. Employable refugees who are assigned to WEAT are subject to the AFDC WEAT regulations as found in R986-212-212.

~~7. Sanctions:~~

— a. When an employable refugee refuses to comply with the requirements for work, WEAT, or training, counseling must be provided within seven days of notification to insure the refugee understands the requirements for work and training and the effects of the refusal.

— b. If the employable refugee recipient continues to refuse to comply with the requirements, the first occurrence is sanctioned by removing the person from the grant for three payment months. For the second occurrence, the person is removed from the grant for six payment months.

— i. An employable refugee who is a caretaker relative is paid assistance in the form of protective or vendor payments to the remaining members of the household.

— ii. If the refugee is the only one in the grant, the case is closed.

— iii. If eligible, food stamps and medical assistance are continued for the person who is ineligible for financial assistance because of this sanction.

— iv. If, at the end of the sanction period, the individual does not agree to meet employment and training requirements, a grant is issued only for the other eligible household members. Vendor payments are not continued.

~~8. GA Funds for Refugee Students Who Are Ineligible for Refugee Cash Assistance Due to eight Months of U.S. Residence: Refugees who lose their eligibility for Refugee Cash Assistance solely because they have been in the U.S. for eight months and do not qualify for the regular GA program may receive extended GA financial assistance benefits as long as the refugee meets all of the following conditions:~~

~~— a. Is a full-time student, and~~

~~— b. Participates in a program of secondary school or equivalent level of vocational or technical training, and~~

~~— c. Reasonably expects to complete that educational program before reaching age 19.~~

~~This extended eligibility applies to applicants as well as recipients.~~

R986-212-215. Sponsored Aliens:

— 1. The department adopts 45 CFR 233.51 through 233.52, 1991 edition which are incorporated by reference.

— 2. Current Departmental Practice: The determination that a public or private agency or organization no longer exists or is unable to meet the alien's needs is made by the regional OFS director or designee based on the evidence submitted to support the claim. The documentation submitted by the alien must be sufficient to prove the claim.

R986-212-216. Emergency Assistance to Needy Families With Dependent Children:

— The department operates this program subject to the availability of funds.

— 1. Eligibility requirements for the Emergency Assistance Homelessness Prevention Program are:

— a. All families with dependent children as defined in R986-212-203 who are homeless or in danger of becoming homeless due to a crisis situation beyond the family's control. The expectation is that the one-time assistance will enable the family to obtain or

maintain their housing while they overcome the temporary crisis. The following standards must be met:

— i. The family must be facing eviction or foreclosure because of past due rent or mortgage payments or unpaid utility bills which result from the crisis.

— ii. Assistance with one month's rent or mortgage payment must be enough to prevent the eviction or foreclosure.

— iii. The family must demonstrate the ability to resolve past due payments and pay future months' rent or mortgage payments or utility bills after resolution of the crisis.

— iv. The family must exhaust all other resources.

— b. Countable resources are those not specifically excluded by federal regulation for the State IV-A program. The limit on value of countable assets is \$2,000.

— c. Gross income which is available to the client will be compared to the gross income limit. This figure equals 185% of the standard need for the client's filing unit.

— d. To be eligible, families must meet AFDC criteria for U.S. citizenship and residence as defined in R512-212-201.

— e. The family must file a written application.

— 3. Assistance is issued in the form of vendor payments for shelter and other emergency services.

— 4. Emergency assistance is available for only thirty consecutive days during a year to any individual or that individual's family. A year is defined as 365 days following the initial date covered by assistance issued.

— 5. Payments will not exceed \$300 per family for one month's rent payment; \$500 per family for one month's mortgage payment. Payments for utilities will not exceed \$200.

— 6. Procedures necessary to determine the family's eligibility for AFDC Emergency Services include documenting eligibility; providing counseling on basic planning and family budgeting, and advocacy services needed in negotiations with landlords and mortgage companies.

R986-212-217. Extended Medical Assistance:

— 1. The department adopts 45 CFR 233.20(a)(14), 1992 edition which is incorporated by reference.

KEY: AFDC, child welfare

July 2, 1997

35A-3-301

Notice of Continuation February 10, 1997]



Workforce Services, Employment
Development
R986-213
Financial Assistance Need and Amount
of Assistance

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23057

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: In new rules published simultaneously, program names have been changed to reflect current department practice and outdated legal references have been removed and replaced with appropriate references. The asset limit is \$2,000 and not \$1,000. Other provisions of this rule have been moved to the new rules.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-301 and 35A-3-401

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖**LOCAL GOVERNMENTS:** This rule does not apply to local government; therefore, there are no costs or savings.

❖**OTHER PERSONS:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-213. Financial Assistance Need and Amount of Assistance:~~

~~R986-213-303. Income:~~

~~1. The department adopts 45 CFR 233.20, 233.53, 232.20, and 232.21, 1992 ed. which are incorporated by reference. Public Law 99-514, Public Law 100-485, Public Law 101-201, Section 10405 of Public Law 101-239, Section 11115(a) of Public Law 101-508, Section 2 of P.L. 98-64 which are incorporated by reference.~~

~~2. The following definitions apply to this section:~~

~~a. Unearned income is cash received by an individual for which the individual performs no service.~~

~~b. A full-time student is a person enrolled for the number of hours defined by the particular institution as fulfilling full-time requirements.~~

~~c. A part-time student is a person who is enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours per day, whichever is less.~~

~~d. School attendance means a person is enrolled in a public or private elementary or secondary school, a university or college, a vocational or technical school or the Job Corps for the express purpose of equipping himself with skills that will lead to gainful employment.~~

~~e. Quarter means any one of the three month periods of January through March, April through June, July through September, October through December.~~

~~f. Full-time employment is an average of 100 or more hours of work per month or an average of 23 hours per week.~~

~~g. A bona fide loan means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.~~

~~h. Bona fide effort to sell means placing the property up for sale at a figure no greater than the current market value.~~

~~i. Disregard means a portion of income that is not counted.~~

~~3. Current Departmental Practices:~~

~~a. All bona fide loans are excluded from determining the need and amount of assistance.~~

~~b. Support and maintenance assistance is excluded.~~

~~c. The value of food stamp coupons is excluded.~~

~~d. The value of special circumstance items is excluded if the items are paid for by donors.~~

~~e. The value of governmental rent and housing subsidies is excluded.~~

~~f. The income of dependent children is counted when determining eligibility based on gross income and need. It is disregarded when determining payments if the child is:~~

~~i. In school or training full-time;~~

~~ii. In school and training part-time, if employed less than 100 hours;~~

— iii. In school or training through the Jobs Training Partnership Act (JTPA):

— g. An amount up to \$175 per month per child under age two and \$160 per month per child age two and older is allowed for child care expenses as an earned income deduction for part-time employment:

— h. Unearned income in-kind is excluded:

— i. Home energy assistance is excluded:

— j. Cash gifts for special occasions which do not exceed \$30 per quarter for each person in the assistance unit are excluded. The gift can be divided equally among all members of the assistance unit:

— k. \$30 is deducted from rental income unless greater expenses can be proven. Expenses in excess of \$30 can be allowed for:

— i. Taxes

— ii. Attorney fees expended to make the rental income available:

— iii. Upkeep and repair costs necessary to maintain the current value of the property:

— iv. Interest can be deducted on a loan or mortgage made for upkeep or repair. Payment on the principal of the loan or mortgage cannot be deducted:

— v. If meals are provided to a roomer/boarder, the value of a one-person food stamp allotment is deducted:

— l. Assigned support payments retained in violation of 45 CFR 232.12(b)(4), 1991 ed. are subject to IV-D recovery:

— m. An individual's income is allocated for his own support and others living with him when he is not applying for or receiving assistance. Those included in the allocation are the following non-sanctioned individuals:

— i. the individual whose income is being counted;

— ii. the individual's non-recipient dependents;

— iii. others in the individual's household who are, or could be, claimed as dependents for determining federal income tax;

— iv. any other person living with the individual whom he is legally obligated to support:

— n. All applicants and recipients must apply for all benefits for which they are entitled with the exception of Supplemental Security Income (SSI):

— o. Shelter, utilities, and other similar needs are not prorated when the AFDC assistance unit lives together with other individuals as a household:

— p. All money received on a sales contract from an exempt property or an insurance settlement for destroyed exempt property is counted unless the income is used to purchase replacement property in accordance with R986-213-304:

— q. Lump sum payments can be earned or unearned income. Lump sums are income in the month received. An overpayment may be required for the month of receipt. The amount of the lump sum that exceeds the standard needs budget will count as income for future months. The client will be ineligible for assistance for the number of months determined by dividing the net countable income for the payment month by the standard budget for the household size for the payment month. Any amount remaining will count for the month following the last month of ineligibility:

— r. When an ineligible alien is a parent and the children are deprived of support, the total gross countable income of the alien parent is used in determining eligibility and payment amount for other family members. The total gross countable income of the

alien parent is then added to the total gross countable income of the other members of the assistance unit:

— s. All educational assistance is excluded when determining the need and amount of assistance:

— t. Earned income disregards will be applied to the income of individuals who have been sanctioned for a failure on their part to meet an eligibility requirement:

R986-213-304. Resource Standards:

— 1. The department adopts 45 CFR 233.20(a)(3), 233.20(a)(4); 233.51, 1992 ed. which are incorporated by reference. Public Law 101-201, Section 10405 of Public Law 101-239, and Section 2 of Public Law 98-64 which are incorporated by reference:

— 2. The following definitions apply to this section:

— a. A burial plot is a burial space and any item related to repositories used for the remains of the deceased for any member of the household. This includes caskets, concrete vaults, urns, crypts, grave markers, etc. If the individual owns a grave site, the value of which includes opening and closing, the opening and closing is included:

— b. Bona fide effort to sell means placing the property up for sale at a figure no greater than the current market value:

— 3. Current Departmental Practices:

— a. The value of countable real and personal property cannot exceed \$1,000:

— b. If resource limits are exceeded any time during the month, the recipient is not eligible anytime during the month. In the month of application, if the resource limit is exceeded after the date of application, the case is not eligible for the month of application:

— c. The resources of a sanctioned household member are counted:

— d. The resources of a ward which are controlled by a legal guardian are available to the ward:

— e. If a resource is potentially available, but a legal impediment to making it available exists, it is exempt until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless:

— i. Reasonable action would not be successful in making the resource available;

— ii. The probable cost of making the resource available exceeds its value:

— f. The maximum exemption for the equity of one car is \$1,500:

— g. Maintenance items essential to day-to-day living are exempt:

— h. Life estates are exempt:

— i. The resources of an ineligible child are exempt:

— j. The value of the lot on which the home stands is exempt if it does not exceed the average size of residential lots for the community in which it is located. The value of the property in excess of an average size lot is counted:

— k. Water rights attached to the home property are exempt:

— l. Any real property that an applicant or recipient is making a bona fide effort to sell is exempt for a nine-month period provided the applicant/recipient agrees to repay, from the proceeds of the sale, the amount of AFDC received. Additionally, to qualify for this exemption, the individual must sign a lien against the real property under consideration. If the property is not sold during the period of time the individual was open or if the individual loses

eligibility for any reason during the nine-month period, the lien will not be released until repayment is made:

— i. With the exception of real property, the value of income producing property necessary for employment is exempt.

— m. Payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days of receipt and the purchase is completed within 90 days. If more than 90 days is needed to complete the actual purchase, the director may grant one extension. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.

— n. When an ineligible alien is a parent and the children are deprived of support, the resources of the alien parent are counted in determining eligibility for other family members.

— o. There is a \$1,500 burial/funeral fund exemption. It is computed as follows:

— i. First, the value of any irrevocable burial trust is subtracted from the \$1,500 burial/funeral fund exemption. If the irrevocable burial trust is valued at \$1,500 or more, it reduces the burial/funeral fund exemption to zero.

— ii. If, after completing the first step there is still a balance in the burial/funeral fund exemption, the remaining exemption level is reduced by the cash value of any burial contract, funeral plan, or funds set aside for burial. If these reductions result in an exemption greater than \$1,500, then the difference is added to the other countable assets.

— p. Any interest which is accrued on an exempt burial contract, funeral plan, or funds set aside for burial are exempt as income and resources. If an individual removes the principle or interest and uses the money for a purpose other than the individual's burial expenses, the amount withdrawn is countable income.

R986-213-305. Budgeting:

— 1. The department adopts 45 CFR 233.31 through 233.38; 1991 ed., which is incorporated by reference.

— 2. The following definitions apply to this section:

— a. Best estimate means income is calculated on a best guess of a household income, deductions and size during the upcoming certification period.

— b. Prospective eligibility means that eligibility is determined each month for the immediately following month based on a best estimate of income.

— c. Prospective Budgeting means the calculation of income and determining benefit level based on the best approximation of income.

— d. Income averaging means using a history of past income and averaging it over a determined period of time that is representative of future income.

— e. Income anticipating means using current facts such as rate of pay and hourly wage to anticipate future monthly income.

— f. Income annualizing means taking past income over a long period of time and calculating a monthly amount based on it. Self employed households or seasonal workers may have their income annualized.

— g. Factoring means that a monthly amount will be determined to take into account the months of pay where an individual receives a fifth paycheck when paid weekly or a third paycheck when paid every other week. Weekly income will be factored by multiplying

the weekly amount by 4.3 to obtain a monthly amount. Income paid every other week will be factored by 2.15 to obtain a monthly amount.

— 3. Current Departmental Practices:

— a. Prospective budgeting is used to determine the amount of the assistance payment for all recipients.

— b. Proration of the amount payable for the month of application is based on the actual number of days remaining in the month, including the date of application.

— c. The amount of payment for all months of eligibility is computed prospectively based on a best estimate of future income.

— d. Methods of determining the best estimate are income averaging, income anticipating, and income annualizing.

— e. Income that is received weekly or every other week will be factored:

— f. A best estimate of income made by a worker based on the best available information at the time it was made is an accurate reflection of the client's income in that month.

R986-213-306. Payment, Need, and Amount of Assistance:

— 1. The department adopts 45 CFR 206.10(a)(6), 233.33; 233.34, 205.32, 233.20(a)(1) through 233.20(a)(3), 234.11 through 234.60, 1992 ed., and 42 CFR 435.1011, 1991 ed., which are incorporated by reference.

— 2. Current Department Practices:

— a. The department utilizes a fully consolidated standard of assistance containing shelter, food, household supplies, personal care items, transportation, house furnishings, recreation, education, nonprescription drugs, clothing and utilities including water, light, cooking and heating fuel, and telephone.

— b. Specified relatives may be included in the determination of need and the amount of assistance:

— c. In determining financial eligibility and amount of payment, net countable income is considered in relation to the need standard.

— d. A rateable reduction is applied to the deficit between countable income and the full need standard. The department pays 75% of the budgetary deficit.

— e. The number of eligible persons in the assistance unit determines the amount of the standard grant. The needs of an unborn child are not included.

— f. Except for EWP recipients, regular payment is made on the first day of the calendar month. See R986-216 for EWP rules.

— g. For every month except the month of application, the department will make the payment for the full month provided the assistance unit was eligible on the date payment was made.

— h. Payment is made from the date of application. Initial payment for the month of application is prorated using the total number of days remaining in the month.

— i. Payment is made to an otherwise eligible assistance unit in any month in which the amount of aid prior to any adjustments is less than \$10.

— j. The department makes the following special needs payments and special allowances:

— i. An allowance of \$15 per month for a pregnant woman in the third month prior to the expected month of delivery. Eligibility for the allowance begins in the month the woman provides medical proof that she is in the third month prior to the expected month of delivery. The pregnancy allowance ends at the end of the month the pregnancy terminates.

— ii. An allowance not to exceed \$300 may be authorized to pay a recipient's burial costs when the burial is not the responsibility of the county government, there are no other resources available to pay the costs, and relatives are unable to assume the expenses.

— iii. An allowance can be authorized to pay unexpected expenses that threaten a self-sufficiency client's ability to start or continue job search activities or training.

— iv. At the discretion of the director or designee, payments may be made to a transient person in emergency need who is stranded and does not intend to remain in Utah.

— v. An optional state supplemental payment is paid to noninstitutionalized Supplemental Security Income (SSI) recipients. The amount is \$3.13 for single individuals who live with others; \$9.73 for married couples who live with others; \$4.60 for married couples who live alone.

— k. Special needs payments are not prorated.

— l. If the payee dies before endorsing the check, the director or designee may authorize another person to endorse the check to use it on behalf of the payee or other person in the assistance unit.

— m. The following procedures apply when a check is reported to be lost or stolen:

— i. The client may report the loss by telephone or in person.

— ii. Assistance checks must be reported lost or stolen within 29 days of the issuance date. Warrants must be reported lost or stolen within 29 days of the mailing date, except support refund and child support pass through warrants, which must be reported lost or stolen within 121 days after mailing date. If these deadlines are not met, the warrant or check cannot be replaced.

— iii. The client must wait five postal working days after the check or warrant was mailed before a missing warrant will be replaced.

— iv. Recovery and legal action will be taken if the client cashes both the original and the replacement check or warrant. In this event, the client must:

— A. Pay the amount of the replacement check back to the department by grant reduction. The client's monthly check amount will be zero until the entire amount is recovered.

— B. Pay the cost for handwriting analysis. If a hearing is requested by the client and decided in favor of the department, these costs will include any charges for the handwriting analyst to appear in the hearing. The costs cannot be recovered by grant reduction.

— v. The department shall not replace a check which is lost or stolen after the payee signs it or the local office has guaranteed payment with a guarantee stamp.

— vi. The department shall not replace money which is lost or stolen after the assistance check has been cashed.

— vii. The department will replace expired checks upon receipt of the uncashed check from the client.

— n. The current need standards and grant amounts are included in R986-220-2.

— o. Protective and vendor payments are made for mismanagement of funds and at the request of the recipient.

— p. Non-payment of bills in conjunction with other evidence demonstrates an inability to manage funds.

— q. Recipients are not notified whenever a creditor requests a protective, vendor, or two-party payment for mismanagement on the basis of non-payment of bills. In addition, the recipient is not notified of a decision not to use a protective, vendor, or two-party payment if payment has been requested by a creditor.

— 3. Incorrect Payments:

— a. The department adopts 45 CFR 233.20(a)(13) and 233.52, 1992 ed., which are incorporated by reference.

— b. Current Departmental Practices:

— i. Underpayments may be offset against overpayments.

— ii. Except in cases of fraud, overpayments of less than \$35 are referred to the Office of Recovery Services (ORS) but may not be recovered from former recipients.

— iii. Assigned support payments retained in violation of policy are counted as income against the AFDC grant when a request to do so is generated by ORS to the department.

— iv. Support debts may be repaid directly to ORS or when the client requests it, vendor payments may be made from the grant to ORS. The request from the client must be made in writing before ORS can request vendor payments from the grant.

— v. The sponsor of an alien is not held liable for an overpayment if the alien fails to give accurate information to the department or the sponsor is deceased, in prison, or can prove the request for information was incomplete or vague.

— vi. All AFDC recipients who fail to report changes in circumstances within 10 calendar days may be subject to an overpayment. When recouping the overpayment, the department will apply the sanction of the loss of income disregards for the month in question.

— 4. AFDC Fraud Control Program

— a. The department adopts 45 CFR 235.110 and 235.111, 1991 ed., which are incorporated by reference.

— b. Current Departmental Practice:

— i. The department will use civil or criminal prosecution, administrative or disqualification hearings, or an administrative waiver/consent process to establish that an intentional program violation has occurred.

— ii. The department provides administrative disqualification hearings at the state level.

— iii. The client may waive the right to appear at an administrative disqualification hearing.

— iv. The department may consolidate an individual's hearing governed by 45 CFR 205.10, 1991 ed. with a disqualification hearing based on the same or related circumstances.

KEY: AFDC, financial disclosure, income
October 2, 1995 **35A-3-301**
Notice of Continuation February 10, 1997 **35A-3-401**



Workforce Services, Employment
 Development
R986-214
 Financial Assistance Applications,
 Redeterminations, and Change
 Reporting

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23058

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. The only significant changes were changes to program names and to correct outdated legal references. The requirement that a decision on the application be made within 45 days has been removed, but remains in policy. Ten-day advanced notice is no longer required for agency action.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖**LOCAL GOVERNMENTS:** This rule does not apply to local government; therefore, there are no costs or savings.

❖**OTHER PERSONS:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.**~~R986-214. Financial Assistance Applications, Redeterminations, and Change Reporting.~~****~~R986-214-401. Applications.~~**

~~1. The department adopts 45 CFR 206.10, 1991 ed. which is incorporated by reference.~~

~~2. Current Departmental Practices:~~

~~a. Except in unusual circumstances, the department worker must make a decision on an application within 45 days from the date of application.~~

~~b. Assistance begins with the date of application, provided the applicant was eligible on that date.~~

~~c. For purposes of this section, an "application" means properly completed application forms which are signed and dated by the client.~~

~~R986-214-402. Redeterminations.~~

~~The department adopts 45 CFR 206.10, 1991 ed. which is incorporated by reference.~~

~~R986-214-403. Change Reporting.~~

~~1. The department adopts Section 402(a)(13) of the Social Security Act, 1992 ed. which is incorporated by reference.~~

~~2. Current Departmental Practices:~~

~~a. After determining that a client is prospectively eligible for benefits, adjustments that result from changes reported during any given month will be made effective the first day of the following month.~~

~~i. The client is responsible to report any change to the agency within ten calendar days of the day the client learns of a change. The agency has ten calendar days following the report of a change to take action on the report. The agency is required to advise the client of an adverse change in a benefit amount at least ten days prior to the end of the month in which the action is taken.~~

~~ii. If the reported change results in an increase in the client's benefit, the increased benefit will not be granted sooner than the first day of the month following the date of report. After the client has reported a change, the client must submit verification of the reported change within ten days of when the change was initially reported. The date of the change in the client's benefit will be calculated from the initial report, provided the change is verified within ten calendar days. The date of change in income will be calculated from the date of verification if the client verifies the change later than ten days after the initial report.~~

~~iii. If the reported change results in a decrease in the client's benefit, the decreased benefit may be imposed as soon as the first day of the following month. If the agency cannot provide adequate ten day notice of adverse action before the end of that month, the~~

decrease in the client's benefit will not be made effective until two months following the reported change. The agency will take action to implement all decreased benefit amounts without waiting for verification of the reported change. In either instance the case may be closed and benefits halted if all factors of eligibility are not verified:

— b. There is no assistance payment payable for any month in which the assistance unit is not prospectively eligible.

— c. Except for income, assets, and striker status, if the client is eligible on the first of the month, the client is eligible all month.

— d. A change report can include information that may affect a client's eligibility received from any source. The agency shall verify the reported information before taking action to change the client's benefits.

KEY: AFDC applications, redetermination, reporting changes August 1, 1996 ~~35A-3-103~~
Notice of Continuation February 10, 1997]



**Workforce Services, Employment
 Development
 R986-215
 Financial Assistance Verification and
 Safeguarding Requirements**

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE NO.: 23059
 FILED: 08/01/2000, 18:41
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. The only significant changes were changes to program names and to correct outdated legal references.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate

rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-215. Financial Assistance Verification and Safeguarding Requirements.~~

~~**R986-215-501. Verification Requirements.**~~

— The department adopts 45 CFR 205.52, and 205.55 through 205.56, and 206.10(a)(8), 1991 ed. which are incorporated by reference.

~~**R986-215-502. Safeguarding Requirements.**~~

— 1. The department adopts 45 CFR 205.50, 1991 ed. and Public Law 101-508, which are incorporated by reference.

— 2. Current Departmental Practices:

— a. All information contained on specific clients is safeguarded:

— b. The legal basis for safeguarding confidentiality of information is Sections 63-2-101 through 63-2-909.

~~**R986-215-503. Records and Case Management.**~~

— 1. The department adopts 45 CFR 205.60, 1991 ed. which is incorporated by reference.

2. Current Departmental Practices:
Case records shall not be removed from the department office except by subpoena or request of the Director, Division of Employment Development, Bureau of Quality Control, the Office of Recovery Services, or in accordance with the Forms Destruction List:

~~KEY: verification*, confidentiality of information
May 18, 1998 35A-3-103
Notice of Continuation February 10, 1997]~~



Workforce Services, Employment Development **R986-216** Financial Assistance Emergency Work Program (EWP)

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 23060
FILED: 08/01/2000, 18:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. The only significant changes were changes to program names and to correct outdated legal references. Bona fide job offer has been replaced with appropriate employment. If a household fails to perform under WTE (Working Toward Employment), the second time there will be a one-month disqualification period, and the third time, a six-month disqualification period. The concept of having refused work 30 days prior to application has been deleted. Residents of group homes are no longer eligible. The participation period is now seven months in any 13-month period. Written notices are no longer required to be mailed within one day of entry onto the computer. Tables for benefit levels have been removed from the rule and are available at all department offices. This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
 - ❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.
 - ❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development. ~~**[R986-216. Financial Assistance Emergency Work Program (EWP):**~~

R986-216-601. Authority and Description:

1. The Emergency Work Program (EWP) has two components. One component is for unemployed two-parent households with dependent children. This program is described in R986-212-204. The other component is for single individuals or couples with no dependent children and families that do not meet rules in R986-212-204 and is authorized under Section 35A-3-401 and 35A-3-402.

2. In return for participation in adult education, short term skill training, community work and job search, the EWP provides financial assistance on a short-term basis. The EWP is not a substitute for other emergency assistance programs.

— 3. The rules in R986-211 through 215 and R986-219 apply unless a different rule is stated below.

R986-216-610. General Requirements:

— Ten-day advance notice of any action to terminate or reduce EWP payments is not required. Written notice must be mailed no later than the day following code entry into the computer.

R986-216-620. Program Standards:

— 1. The following definitions apply to this section:

— a. AF/EWP means the AFDC Emergency Work Program.

— b. "Principal Earner" means the household adult who earned the greater amount in the 24 month period prior to the application month. Such decision is based upon the best available evidence. If the report by the applicant seems consistent, additional verification is unnecessary.

— c. "Bona fide job offer or job interview" means an offer of employment or an employment interview that was given and was made in good faith without fraud or deceit.

— d. "Good Cause for refusing a job" means a definite job offer was not made; the wage did not meet minimum wage requirements; the employment lacked workmen's compensation benefits; the position offered is vacant due to a strike, lockout or other bona fide labor dispute; or the individual is unable to engage in employment for physical reasons or for lack of transportation.

— e. GF/EWP means the General Assistance Emergency Work Program.

— 2. RCA, AFDC, UC benefits and SSI:

— a. RCA: If the household appears to be eligible for RCA, the household must apply for RCA or AF/EWP. If the household is eligible for RCA, the household is ineligible for GA/EWP. A married couple who live together is a household. Parents and their unemancipated natural, adoptive, or stepchildren who live with them are a household. Other persons, related or not, are considered a separate household even if they live together.

— b. AFDC: A household that appears eligible for AFDC must apply for AFDC. If the household is eligible for AFDC, the household is ineligible for GA/EWP. The two exceptions are:

— i. A two parent household which might be eligible for AFDC because one parent is incapacitated may choose to apply for AF/EWP.

— ii. A household with two adults who acknowledge and have established paternity of a child in common may apply for AF/EWP.

— c. Unemployment Compensation:

— If any adult member of the household appears to be eligible for unemployment compensation, the individual must apply for Unemployment Compensation benefits. The household is ineligible for GA/EWP if the Unemployment Compensation benefits paid to the household in a participation period are more than the GA/EWP payment.

— d. Households containing applicants for SSI are ineligible for GA/EWP. If a recipient applies for SSI, the case is closed for that household.

— 3. Residence:

— If a household contains one or more members who do not meet the U.S. residence requirements, the remaining members may still be eligible as long as all other eligibility requirements are met. This includes the work and job search requirements which may be

completed by the non-citizen. These households are paid only for the number of eligible household members.

— 4. Social Security Numbers (SSN):

— a. Each household participating in or applying for the GA/EWP shall be required to provide an SSN or apply for one for each person age 18 or older and for each person under age 18 who receives countable income.

— b. If any household member who is required to provide an SSN is unable to provide it, and therefore must apply for one, he may participate while awaiting receipt of an SSN.

— c. When a household member provides SSA Form 5028 or 2880, proof of application for the SSN, at three months a request is sent to the household for the SSN. The recipient must either provide the SSN or a new Form 5028 or 2880 each six month period.

— 5. Child Support Enforcement:

— a. Child Support Enforcement rules in R986-212-210 apply unless:

— i. Both parents are in the home and they are legally married to each other, and

— ii. Both father and mother are the child's legally recognized natural or adoptive parents and they are the only people responsible for the support of the child.

— 6. Failure to perform results in case closure. A household may re-apply any time after case closure.

— a. Households without children will be ineligible for GA/EWP for six months beginning with the first month of no GA/EWP payment when the case is closed for unexcused non-performance.

— b. Families with children may re-apply any time after case closure.

— 7. Age:

— One adult household member must be at least 18 years old, legally emancipated, or factually emancipated.

— 8. The Principal Wage Earner Must be Unemployed and Must Not Have Refused Work:

— a. The principal earner must be unemployed for at least 30 days before the date of application. A person who is employed less than 100 hours a month is considered unemployed. The household is ineligible if the principal earner is employed 100 hours or more a month.

— b. If the principal earner refused work within thirty days of application without good cause, the household is ineligible.

— 9. Performance Requirements:

— a. An adult household member must spend a minimum of 40 hours per week in community work, job search, and adult education or skill training. Other adult members must search for a job and participate in education and employment activities 20 hours a week unless excused for good cause by the Job Training Partnership Act (JTPA) agency or the local department office. All adults must be referred to JTPA for assessment and establishment of participation standards.

— b. The hours spent in job assessment and job search may count toward the 40 hours a week requirement.

— c. The spouse and all other adult members must take part in 20 hours of job search, education or skills training activities each week. The job assessment interview counts as part of this requirement.

— d. Two adults in the same household cannot share the performance requirements in any participation period. At the end of a participation period, the local department office or JTPA

agency may approve a change of the adult who must meet the performance requirements.

— e. After the first week, the payment is prorated for the hours of performance if the adult does not complete all the time requirements.

— f. Both adults in households without children must spend a minimum of 40 hours per week in community work, job search, and adult education or skill training.

— g. Participation exemptions do not apply to GF/EWP.

— 10. Countable Performance:

— a. The time spent at a job interview is counted as part of the required performance if the adult has a bona fide job interview and he must be excused to attend it.

— b. The hours that the individual is excused because of illness are counted. The JTPA agency may require verification of the illness.

— c. The hours that the individual spends in paid employment are counted.

— d. The hours the adult is excused when the department regional director, designee, or the JTPA agency decides there is good cause for not meeting the performance requirements are counted. Good cause may include such things as a death in the immediate family or the inability to get to the work project because of unusual transportation problems.

— 11. Prorating the Payment:

— a. The payment is prorated for the hours the adult performed when the household applied after the start of the performance period and could not meet the 40 hour performance requirement before the next payment date.

— b. The payment is prorated for the hours of performance if the adult started a job and could not complete the performance requirements.

— 12. Additional Requirements:

— The local department may require all other adult household members to enroll in education and job programs and participate in job assessment and job search activities.

— 13. Residents of Institutions, Group Homes, and Alcoholism and Drug Treatment Centers:

— Residents of institutions, group homes, and alcoholism and drug treatment centers are not eligible if the facility receives funding for residential treatment under government contract or if the facility is administered by a government unit or is administered under contract with a government unit.

— 14. Participation Time Limits:

— a. Participation for AF/EWP is limited to seven months in the previous twelve month period.

— b. Participation for GF/EWP is limited to seven months in any eighteen month period.

— c. The local department office shall review families reaching the time limit who will probably be unable to secure a job. The review should consider eligibility for other programs and additional efforts which could be made to assist the family in securing a job.

R986-216-630. Record Management:

— 1. Written Notice:

— Rules in R986-215-503 apply to this section. Written notices must be mailed to the household within one working day from the date the information is entered into the computer.

— 2. Household Composition Changes:

— If the household size increases sufficiently to affect the amount of payment, the payment is adjusted for the next payment period following the date the household reports the change.

— If the household size decreases sufficiently to affect the amount of the payment, the client must immediately report the change to the local department office. The local department staff must adjust the payment amount for the next payment period. An overpayment will exist from the date of change if the household fails to report as required.

R986-216-640. Income Standards:

— 1. Income Disregards and Exemptions:

— AFDC rules in section R986-213-303 apply to AF/EWP and GA rules in section R986-218-820 apply to GF/EWP unless otherwise stated.

— 2. Income Computation:

— a. Income is computed on a monthly basis.

— b. Income received and expected to be received during the month is counted.

— Countable income is subtracted from the base grant amount.

R986-216-650. Resource Standards:

— AFDC Rules in R986-213-304 apply to AF/EWP and GA Rules in Section R986-218-830 apply to GF/EWP.

R986-216-660. Benefit Levels:

— 1. Standard Payment:

— Payment levels are listed in the Table in R986-220-2. Payment is made twice a month. The standard monthly grant is divided by two and prorated by the number of hours the participant performed on the program.

— 2. Participation Periods:

— Participation periods are the 1st through the 15th and the 16th through the end of any month.

— 3. Payment Amounts and Eligibility:

— a. The application is denied or the case closed if the household's monthly countable income exceeds the monthly payment. The household may reapply at any time.

— b. The household is paid for the difference between its countable income and the base grant amount.

— c. Payment is made on the 5th and the 20th of each month. Payment is made only for the actual number of hours of participation.

R986-216-670. Program Procedures:

— 1. Applications:

— Eligibility and payment for this program is not delayed while waiting for information or verification for any other program.

— 2. Referral to JTPA Office:

— a. If the household is eligible, the household will receive written and verbal explanations of the requirements at the time of approval.

— b. All of the adult household members are referred directly to JTPA. The JTPA agency will perform job assessment, monitor participation, and report performance to the local department office.

— 3. Special Need Expense:

— If a client has expenses that limit his ability to start or continue job search, training, or community work these expenses may be paid for if the reason and amount of the request is specified in writing by

the JFPA agency. Examples of expenses are: transportation, clothing, uniforms, licenses, school fees.

— 4. EWP Case Reviews:

— EWP cases will not need a regularly scheduled redetermination.

~~KEY: public assistance programs, emergency work program*
January 1, 1997 — 35A-3-103
Notice of Continuation February 10, 1997]~~

◆ ————— ◆

Workforce Services, Employment
Development
R986-218
Financial Assistance General
Assistance/Self-Sufficiency Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23061

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. The only significant changes were changes to program names and to correct outdated legal references. Bona fide job offer has been replaced with appropriate employment. If a household fails to perform under GA (General Assistance), the second time there will be a one-month disqualification period, and the third time, a six-month disqualification period. Written notices are no longer required to be mailed within one day of entry onto the computer. Tables for benefit levels have been removed from the rule and are available at all department offices. This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-103 and 35A-3-401

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖ LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖ OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-218. Financial Assistance General Assistance/Self-Sufficiency Program:~~

~~**R986-218-800. Incorporation by Reference:**~~

~~— Unless otherwise indicated, all references to 45 CFR refer to the Code of Federal Regulations, 45, Parts 200 through 499, revised as of October 1, 1990. All referenced Federal Regulation are available for public review at the Division of Employment Development, 140 East 300 South, Salt Lake City, Utah 84103.~~

~~**R986-218-801. Authority:**~~

~~— The department requires compliance with Section 35A-3-401, Utah Code Annotated, 1953.~~

~~**R986-218-802. Description:**~~

~~1. The General Assistance Self-Sufficiency Program (GASSP) provides temporary financial support to single persons and couples while they are overcoming the condition making them unemployable or while they are qualifying for Supplemental Security Income (SSI). The GASSP Program provides financial support on a time limited basis, not to exceed 24 months out of any~~

60 month period, retroactive to March 1, 1998, while participants are involved in medical and/or mental health treatment to overcome the limitations keeping them from employment.

— 2. This financial supportive service is based on the concept of mutual responsibility. The client has the responsibility to make efforts to overcome the condition making him or her unemployable and to move towards increasing their income or to qualify for other benefits.

— 3. Less capable clients may receive special help from department staff in applying for these other benefits and participating in employment activities.

— 4. Department staff have the responsibility to assist clients in increasing their income through employment and/or in securing other benefits.

— 5. To qualify, individuals must:

— a. Be at least 18 years old or emancipated;

— b. Be unemployable because of a physical or psychological impairment or they must be unable to work at a job at least 23 hours weekly at minimum wage;

— c. Participate in rehabilitation and employment services and follow through on efforts to qualify for other benefits for which they may be eligible. This includes SSI, Social Security Disability Insurance (SSDI), Veterans Benefits, Workers' Compensation;

— 6. A person eligible for Bureau of Indian Affairs (BIA) assistance is not eligible for GASSP.

R986-218-810. Program Standards:

— 1. The following definitions apply to this section:

— a. "Bona fide offer of employment" means an offer of employment was given and was made in good faith.

— b. "Good cause for refusing employment" means a definite job offer was not made; the wages did not meet minimum wage requirements; the employment was a risk to the health or safety of the worker; the employment lacked workmen's compensation benefits; the position offered is vacant due to a strike, lockout or other bona fide labor dispute; or the individual is unable to work for physical reasons or for lack of transportation.

— 2. Age and Factually Emancipated Child:

— a. The individual must be at least eighteen years of age or emancipated;

— b. A person who is not legally emancipated may claim to be factually emancipated. The person must live independently from his or her parents or guardian and have been economically self-supporting for the past six months;

— c. If the parents are available the local department office shall contact them;

— i. The child is ineligible if the parents will support him or her;

— ii. If the parents refuse to support the child or are unavailable, child support enforcement procedures must be followed;

— iii. If the applicant refuses without good cause to cooperate in locating the parents, he or she is ineligible;

— 3. All applicants are determined employable unless they meet the unemployable criteria;

— 4. Unemployable criteria:

— The applicant must provide current medical evidence that he or she is not employable due to a physical or mental impairment. The local department office may accept a licensed Medical Doctor (MD) or a Doctor of Osteopathy (DO) statement, a licensed/certified psychologist statement, a Utah Medical

Assistance Program statement, or a statement from another agency involved in disability determination, such as, the Veterans Administration or the Division of Rehabilitation Services. The local department office may require a second opinion by a specific person or agency. The cost of a physical examination requested by the department will be paid by the local department office:

— a. If the medical report says the client can work with no limitations or that the limitations will last less than 30 days from the date of the onset of the physical or mental impairment, the case will be denied;

— b. If the medical report indicates the applicant is unable to work at least 23 hours weekly for 30 days or more from the date of the onset of physical or mental impairment, he or she is considered unemployable;

— c. If the illness or incapacity may last longer than a year, then the person must apply for SSDI/SSI benefits;

— 5. Employment Focused Case Management:

— a. All applicants and their spouses, at time of application, and recipients must be interviewed by an employment counselor and complete an employment plan before financial benefits can be authorized. Recipients must actively follow through on the plan;

— b. A person is exempt from these requirements if the person has qualified for SSI and is waiting for the first check;

— 6. SSI and Other Benefits:

— a. To be eligible for GA, applicants/recipients must apply for and follow through with any other programs and benefits for which they may be eligible. These include Supplemental Security Income, Social Security, Veterans Benefits, and Worker Compensation;

— b. If applicant/recipient seems to meet SSI requirements, the department follows the instructions in paragraphs 7 and 8 below: If an applicant/recipient appears to meet Worker Compensation requirements, the Department follows the instructions in item number 10 below;

— 7. Interim Aid for SSI Applicants:

— The person must complete Form 75, Agreement to Repay Interim Assistance, before he or she applies for SSI;

— i. The case is closed when the Office of Recovery Services (ORS) reports the receipt of the first SSI check;

— ii. If an individual receives a three month presumptive eligibility SSI payment, the GA case is closed when this begins;

— iii. The case is closed if the client fails to follow through on the SSI application;

— iv. The date of SSI recoupment is also the date the Department receives the signed Authorization Form 75 from the client;

— v. The Department will recover, from either the initial SSI check or from the recipient, the interim assistance paid to an individual for the period of time taken to determine eligibility for SSI. This will be done in both initial claims and post-eligibility situations;

— 8. SSI Denials and Appeals:

— Clients must appeal a SSI denial decision, at least to the Social Security Administrative Law Judge Level (ALJ). Any individual who has received an Unfavorable Decision based on disability by the ALJ is not eligible for cash assistance, unless an unrelated physical or mental health condition develops and is verified;

— 9. SSI/SSDI Terminations due to Drug and Alcohol Abuse (DAA):

— The GASSP Program will mirror the rules and regulations from the Social Security Administration as outlined in Public Law 104-121:

— i. Drug addiction and/or alcoholism alone are not considered as conditions for unemployment under the General Assistance Program:

— ii. Proof on another disabling impairment(s) substantiated with medical evidence, must be provided and all other factors of eligibility met in order to qualify for financial benefits under the General Assistance Program:

— iii. Individual with DAA should be referred to resource agencies which would assist them with treatment:

— 10. Lien Agreement for Worker Compensation Applicants:

— The person must complete Form 75w, Repayment of General Assistance and Lien Agreement, before he or she can be approved for General Assistance:

— i. The Department will recover from either the insurance carrier or from the recipient, the lesser of the General Assistance paid to the client or the Temporary Total Disability Compensation less Attorney's fees paid to an individual for each month that the client received both General Assistance and Temporary Total Disability Compensation:

— ii. Recipients must appeal a Worker Compensation denial decision if the local department office worker feels there is a reasonable chance for a successful appeal:

— 11. Rehabilitation and Employment Performance Requirements:

— a. To promote rehabilitation and employment, the employment counselor or designated staff may require a GA recipient to meet one or more employment activity requirements. Employment activities include:

— i. Participation in Division of Rehabilitation (DRS) services:

— ii. Participation in medical or mental health care or an alcoholism or drug treatment program may be required as appropriate:

— iii. Satisfactory participation on a WEAT project. The employment counselor may establish with the client the hours of participation for each performance period:

— iv. Participation in job search and job search training:

— v. Enrollment and participation in self-sufficiency groups, adult education, skill training programs, or appropriate workshops:

— vi. Registration for employment with the department. The registration must remain current and continuous:

— vii. Other activities leading towards increased income as agreed upon in the employment plan:

— b. An individual may not refuse a bona fide offer of employment without good cause:

— c. If a recipient is required, but fails, to meet one or more of the above rehabilitation or employment standards without good cause, the GA financial case is closed at the end of the current month. Verified illness, incapacity, lack of transportation, arrest, or extenuating circumstances as approved by the employment counselor may be good cause for not meeting an employment or rehabilitation requirement. The financial case remains closed until the client participates in the required employment activity and demonstrates that he or she continue satisfactory participation:

— d. The consequences for non-participation are as follows:

— i. First Occurrence - financial case closes with 10 day notice and cannot be reopened until the individual demonstrates a willingness to participate. Reopen case back to the date of participation as negotiated with Employment Counselor:

— ii. Second Occurrence - financial case closes with 10 day notice and will remain closed for 30 days and until participation has been demonstrated:

— iii. Third Occurrence - case must be staffed with supervisor or designee and if non-participation is verified after staffing, financial case closes with 10 day notice and remains closed for 6 months:

— 12. The employment counselor may provide help to clients for up to six months after termination. The services may include help in getting needed services, job placement services, counseling, GASSP medical services and GASSP Z fund assistance:

— 13. Residents of Institutions, group homes, and alcoholism and drug treatment centers are not eligible if the facility receives funding for residential treatment under government contract or if the facility is administered by a government unit or is administered under contract with a government unit:

R986-218-820. Income Standards, Eligibility and Grant Determination:

— 1. Temporary Assistance for Needy Families (TANF) rules apply unless a different rule is stated below. Financial responsibility is limited to spouse for spouse. The income and assets of people with financial responsibility for a GA client is counted in determining eligibility and grant amount if they are living with the client:

— 2. The only people included in the grant are those who:

— a. Live together, and

— b. Have financial responsibility for one another:

— 3. The SSI income of financially responsible household members is counted. A person receiving SSI is not eligible for GA. This ineligibility includes persons whose SSI is in suspense status, pursuant to 20 CFR Part 416.1321 through 416.1330:

— 4. The only earned income disregard are

— a. The first \$100 of earnings and 50% of the remaining earned income

— b. Participants who have received a GASSP financial payment in one of the past four months will also have the \$100 and 50% disregard subtracted from their earnings for the Net Needs Test calculations:

— c. The \$100 and 50% earned income disregard is applied to each individuals' earnings and is not time limited:

— 5. The household is eligible if the available income is less than the standard grant. The minimum grant shall not be less than one dollar:

R986-218-830. Assets:

— 1. The value of countable real and personal assets cannot exceed \$2000. The size of the household does not change the amount of this asset limitation:

— 2. Do not count the equity value up to \$8000 per household of one car or other motor vehicle. If the one car the household applies this exclusion to is equipped to transport a disabled household member, the entire equity value is excluded. Count the equity value of any additional cars. TANF rules in R986-213-304 apply unless otherwise listed:

R986-218-840. GA Medical Benefit.

~~A person eligible for GA financial assistance is eligible for medical assistance without completing a separate application.~~

R986-218-850. Reviews.

~~If the recipient is actively involved in following through on self-sufficiency activities, a review every 12 months may be required. Otherwise, a review of the case takes place at least every six months. Each individual must have developed a self-sufficiency plan and be following through on that plan unless exempted. If exempted, a review is completed to see if the reason for the exemption still applies. Also, a review for SSI eligibility is completed.~~

R986-218-860. Special General Assistance Program For Transient Persons.

- ~~1. Transient persons are non-residents of Utah who are temporarily stranded and do not intend to stay in Utah.~~
- ~~2. The regional department director or designee may approve assistance to cover the emergency need under the GA category.~~

KEY: public assistance programs, resources*

~~December 8, 1999~~ ~~35A-3-103~~
~~Notice of Continuation February 10, 1997~~ ~~35A-3-401~~



Workforce Services, Employment
Development
R986-219
Financial Assistance Notice, Hearings,
and Conciliation

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE No.: 23062
FILED: 08/01/2000, 18:41
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. Advance ten-day notice of adverse agency action has been eliminated except for food stamps. The 90-day time limit for agency appeal process has been eliminated. The discretion for determining if the hearing should be telephonic is left to the Administrative Law Judge and not the client. Hearing requests need not be in writing.

Payment of assistance pending a hearing is only allowed for food stamps, FEP (Family Employment Program) and FEPTP (Family Employment Program Two Parent). Decision are not required to be issued within 21 days. There is now a separate conciliation mechanism that can result in a reduction of financial assistance for noncompliance. This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-103 and 35A-3-401

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
 - ❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.
 - ❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-219. Financial Assistance Notice, Hearings, and Conciliation:~~

R986-219-901. Notification:

~~The department adopts 45 CFR 205.10(a)(4), 206.10(a)(7), and 233.37, 1991 ed. which are incorporated by reference.~~

R986-219-902. Hearings:

~~1. The department adopts 45 CFR 205.10(a) which is incorporated by reference. The department shall require compliance with Section 63-46b. Where there is a conflict between the federal regulations and state law, the department adopts the federal regulation.~~

~~2. Current Departmental Practices:~~

~~a. The department conducts hearings informally.~~

~~b. Hearings are held before a state agency.~~

~~c. Hearings may be conducted by telephone when the applicant or recipient agrees to the procedure.~~

~~d. Requests for a hearing must be in writing. Only a clear expression by the claimant to the effect that he wants the opportunity to present his case is required.~~

~~e. The applicant or recipient has the option of appealing a hearing decision to either the Director of the Division of Adjudication, Department of Workforce Services or to District Court.~~

~~f. When an action requires advance notice, the recipient's benefits are continued if the recipient requests a hearing within 10 days of the mailing date of the notice of action.~~

~~g. When an agency action does not require advance notice, assistance is reinstated if a hearing is requested within 10 days of the mailing of the notice unless the Division of Employment Development Director or designee rules that the sole issue is one of state or federal law or policy.~~

~~h. An applicant is issued benefits which would have been received if he had been eligible if a decision is not issued within 21 days of the request for a hearing. Benefits begin as of the date of application.~~

~~i. Final administrative action must be taken within 90 days from the request for the hearing unless the applicant or recipient asks for a postponement of a scheduled hearing. The period of postponement can be added to the 90 days.~~

R986-219-903. Conciliation:

~~1. The department adopts 45 CFR 250.36, 1991 ed. which is incorporated by reference.~~

~~2. Current Departmental Practices:~~

~~a. The agency conference will be the conciliation mechanism.~~

~~b. Some or all of the following steps may be involved in the agency conference:~~

~~i. contacting the client to identify issue and barriers which may be preventing client progress;~~

~~ii. reviewing and explaining rules which apply to the issues. These include rules about client rights and responsibilities;~~

~~iii. exploring any alternative actions which could resolve the issues;~~

~~c. If the client fails to respond, or chooses not to cooperate in this process, documentation in the case file of attempts by the self-sufficiency staff to follow these steps will be considered as compliance with the requirement to attempt conciliation.~~

KEY: ~~public assistance programs~~

~~1991~~

~~35A-3-103~~

~~Notice of Continuation March 7, 1997]~~

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Workforce Services, Employment Development **R986-220** Financial Assistance Tables

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23063

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The department no longer publishes tables. Assistance payment amounts are available at each local office.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖**LOCAL GOVERNMENTS:** This rule does not apply to local government; therefore, there are no costs or savings.

❖**OTHER PERSONS:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development

Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.
[R986-220. Financial Assistance Tables:
R986-220-2. Financial Assistance and Current Need Standards:

TABLE
 FINANCIAL ASSISTANCE AND CURRENT NEED STANDARDS
 AS LISTED BELOW ARE EFFECTIVE 7/1/98

These figures are monthly

Household Size	Standard	Adjusted	185% of Standard
	Financial Assistance Base	Standard Needs Budget	
1	\$261	\$329	\$608
2	362	456	843
3	451	568	1,050
4	528	665	1,230
5	601	757	1,400
6	663	834	1,542
7	693	873	1,615
8	726	914	1,690
9	760	957	1,770
10	792	997	1,844
11	825	1,038	1,920
12	857	1,079	1,996
13	890	1,120	2,072
14	922	1,161	2,147
15	956	1,203	2,225
16	988	1,244	2,301

R986-220-4. Computation of Earned Income Disregards:

1. The department shall use the following calculation formula to determine the earned income disregard:
2. These steps are applied in the order listed:
 - a. A \$100 earned income disregard is deducted from client's total gross earned income;
 - b. Next, 50% of the remainder is subtracted;

TABLE

EXAMPLE

Gross Earnings	\$819.00
Work Expense	100.00
	719.00
Subtract 50% of the remainder	
\$719.00/2	359.50
Remainder equals the countable earned income amount	\$359.50

KEY: financial assistance amount, income disregards*, need standard*

June 25, 1998 **35A-3-103**
Notice of Continuation March 7, 1997]

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Workforce Services, Employment Development
R986-221
Demonstration Programs

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23064

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. All changes of income need be reported. The term "deprivation of support" has been eliminated. The "catchall provision" of the extension criteria has been eliminated and replaced with four new criteria: to finish education when a delay resulted through no fault of the client; a delay in services from the department; someone who just moved from another state and did not get services there and for an individual who finished education; and training at the 36th month and has not yet found work. Immunizations are no longer required.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.**[R986-221. Demonstration Programs.****R986-221-101. Single Parent Employment Program.**

1. The department shall operate a Single Parent Employment Demonstration Program as authorized by Section 1115 of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

2. The following definitions apply:

a. "Diversion" means a one time Single Parent Employment Program payment that may equal up to three months of AFDC assistance.

b. "Participant" means any applicant for or recipient of the Single Parent Employment Program.

3. The goal of the Single Parent Employment Program is to increase family income through employment and child support.

4. The Single Parent Employment Program will operate in selected offices as determined by the department.

5. The following exceptions regarding Single Parent Employment Program participants apply to R986-211 through R986-220:

a. All parents must participate in self sufficiency activities, including parents whose income and assets are included in determining eligibility of the household, but have themselves been determined by the Department to be ineligible to be included in the financial assistance payment.

b. Children that are age 16 to 18 and are not in school or working must participate in self sufficiency.

c. Unemployed noncustodial parents may participate in JOBS training.

d. A \$100 payment reduction shall be enforced for a parent who chooses not to actively take part in self sufficiency efforts. After two months of receiving the \$100 payment reduction, if the parent continues to choose not to actively take part in self sufficiency efforts, the financial assistance for the household shall be closed.

e. When the participant takes part in self sufficiency the \$100 payment reduction will stop.

f. Vendor payments are eliminated for participants who choose not to take part in self sufficiency.

g. Participants who take part in full time self sufficiency efforts will receive an additional \$40 each month.

h. A \$100 payment reduction shall be enforced for a parent who chooses not to cooperate with child support collection, unless good cause is claimed. After two months of receiving the \$100 payment reduction, if the parent continues to choose not to cooperate with child support collection, the financial assistance for the household shall be closed.

i. The first \$100 and 50 percent of all remaining earned income will not be counted when computing assistance payment amounts. There is no time limit attached to this provision.

j. A maximum of \$8,000 equity value of one vehicle is exempt from the resource limit. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the resource limit.

k. The maximum resource limit is \$2,000.

l. Participants are required to report permanent changes in income of \$100 or more. A permanent change is defined as the starting or ending of income, and changes in employment status as in:

(i) a change from full-time to part-time or part-time to full-time;

(ii) a permanent change in the number of hours expected to be worked;

(iii) a promotion or a demotion;

(iv) an additional job or loss of a job;

(v) a change to a different job.

m. There is no limit on the amount of work related expenses the department may choose to pay.

n. Recertification must be completed at least every 24 months.

o. Self sufficiency supportive services remain available for 24 months after a household becomes ineligible for financial assistance.

p. As long as the noncustodial parent remains absent from the household, the children in the household are deprived of support

whether or not the noncustodial parent is providing care, support, and guidance to the children:

~~q. All parents, including step-parents, related to and residing in the same household as their dependent child, and all other dependent children living in the same household related to a parent as a child, must be included in the determination of the household's eligibility and participation requirements.~~

~~r. The required time limit to assistance specified at section 35A-3-306 (2) is effective beginning January 1, 1997. Only months of assistance received beginning January 1, 1997 count toward this time limit. Months of assistance received in another state beginning January 1, 1997 also count toward this time limit. Months beginning January 1, 1997 where a parent resides in the household; the parent's income and assets count toward determining the household's eligibility, but the parent is not eligible to be included in the financial payment also count toward this time limit. Months of reduced or partial assistance received beginning January 1, 1997 also count toward the time limit. Exceptions to this time limit include:~~

- ~~(i) any exceptions listed in section 35A-3-306~~
- ~~(ii) assistance may be provided beyond 36 months for each month that an individual who has received 36 months as a parent is determined to be medically unable to work.~~
- ~~(iii) parents under age 19 through the month of their nineteenth birthday.~~
- ~~(iv) a parent is required in the home to meet the medical needs of a dependent.~~
- ~~(v) current and extraordinary circumstances and the implementation of the time limit would prevent the parent from completing the activities needed to reach a level of economic support that would close the case.~~

~~6. The following additional Single Parent Employment Program requirements apply only at Department selected sites;~~

~~a. All preschool children in a family applying for or receiving assistance must receive all of the standard childhood immunizations, unless good cause is approved by the Department. A family that fails to comply with this requirement shall be subject to a reduction of \$25 for each month the lack of compliance continues. The \$25 shall be restored in the month of compliance.~~

~~b. All children who are subject to the Utah Compulsory Education Act, must attend school on a regular basis. Where an attendance problem is discovered by the Department, the parent or caretaker of the child will be notified and offered assistance in resolving the problem. If the problem continues for three months from the date of notification, and good cause for lack of satisfactory attendance is not established, the child's needs will not be considered in calculating the family's financial assistance. The child's needs will be restored effective the month regular attendance is resumed.~~

KEY: income, demonstration*

August 31, 1999 **35A-3**
Notice of Continuation February 6, 1998]



Workforce Services, Employment Development **R986-222** Adoption Assistance Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23065

FILED: 08/01/2000, 18:41

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneous with this repeal. The department has added the requirement that the relinquishment must have occurred in Utah. There is no minimum payment.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-308

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖**LOCAL GOVERNMENTS:** This rule does not apply to local government; therefore, there are no costs or savings.

❖**OTHER PERSONS:** There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-222. Adoption Assistance Program:~~

~~R986-222-201. Authority:~~

~~—The department shall operate an Adoption Assistance program as required by 35A-3-308:~~

~~R986-222-202. Description:~~

~~—1. The department shall provide information about Adoption Assistance to all pregnant applicants and recipients of assistance and shall provide cash assistance for up to 12 consecutive months from the month a client relinquishes custody of a child for the purpose of adoption in exchange for participating in appropriate employment related activities.~~

~~—2. The program is based on the concept of mutual responsibility. The client has the responsibility to participate in activities to become self-supporting. The department has the responsibility to assist clients in becoming self-sufficient and in securing other benefits they might be eligible for.~~

~~—3. To qualify, individuals must:~~

~~—a. Have relinquished custody of a child for the purpose of adoption:~~

~~—b. Have been otherwise eligible for financial assistance if custody of the child had been maintained:~~

~~—c. Have applied for the Adoption Assistance program by the end of the second month after the month of relinquishment of the child:~~

~~—d. Participate in employment activities and follow through on all efforts to qualify for other benefits for which they may be eligible:~~

~~—4. Single Parent Employment Demonstration Program rules in R986-221 apply to this program:~~

~~R986-222-203. Income Standards, Eligibility and Grant Determination:~~

~~—1. Single Parent Employment Demonstration program rules listed in R986-221 shall apply:~~

~~—2. The twelve month consecutive time limit for financial assistance, as required by 35A-3-308, starts the month after the custody of a child was relinquished for purposes of adoption:~~

~~—3. For a client with no other children in the home the financial payment will be equal to the grant amount for a household size of one. For a client with other children in the home, and otherwise eligible for Single Parent Employment Assistance, an additional~~

~~financial amount will be added to the grant to equal the amount the client would have been eligible to receive based on the household size if the client had maintained custody of the child:~~

~~—4. The household is eligible if the available income is less than the standard grant. The minimum grant shall not be less than one dollar:~~

~~R986-222-204. Assets:~~

~~—The Single Parent Employment Demonstration program asset rules listed in R986-221 shall apply:~~

~~R986-222-205. Medical Benefit:~~

~~—A person eligible for Adoption Assistance financial assistance as a household size of one may be eligible for medical assistance without completing a separate application:~~

~~KEY: income, adoption assistance*~~

~~July 2, 1997~~

~~35A-3-308]~~



Workforce Services, Employment
 Development
R986-300
 Refugee Resettlement Program

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23049

FILED: 08/01/2000, 18:35

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: This rule replaces a rule being repealed in a separate rulemaking action. The only substantive change to the Refugee Resettlement Program is the elimination, under certain circumstances, of the extended financial assistance available under General Assistance (GA). This was a narrowly defined extension and no client qualified for this extension within at least the last year.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule only applies to clients eligible for the Refugee Resettlement Program, which is federally funded. The provision that refugees, under certain

circumstances, could apply for GA after using the eight months of assistance provided under RRP (Refugee Resettlement Program) has been eliminated. Since no one was found eligible for that extension within at least the last year, it is not anticipated that its removal from the rule will result in a savings to the state budget.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings to local governments.

❖OTHER PERSONS: No clients were found to be eligible for the narrowly drawn GA extension in at least the last year, so it is unlikely that the elimination of that extension will have any impact on anyone.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs associated with this new rule because all costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

R986-300. Refugee Resettlement Program.

R986-300-301. Authority for the Refugee Resettlement Program (RRP) and Other Applicable Rules.

(1) The Department provides services to eligible refugees pursuant to 45 CFR 400 and 45 CFR 401 et seq., (1999) which is incorporated herein by reference.

(2) The Department has opted to operate a Publicly-Administered Refugee Cash Assistance Program as provided in 45 CFR 400.65 through 400.68.

(3) Rule R986-100 applies to RRP.

(4) Applicable provisions of R986-200 apply to RRP except as noted in this rule.

R986-300-302. Refugee Resettlement Program (RRP).

(1) RRP provides resettlement assistance to refugees to help them achieve economic self-sufficiency within the shortest possible time after entry into the State.

(2) Financial and medical assistance may be provided to eligible refugees who meet the time limit requirements of R986-300-306 as funding permits.

(3) Assistance in finding employment, citizenship and naturalization services, and referral and interpreter services may be provided regardless of the length of time the refugee has been in the United States.

(4) Refugee Social Services as identified in 45 CFR 400.154, and 400.155 may be provided to eligible refugees who meet the eligibility requirements of 45 CFR 400.152.

(5) Refugee child welfare services will be provided to refugee unaccompanied minor children in accordance with 45 CFR 400 Subpart H.

(6) The following definitions apply to RRP:

(a) "Appropriate employment" means employment that pays a wage which meets or exceeds the applicable federal or state minimum wage law and has daily and weekly hours customary to the occupation. If the minimum wage laws do not apply, the wage must equal what is normally paid for similar work and in no case less than three-fourths of the minimum wage rate.

(b) "Good cause" for quitting or refusing work can be established if the client shows:

(i) the job is vacant due to a strike, lockout, or other genuine labor dispute; or

(ii) the client is required to work contrary to his membership in the union governing that occupation; or

(iii) the employment was deemed a risk to the health or safety of the worker; or

(iv) the employment lacked Worker's Compensation Insurance; or

(v) the individual is unable to engage in employment for physical reasons or lack of day care or transportation.

R986-300-303. Eligibility, Income Standards, and Amount of Assistance.

(1) An applicant for RRP must provide proof, in the form of documentation issued by the INS, of being or having been:

(a) paroled as a refugee or asylee under Section 212(d)(5) of the INA;

(b) admitted as a refugee under Section 207 of the INA;

(c) granted asylum under Section 208 of the INA;

(d) a Cuban or Haitian entrant, in accordance with the requirements of 45 CFR Part 401;

(e) certain Amerasians from Vietnam who are admitted to the United States as immigrants pursuant to Public Law 100-202 and Public Law 100-461; or

(f) admitted for permanent residence, provided the individual previously held one of the statuses listed in (a) through (e) of this section.

(2) The following aliens are not eligible for assistance:

(a) an applicant for asylum unless otherwise provided by federal law;

(b) humanitarian parolees;

(c) public interest parolees; and

(d) conditional entrants admitted under Section 203(a)(7) of the INA.

(3) Refugees who are parents or specified relatives with dependent children must meet the eligibility and participation requirements, including cooperating with ORS to establish paternity and establish and enforce child support, of FEP or FEPTP and will be paid financial assistance under one of those programs.

(4) An applicant for RRP who voluntarily quit or refused appropriate employment without good cause within 30 calendar days prior to the date of application is ineligible for financial assistance for 30 days from the date of the voluntarily quit or refusal of employment. If the applicant is living with a spouse who is otherwise eligible, the income and assets of the ineligible refugee will be counted in determining eligibility and the amount of financial assistance but payment will be made for a household of one and not a household of two.

(5) Refugees who are 65 years of age or older will be referred to SSA to apply for assistance under the SSI program.

(6) Income eligibility for RRP is determined under FEP income rules found in R986-200-234 through R986-200-237 and R986-200-243.

(7) Assets are determined under FEP asset rules at R986-200-230 through 233.

(8) Payment, need, and calculating amount of assistance is determined under FEP rules R986-200-238 through R986-200-240.

(9) If an otherwise eligible client demonstrates an urgent and immediate need for financial assistance, payment will be made on an expedited basis.

R986-300-304. Participation Requirements.

(1) All refugee applicants must comply with the assessment and employment plan requirements in R986-200-207 and R986-200-209. If the assessment cannot be completed or an employment plan negotiated and signed within the time proscribed because of a lack of staff with language skills, the application shall be approved, the assessment completed, and employment plan negotiated and signed as soon as possible.

(2) The goal of participation is to promote family economic self-sufficiency and social adjustment within the shortest possible time after entrance to the State to enable the family to become self-supporting through the employment of one or more members of the family.

(3) If a refugee claims an inability to participate due to incapacity, medical proof is required. Acceptable proof is the same as for FEP found in R986-200-202(3).

(4) Refugees 65 years of age or older, blind, or disabled, are exempt from the work participation requirements of FEP or RRP.

(5) In addition to the requirements of an employment plan as found in R986-200-210, a refugee must, as a condition of receipt of financial assistance:

(a) unless already employed full time, register for work with the Department within 30 days of receipt of refugee financial assistance and participate in employment activities as required by the Department and other appropriate agency providing employment services; and

(b) accept any and all offers of appropriate employment as determined by the Department or the local resettlement agency which was responsible for the initial resettlement of the refugee; and

(c) participate in any available social adjustment service or targeted assistance activities determined to be appropriate by the Department or the local resettlement agency which was responsible for the initial resettlement of the refugee.

(6) Education and training cannot be approved for any program which cannot be completed within one year.

(7) English language instruction funded under RRP must be provided concurrently with, and not sequentially to, employment or employment related services.

R986-300-305. Failure to Comply with an Employment Plan.

(1) A client who fails to comply with the requirements of the employment plan will be disqualified from receiving financial assistance for three months for the first occurrence. The disqualification period for the second occurrence is six months. There is no conciliation process available to recipients of financial assistance under RRP, but the Department will attempt to reconcile the problem with the client by offering counseling at least seven days prior to the termination of assistance.

(2) If there are other household members included in the financial assistance payment, the other household members will continue to receive assistance provided those household members are eligible and complying with all of the requirements of RRP.

(3) If eligible, food stamps and medical assistance may be continued for the person who is disqualified for failure to comply with the requirements of an employment plan.

R986-300-306. Time Limits.

(1) Except as provided in paragraph (2) below, a refugee is eligible for financial assistance only during the first eight months after entry into the United States, regardless of when the refugee applies for financial assistance. Financial assistance cannot be paid for any months prior to the date of application.

(2) An asylee's entry date is determined to be the date that the individual was granted asylum in the United States.

KEY: refugee resettlement program

October 2, 2000

35A-3-103



Workforce Services, Employment
Development
R986-400
General Assistance and Working
Toward Employment

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23050

FILED: 08/01/2000, 18:35

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Bona fide offer of employment has been changed to appropriate employment, and the requirement that a client not have refused an offer of work prior to application has been eliminated. The consequences for nonparticipation are a one-month disqualification period for the second offense, and a six-month disqualification period for the third offense.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-401 and 35A-3-402

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There are no costs or savings associated with this new rule because it replaces provisions of the current rule which is being repealed in a separate rulemaking action.

❖**LOCAL GOVERNMENTS:** This rule does not apply to local government; therefore, there are no costs or savings.

❖**OTHER PERSONS:** There are no costs or savings associated with this new rule because a separate rulemaking action repeals the provisions of the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs associated with this new rule because all of the costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Support.**R986-400. General Assistance and Working Toward Employment.****R986-400-401. Authority for General Assistance (GA) and Applicable Rules.**

(1) The Department provides GA financial assistance pursuant to Section 35A-3-401, et seq. as funding permits.

(2) Rule R986-100 applies to GA.

(3) Applicable provisions of R986-200 apply to GA except as noted in this rule.

(4) The citizenship and alienage requirements of the Food Stamp Program apply to GA.

R986-400-402. General Provisions.

(1) GA provides temporary financial assistance to single persons without dependent children and married couples without dependent children who are unemployable due to a physical or mental health condition.

(2) Unemployable is defined to mean the individual is not capable of earning \$500 per month. The incapacity must be expected to last 30 days or more.

(3) Drug addiction and/or alcoholism alone is insufficient to prove the unemployable requirement for GA as defined in Public Law 104-121.

(4) For a married couple living together only one must meet the unemployable criteria. The spouse who is employable will be required to meet the work requirements of WTE unless the spouse can provide medical proof that he or she is needed at home to care for the unemployable spouse. Medical proof, consisting of a medical statement from a medical doctor, doctor of osteopathy, or licensed psychologist, is required. The medical statement must include all of the following:

(a) the diagnosis of the spouse's condition;

(b) the recommended treatment needed or being received for the condition;

(c) the length of time the client will be required in the home to care for the spouse; and

(d) whether the client is required to be in the home full time or part time.

(5) GA is only available to a client who is at least 18 years old or legally or factually emancipated. Factual emancipation means the client has lived independently from his or her parents or guardians and has been economically self-supporting for at least six consecutive months, and the client's parents have refused financial support.

(6) A client claiming factual emancipation must cooperate with the Department in locating his or her parents. The parents, once located, will be contacted by the Department. If the parents continue to refuse to support the client, a referral will be made to ORS to enforce the parents' child support obligations.

(7) A person eligible for Bureau of Indian Affairs assistance is not eligible for GA financial assistance.

R986-400-403. Proof of Unemployability.

(1) An applicant must provide current medical evidence that he or she is not capable of working and earning \$500 per month due to a physical or mental health condition and that the condition is expected to last at least 30 days from onset. Evidence consists of a statement from a medical doctor, a doctor of osteopathy, a licensed psychologist, the Utah Medical Assistance Program, or another agency involved in disability determination, such as VA or the State Office of Rehabilitation.

(2) An applicant must cooperate in the obtaining of a second opinion if requested by the Department. Only the costs associated with a second opinion requested by the Department will be paid for by the Department. The Department will not pay the costs associated with obtaining a second opinion if the client requests the second opinion.

(3) If the illness or incapacity is expected to last longer than 12 months, the client must apply for SSDI/SSI benefits.

(4) Full-time or part-time participation in post-high school education or training is considered evidence of employability rendering the client ineligible for GA financial assistance unless the Department directs the client to participate in short term skills training as part of a client's employment plan. Short term skills training is defined as a course of study which an otherwise unemployable client can complete within 12 months and which is expected to lead to employability. If the client is not directed to participate in short term skills training in the employment plan, the client must report any voluntary participation in an education or training program to his or her employment counselor.

R986-400-404. Participation Requirements.

(1) The client and spouse must participate, to the maximum extent possible, in an assessment and an employment plan as provided in R986-200. The only education or training supported by an employment plan for GA recipients is short term skills training as described in R986-400-403.

(2) The employment plan must include, but is not limited to, obtaining appropriate medical or mental health treatment, or both, to overcome the limitations preventing the client from becoming employable.

(3) A client must accept any and all offers of appropriate employment as determined by the Department. "Appropriate employment" means employment that pays a wage which meets or exceeds the applicable federal or state minimum wage law and has daily and weekly hours customary to the occupation. If the minimum wage laws do not apply, the wage must equal what is normally paid for similar work and in no case less than three-fourths of the minimum wage rate. The employment is not appropriate employment if the client is unable, due to physical or mental limitations, to perform the work.

(4) A client is exempt from the requirements of paragraphs (1) and (2) of this section if the client has been approved for SSI, is waiting for the first check, and has signed an "Agreement to Repay Interim Assistance" Form.

(5) A client must cooperate in obtaining any and all other sources of income to which the client may be entitled including, but not limited to UI, SSI/SSDI, VA Benefits, and Worker's Compensation.

R986-400-405. Interim Aid for SSI Applicants.

(1) A client who has applied and appears eligible for SSI benefits may be provided with GA financial assistance pending a determination on the application for SSI. To be eligible under this paragraph, the client must sign an "Agreement to Repay Interim Assistance" form and agree to reimburse, or allow SSA to reimburse, the Department for any and all GA financial assistance advanced pending a determination from SSA.

(2) Financial assistance will be immediately terminated without advance notice when SSA issues a payment or if the client fails to actively pursue the application which includes cooperating fully with SSA and providing all necessary documentation to insure receipt of SSI benefits.

(3) A client must fully cooperate in prosecuting an appeal of an SSI denial at least to the Social Security ALJ level. If the ALJ issues an unfavorable decision, the client is not eligible for financial assistance unless an unrelated physical or mental health condition develops and is verified.

R986-400-406. Lien Agreement for Workers Compensation Applicants.

(1) A client who has applied and appears eligible for Workers Compensation benefits may be provided with GA financial assistance pending a determination on the application for Workers Compensation. To be eligible under this paragraph, the client must sign a "Repayment of General Assistance and Lien Agreement" form and agree to reimburse the Department, or allow the Department to recover, from either the insurance carrier or the employer, the GA financial assistance paid to the client pending the determination on the Workers Compensation claim.

(2) If the Workers Compensation insurance carrier or the employer denies the claim for benefits, the client must file and actively pursue an application for hearing with the Labor Commission.

R986-400-407. Failure to Comply with the Requirements of an Employment Plan.

(1) If a client fails to comply with the requirements of the employment plan without good cause, financial assistance will be terminated immediately. Good cause under this paragraph means verified illness, lack of transportation, or extraordinary circumstances as determined by the employment counselor.

(2) If a client's financial assistance has been terminated under this section, the client is not eligible for further assistance as follows:

(a) the first time financial assistance is terminated, the client must reapply and actively participate in all of the required activities of the employment plan;

(b) the second time financial assistance is terminated, the client will be ineligible for financial assistance for a minimum of one month and can only become eligible again upon completing a new application and actively participating in the required employment activity; and

(c) the third time financial assistance is terminated, the client will be ineligible for a minimum of six months and can only become eligible again upon completing a new application and actively participating in the required employment activity.

R986-400-408. Income and Assets Limits and Amount of Assistance.

(1) The provisions of R986-200 are used for determining asset and income eligibility except the income and assets of an SSI recipient living in the household are counted if that individual is legally responsible for the client.

(2) An individual receiving SSI is not eligible for GA. This ineligibility includes persons whose SSI is in suspense status, as defined by 20 CFR Part 416.1321 through 416.1330.

(3) The financial assistance payment level is set by the Department and available for review at all Department local offices.

R986-400-409. Time Limits.

(1) Because of limited funding, an individual cannot receive GA financial assistance for more than 24 months out of any 60-month period. Months which count toward the 24-month limit include any and all months during which a client:

(a) received a full or partial financial assistance payment beginning with the month of March, 1998; and

(b) was ineligible due to the client's failure to comply with the requirements of an employment plan under R986-400-407.

(2) There are no exceptions or extensions to the time limit.

(3) Advanced written notice for termination of GA financial assistance due to time limits is not required.

R986-400-410. GA Medical Assistance.

(1) A client who is eligible for GA financial assistance is eligible for the Utah Medical Assistance Program (UMAP) and need not complete a separate application for UMAP.

(2) The Department has limited funds which may be used to reimburse UMAP for treatment of a client's documented medical condition which is not covered by UMAP, if the treatment is likely to resolve the medical condition and allow the client to become employable.

(3) If approved by UMAP, a client's GA medical assistance may be extended up to a maximum of six months after GA financial assistance is terminated due to employment, if the extension would enable the client to maintain employment. Clients are required to enroll in health insurance if offered by the employer.

R986-400-411. GA for Transient Individuals.

A Department Regional Director or designee may approve assistance, as funding allows, for the emergency needs of a non-resident who is transient, temporarily stranded in Utah, and who does not intend to stay in Utah.

R986-400-451. Authority for Working Toward Employment (WTE) and Other Applicable Rules.

(1) The Department provides WTE financial assistance pursuant to Section 35A-3-401 et seq. as funding permits.

(2) Rule R986-100 applies to WTE.

(3) Applicable provisions of R986-200 apply to WTE except as noted in this rule.

(4) The citizenship and alienage requirements of the Food Stamp Program apply to WTE.

R986-400-452. General Provisions.

(1) Working Toward Employment (WTE) provides financial assistance on a short term basis to single persons without dependent

children and married couples without dependent children who are unemployable because they lack employment skills.

(2) At least one household member must be at least 18 years old or legally or factually emancipated. Factual emancipation is defined in R986-400-402.

(3) As a condition of eligibility, a client claiming factual emancipation must cooperate with the Department in locating his or her parents. The parents, once located, will be contacted by the Department. If the parents continue to refuse to support the client, a referral will be made to ORS to enforce the parents' child support obligations.

(4) All clients must cooperate in obtaining any and all other benefits or sources of income to which the client may be entitled except that a client who has applied for SSI benefits is ineligible for WTE. If a client applies for SSI, WTE financial assistance is terminated.

(5) A person eligible for Bureau of Indian Affairs assistance is not eligible for WTE financial assistance.

(6) If an applicant appears to be eligible for the Refugee Resettlement Program (RRP) the applicant must comply with the requirements of RRP and will be paid out of funds for that program. If found eligible for RRP, the applicant is ineligible for WTE.

R986-400-453. Participation Requirements.

(1) All applicants and spouses must participate in an assessment and an employment plan as found in R986-200. In addition to the requirements of an employment plan as found in R986-200-210, a client must, as a condition of receipt of financial assistance, register for work and accept any and all offers of appropriate employment, as determined by the Department. Appropriate employment is defined in R986-400-404.

(2) The employment plan of each recipient of WTE financial assistance must contain the requirement that the client participate 40 hours per week. The client must spend those hours in the same activities described for a primary parent under FEPTP as found in R986-200-215(3). Married couples cannot share the performance requirements and each client must participate a minimum of 40 hours per week.

(3) Participation may be excused only if the client can:

(a) verify illness; or

(b) show other good cause as determined by the Department. Good cause may include, but is not limited to, such things as death or grave illness in the immediate family or extraordinary transportation problems.

R986-400-454. Failure to Comply with the Requirements of an Employment Plan.

(1) If a client fails to comply with the requirements of the employment plan without good cause, financial assistance will be terminated immediately. Good cause under this paragraph means verified illness, lack of transportation, or extraordinary circumstances as determined by the employment counselor.

(2) Advanced notice of termination is not required.

(3) If there are two clients in the household and only one client fails to comply, financial assistance for both will be terminated.

(4) Once a client or household's financial assistance has been terminated for failure to comply with the employment plan, the client is not eligible for further assistance as follows:

(a) the first time financial assistance is terminated, the client or couple must reapply and actively participate in all of the required activities of the employment plan;

(b) the second time financial assistance is terminated, the client or couple will be ineligible for financial assistance for a minimum of one month and can only become eligible again upon completing a new application and actively participating in the required employment activity;

(c) the third time financial assistance is terminated, the client will be ineligible for a minimum of six months and can only become eligible again upon completing a new application and actively participating in the required employment activity.

R986-400-455. Income and Assets Limits and Calculation of Assistance Payment.

(1) Income and asset determination and limits are the same as for FEP found in R986-200.

(2) The amount of financial assistance available for payment to a client is based on the number of hours of participation. Payment is made twice per month and only after proof of participation. The base amount of assistance is equal to the GA financial assistance payment for the household size. The base GA payment is then prorated based on the number of hours of participation for each household member, up to a maximum of 40 hours of participation per household member per week. In no event can the financial assistance payment per month for a WTE household be more than for the same size household receiving financial assistance under GA. Payment of financial assistance cannot be made for any period during which the client does not participate.

(3) The base GA financial assistance payment level is determined by the State Legislature and available upon request.

(4) Each WTE household member will receive the sum of \$45 per month regardless of participation. This sum is intended to be used for participation expenses.

R986-400-456. Time Limits.

(1) Because of limited funding, an individual cannot receive WTE financial assistance for more than seven months out of any 18-month period.

(2) There are no exceptions or extensions to the time limit.

(3) If WTE financial assistance is terminated due to the time limit, advanced written notice is not required.

KEY: general assistance, working toward employment
October 2, 2000 **35A-3-401**
35A-3-402

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**Workforce Services, Employment
Development**
R986-411
General Provisions

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23066

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-411. General Provisions:~~

~~R986-411-102. Authority:~~

- ~~1. These rules establish standards for the administration of the Food Stamp program.~~
- ~~2. The legal authority for the Department of Workforce Services to carry out its responsibilities to establish these standards is Section 35A-1-104.~~

~~R986-411-104. References:~~

~~All references to 7 CFR refer to the Code of Federal Regulations, Title 7, Parts 271 through 282, 1995 ed. which are incorporated by reference. The department shall require compliance with Section 35A-1-104.~~

~~R986-411-106. Definitions:~~

- ~~1. The following definitions will be used throughout R986-411 to R986-420:~~
 - ~~a. "Applicant" means any person requesting assistance under the food stamp program.~~
 - ~~b. "Assistance" means food stamp payments made under this program.~~
 - ~~c. "Assistance unit" means the group of related individuals who are living together or who are considered to be living together, and for whom assistance is requested or issued.~~
 - ~~d. "Department" means the Department of Workforce Services.~~
 - ~~e. "Local office" means any local office of the Department.~~
 - ~~f. "Recipient" means any individual receiving assistance under this program.~~

~~g. "Confidential information" means information that has limited access as provided under the provisions of Section 63-2-201.~~

~~R986-411-108. Use/Redemption of Coupons:~~

~~The department adopts 7 CFR 274.10, 1995 ed. which is incorporated by reference.~~

~~R986-411-110. Availability of Program Manuals:~~

~~The department adopts 7 CFR 272.1(d)(1) 1995 ed., which is incorporated by reference.~~

~~R986-411-112. Clients Rights and Responsibilities:~~

~~The department adopts 7 CFR 273.2(c) and (d), 1995 edition, which are incorporated by reference. the department shall require compliance with Section 35A-3-107:~~

~~1. Current department practices:~~

- ~~a. Any client may apply or reapply at any time for any DWS program.~~
- ~~b. If the client needs help to apply, help will be given by the local office staff.~~
- ~~c. The worker will identify himself to the client.~~
- ~~d. The client will be treated with courtesy, dignity and respect.~~
- ~~e. Information will be requested clearly and courteously.~~
- ~~f. If the client must be visited after working hours an appointment will be made.~~
- ~~g. The client's home will not be entered without permission.~~
- ~~h. The client may have an agency conference to talk about his case.~~
- ~~i. The client may look at information concerning his case except confidential information.~~
- ~~j. The client must give complete and correct information and verification so eligibility can be determined.~~
- ~~k. The client must report changes to the local office within 10 days of the day the change becomes known.~~
- ~~l. The client shall cooperate with Quality Control in any subsequent review of eligibility.~~

~~R986-411-114. Safeguarding Information:~~

~~The department adopts 7 CFR 272.1(c) and 7 CFR 272.8, 1995 ed. which are incorporated by reference. The department shall require compliance with Section 63-2-201.~~

~~R986-411-116. Confidential Information:~~

~~The department adopts 7 CFR 272.1(c)(3) 1995 which is incorporated by reference.~~

~~R986-411-118. Release of Information:~~

~~The department adopts 7 CFR 272.1(c) 1995 and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title VIII, Section 837, which is incorporated by reference:~~

~~1. Current Department Practices~~

- ~~a. Client requests for release of information shall be in writing and include:

 - ~~i. the date~~
 - ~~ii. the name of the person who gets the information~~
 - ~~iii. The time period covered by the information~~~~
- ~~b. If information is classified as confidential, it shall not be used at a hearing.~~

- c. If information is classified as confidential it shall not be used to close, deny or reduce the benefits.
- d. The client may review and copy anything in his case record unless it is confidential.
- e. Information may be released to persons other than the client with permission from the client.
- f. In an emergency, as determined by the District Director or designee, information may be released to persons other than the client before permission is obtained.
- g. If the case file is subpoenaed by an outside source, legal counsel for the department will ask the court to disallow the information.
- h. Information on recipients can be released to Federal, State, and local law enforcement officials on fleeing felons, parole/probation violators, and if the recipient has information needed for the law officer to conduct official duty related to a felony or parole/probation violation.

R986-411-120. Discrimination and Non-Discrimination Complaints:

- The department adopts 7 CFR 271.6, 1995 ed. which is incorporated by reference.
- 1. Current Department Practices
 - a. Complaints shall be made in person, by phone, or in writing to the local office or to the Office of Constituent Services.
 - b. Complaints shall be resolved as quickly as possible. Complaints about Expedited Service have the highest priority.
 - c. Responses to complaints shall be made in person, by phone, or in writing.
 - d. A record of complaints is maintained by the local office and includes the response to the complaint.
 - e. A copy of the written response is sent to the Office of Constituent Services along with a copy of the written complaint.
- 2. The following apply to discrimination complaints:
 - a. The local office shall send all discrimination complaints to the Secretary of Agriculture or the Administrator of Food and Nutrition Service, Washington, D.C., 20250.
 - b. The local office shall send a copy of the complaint to the Division of Employment Development.

R986-411-124. Agency Conferences:

— The department adopts 7 CFR 273.15(d), 1995 ed. which is incorporated by reference.

R986-411-126. Hearings:

- The department adopts 7 CFR 273.15, 1995 ed. which is incorporated by reference.
- 1. Current Department Practices
 - a. There are two types of hearings:
 - i. In-person Hearing: All parties meet at the same place for the hearing.
 - ii. Telephonic Hearings: The hearing examiner remains in his office and conducts the hearing via telephone conference call to one location. All other parties who attend the hearing meet in one place for this type of hearing.

R986-411-128. Intentional Program Violation Disqualifications:

- The department adopts 7 CFR 273.16, 1995 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title VIII, Sec. 820, which is incorporated by reference.
- 1. Current Department Practices
 - a. The Office of Recovery Service (ORS) investigates all suspected cases of intentional program violation.
 - b. ORS provides the required notices to the client.
 - c. ORS will allow the client to sign a waiver, or will require an administrative hearing or will take the case to court.
 - d. ORS will inform the district office of the client to be disqualified, the length of disqualification.
 - e. If the client has asked for a hearing, ORS shall combine the fraud disqualification hearing with the client requested hearing.
 - f. Based on a Court Order from the United States Court of Appeals for the Ninth Circuit (Garcia v. Concannon and Espy., No. 94-35457), a disqualification begins the month after the department office receives the notification from the Office of Recovery Services. The disqualification runs for the number of consecutive months specified.
 - g. An individual is ineligible to participate for 10 years if the person has fraudulently made statements or representations regarding identity and residence to receive food stamps in more than one location at the same time.

KEY: client rights*, human services

December 1, 1996

35A-3-103

Notice of Continuation February 10, 1997

7 CFR 273.10

7 CFR 273.12]



Workforce Services, Employment
Development
R986-412
Conditions of Eligibility

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23067

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can

only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-105

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~R986-412. Conditions of Eligibility.~~

~~R986-412-202. Citizenship and Alienage.~~

~~The department adopts 7 CFR 273.4, 1992 ed. and Pub. L. No. 104-193, Sections 401, 402, 403, 431, and 435, which are incorporated by reference.~~

~~1. Only qualified aliens may be eligible for food stamps. The qualified aliens are:~~

~~a. Refugees admitted under section 207 of the Immigration and Nationality Act (INA);~~

~~b. Asylees admitted under Section 208 of the INA;~~

~~c. Aliens whose deportation is withheld under Section 243(h) and Section 241(b)(3) of the INA;~~

~~d. Parolees under Section 212(d)(5) of the INA, if paroled for at least one year;~~

~~e. Conditional entrants under Section 203(a)(7) of the INA;~~

~~f. Cuban/Haitian entrants under Section 501(c) of the Refugee Education Assistance Act of 1980;~~

~~g. Amerasian admitted under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989;~~

~~h. Permanent residents;~~

~~2. Qualified Aliens are eligible for food stamps only if they meet one of the following eligible alien categories:~~

~~a. Refugees admitted under Section 207 of the Immigration and Nationality Act (INA), asylees admitted under Section 208 of the INA, aliens whose deportation has been withheld under Section 243(h) of the INA, Cuban/Haitians as defined in Section 501(c) of the Refugee Education Assistance Act of 1980, Amerasian admitted under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 are eligible for 5 years from the date they obtained the status;~~

~~b. Veterans with honorable discharges, their spouses and dependent children;~~

~~c. Active duty personnel, their spouses and dependent children;~~

~~d. Aliens, their spouses and dependent children, with 40 qualifying quarters of work, as established through the methodology used by the Social Security Administration;~~

R986-412-204. Residency:

— The department adopts 7 CFR 273.3, 1992 ed. which is incorporated by reference. The department shall require compliance with Section 35A-3-106:

- 1. Current Department Practices
- a. A household must live in the local area in which they apply.
- b. Moving from a local office area will terminate eligibility in that area.

R986-412-206. Household Composition:

— The department adopts 7 CFR 273.1(a), 1996 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title VIII, Section 803, which is incorporated by reference:

- 1. Current Department Practices
- a. Household status for family members who live in the same structure is determined on a case by case basis. It is based on the sharing of common facilities within that structure.
- b. Children under 22 years of age living with a parent cannot be a separate food stamp household.

R986-412-208. Ineligible/Non-Household Members:

— The department adopts 7 CFR 273.1(b) and 7 CFR 273.11(c), 1992 ed. which are incorporated by reference.

R986-412-210. Residents of Institutions:

— The department adopts 7 CFR 273.1(c) and 7 CFR 273.11(c) through (h), 1992 ed. which are incorporated by reference:

- 1. Current Department Practices
- a. Residents of institutions are approved based on living arrangements, food preparation arrangements, and the use of authorized representatives.
- b. Homeless persons who are temporary residents in a public or private non-profit shelter for the homeless are not considered residents of an institution.

R986-412-212. Student Participation:

— The department adopts 7 CFR 273.5, 1992 ed. which is incorporated by reference.

R986-412-214. Strikers:

— The department adopts 7 CFR 273.1(g), 1992 ed. which is incorporated by reference.

R986-412-216. Boarders:

— The department adopts 7 CFR 273.1(c) and 7 CFR 273.11(b), 1992 ed. which are incorporated by reference:

- 1. Current Department Practices
- a. Residents of commercial houses are not eligible for Food Stamps:
- b. A resident of a commercial house who does not pay a reasonable amount for meals is not a boarder. He is a member of the household:
- c. A boarder may choose to be included as a household member or be a non-household member.

R986-412-218. Public Assistance Household/Categorically Eligible:

— The department adopts 7 CFR 273.2(j) and 273.9(a), 1992 ed. which are incorporated by reference:

— 1. The following definition applies to this section:

— a. "Categorically eligible" means those assistance units who receive financial assistance from Aid for Families with Dependent Children (AFDC), General Assistance (GA) or Supplemental Security Income (SSI):

- 2. Current Department Practices
- a. Refugees receiving financial assistance are not categorically eligible:
- b. Categorically eligible households do not have to provide verification of assets, Social Security Numbers, sponsored alien, and residency:
- c. Categorically eligible households do not have to pass the gross or net income tests:

R986-412-220. SSI/Elderly Cash-Out:

— The department adopts 7 CFR 282.12, 1992 ED. which is incorporated by reference:

- 1. Current Department Practices
- a. A client who is eligible for a cash-out check may choose to use either the cash-out check or the food coupons. That client may choose to change the form of benefit at any time.

R986-412-222. Shelters for Battered Women and Children:

— The department adopts 7 CFR 273.1(c) and 7 CFR 273.11(g), 1992 ed. which are incorporated by reference:

R986-412-224. Sponsored Aliens:

— The department adopts 7 CFR 273.11(i), 1992 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title VIII, Section 421, which is incorporated by reference:

- 1. The full amount of income of sponsors are counted until the alien becomes a US citizen or has worked 40 qualifying quarters of Social Security coverage:

R986-412-226. Head of Household:

— The department adopts 7 CFR 273.1(d), 1992 ed. which is incorporated by reference:

R986-412-228. Authorized Representatives:

— The department adopts 7 CFR 274.5 and 7 CFR 273.11(c), (f), (g) and (h), 1992 ed. which are incorporated by reference:

- 1. Current Department Practices
- a. The eligibility worker shall insure that an institutional facility is on the approved list before residents or authorized representatives in that facility are approved for food stamps:
- b. The facility shall give a change report form to a client when he leaves the facility and tell the person to return it to the local office:
- c. The facility shall notify the district office when a client leaves the facility:

R986-412-230. Duplicate Participation:

— The department adopts 7 CFR 273.3, 1992 ed. which is incorporated by reference:

R986-412-232. Social Security Numbers:

— The department adopts 7 CFR 273.6 and 7 CFR 273.2(f)(1)(v), 1992 ed. which is incorporated by reference:

- 1. Current Department Practices

- a. The client must provide a Social Security number for all household members. If the client knows the number, he can verbally provide the number. The client can also submit a Social Security Card, an official document from Social Security containing the Social Security Number, or a receipt form 5028 or 2088 from Social Security showing they have applied for a Social Security Number.
- b. Applicants who are eligible for expedited service may receive the first allotment before they apply for or provide their Social Security Number.
- c. Clients may apply for a Social Security Number on their own or through the local office.
- d. If the client applies through the enumeration system, there is nothing more he needs to do once he has verified he has applied for a Social Security Number.
- e. At recertification, if the social security number has not been verified and there is no social security card in the case record, the client must provide his social security number or another receipt showing reapplication for the number.
- f. If a client has good cause for not applying for a social security number, he may get food stamps for the month of application and one additional month. Then he is removed from the case until an application for a social security number has been completed.

R986-412-234. Felon and Probation Parole Violators:

— The department adopts P. L. 104-193, Section 821, which is incorporated by reference.

KEY: social security

January 2, 1998

35A-3-105

Notice of Continuation February 10, 1997]



**Workforce Services, Employment
 Development
 R986-413
 Program Standards**

**NOTICE OF PROPOSED RULE
(Repeal)**

DAR FILE NO.: 23068
FILED: 08/01/2000, 18:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can

only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources. This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-413. Program Standards:~~

~~R986-413-302. Work Requirements:~~

~~— The department adopts 7 CFR 273.7, 1992 ed. and Public Law 104-193, section 815 which are incorporated by reference:~~

- ~~— 1. Current Department Practices for the Employment Program~~
 - ~~a. Eligible household members shall complete an assignment to the employment program once each 12 months or be exempt:~~
 - ~~— b. Exempt persons may volunteer:~~
 - ~~— c. An Employment Program assignment consists of:~~
 - ~~— i. assignment to a job search workshop~~
 - ~~— ii. assignment to a self-sufficiency unit~~
 - ~~— iii. a person is not assigned if neither of the above is available~~
 - ~~— d. noncomplying individuals shall be sent a notice and allowed ten days to complete the assignment or establish good cause:~~
- ~~— 2. Reducing Work Hours~~
- ~~— 3. Voluntary Quit~~

~~R986-413-304. Able-Bodied Adults Without Dependents:~~

~~— The department adopts Public Law 104-193, section 824 and Public Law 105-33, Title I, Section 1001 which is incorporated by reference:~~

- ~~— 1. Current Department Practices~~
 - ~~a. Persons who are participating in the Working Towards Employment Program or Refugee Cash Assistance Program will also satisfy the work requirement.~~

~~R986-413-306. Expedited Service:~~

~~— The department adopts 7 CFR 273.2(a) through (e) and 7 CFR 273.2(i), 1996 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Sec. 838, which are incorporated by reference:~~

~~R986-413-308. Federal Reduction, Suspension, or Cancellation of Food Stamp Benefits:~~

~~— The department adopts 7 CFR 271.7 and 7 CFR 273.10(e)(2)(vi), 1992 ed. which are incorporated by reference:~~

~~KEY: food stamps~~

~~January 20, 1999 35A-3-103
Notice of Continuation February 10, 1997]~~



**Workforce Services, Employment
Development
R986-414
Income**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23069

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

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THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~R986-414. Income:~~

R986-414-402. Incorporation by Reference:

— The department adopts 7 CFR 273.1(c), 273.11(a), (b), and (j); 1995 edition which are incorporated by reference.

R986-414-404. Unearned Income:

— The department adopts 7 CFR 273.9(b)(2) through (4), 1995 edition which are incorporated by reference.

— 1. Current Department Practices

— a. Initial Public Assistance payments are not counted as income if paid after the initial Food Stamp issuance.

— b. The following are reimbursements and are not counted as income:

— i. Work Experience and Training (WEAT) allowances

— ii. Emergency Work Program (EWP) work expense allowances

— iii. Aid to Families with Dependent Children (AFDC) special needs day care allowance

R986-414-406. Earned Income:

— The department adopts 7 CFR 273.9(b)(1), 1995 edition which is incorporated by reference.

R986-414-408. Income Exclusions:

— The department adopts 7 CFR 273.9(b)(5) and 7 CFR 273.9(c) and 7 CFR 273.21(j)(1)(vii)(B)(2), 1995 edition and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title VIII, Section 807, which are incorporated by reference.

— 1. Current Department Practices

— a. Allocated tips as reported by the employer to IRS are excluded. Only actual tips received are counted as income.

R986-414-410. Income Deductions:

— The department adopts 7 CFR 273.9(d) and 7 CFR 273.11(c) and (d), 1995 edition and P.L. 104-193, Sec. 809:

— 1. Current Department Practices

— a. The State offers households with qualifying utility expenses; the option of choosing one of three standard utility allowances (SUA):

— b. The State uses one annualized SUA for households with a heating or cooling cost and one for households without heating or cooling costs:

— c. The SUA for households with a heating or cooling cost is \$150:

— d. The SUA for households without a heating or cooling cost is \$102:

— e. Households with only a telephone cost get a \$20 telephone deduction:

— f. The standard deduction is \$134:

— g. The maximum shelter deduction is \$275 for households with no elderly or disabled household member:

— h. The standard homeless shelter deduction is \$143. For the purposes of qualifying for this deduction, an individual residing in the home of another person is considered homeless if the living arrangement is expected to last 90 days or less:

— i. Amounts paid for legally obligated child support to or for non household members:

R986-414-412. Budgeting and Benefit Levels:

— The department adopts 7 CFR 273.10 and 7 CFR 273.12, 1995 edition, which are incorporated by reference.

— 1. Current department practice:

— a. Prospective budgeting is used to determine eligibility and benefits:

R986-414-414. Change Reporting:

— The department adopts 7 CFR 273.12, 1995 edition, which is incorporated by reference:

— 1. Current Departmental Practices:

— a. After determining that a client is prospectively eligible for benefits, adjustments that result from changes reported during any given month will be made effective the first day of the following month:

— i. The client is responsible to report any change to the agency within ten calendar days of the day the client learns of a change:

The agency has ten calendar days following the report of a change to take action on the report. The agency is required to advise the client of an adverse change in a benefit amount at least ten days prior to the end of the month in which the action is taken.

ii. If the reported change results in an increase in the client's benefit, the increased benefit will not be granted sooner than the first day of the month following the date of report. After the client has reported a change, the client must submit verification of the reported change within ten days of when the change was initially reported. The date of the change in the client's benefit will be calculated from the initial report, provided the change is verified within ten calendar days. The date of change in income will be calculated from the date of verification if the client verifies the change later than ten days after the initial report.

iii. If the reported change results in a decrease in the clients benefit, the decreased benefit may be imposed as soon as the first day of the following month. If the agency cannot provide adequate ten day notice of adverse action before the end of that month, the decrease in the client's benefit will not be made effective until two months following the reported change. The agency will take action to implement all decreased benefit amounts without waiting for verification of the reported change. In either instance the case may be closed and benefits halted if all factors of eligibility are not verified.

b. The client must report changes in the source of earned or unearned income, changes of more than \$25 in gross monthly unearned income, and changes in employment status (a change from full time to part time or part time to full time, a change in wage rate or salary) to the local office within 10 days of the day the client learns of the change.

R986-414-416. Reporting Changes and Agency Actions:

The department adopts 7 CFR 273.12, 1995 edition which is incorporated by reference.

KEY: income

~~April 8, 1999~~ ~~35A-3-103~~
~~Notice of Continuation February 10, 1997]~~



Workforce Services, Employment
 Development
R986-415
 Assets

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23070

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986

to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources. This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244

Salt Lake City, UT 84145-0244, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-415. Assets:~~

~~R986-415-502. Asset Limits:~~

~~— The department adopts 7 CFR 273.8(b), 1992 ed. which is incorporated by reference.~~

~~R986-415-504. Countable Assets:~~

~~— The department adopts 7 CFR 273.8(c) and (d), 1992 ed. which are incorporated by reference.~~

~~— 1. Current Department Practices~~

~~— a. Ownership in a joint asset can be refuted when the client states that the asset does not belong to him and he removes his name from that asset.~~

~~— b. The transfer of assets is considered complete when a new title of ownership has been issued.~~

~~— c. Transfer of assets through a divorce proceeding is not complete until the divorce is final.~~

~~R986-415-506. Assets of Ineligible and Non-Household Members:~~

~~— The department adopts 7 CFR 273.8(j) and 7 CFR 273.11(c) and (d), 1992 ed. which are incorporated by reference.~~

~~R986-415-508. Exempt Assets:~~

~~— The department adopts 7 CFR 273.8(e), 1992 ed. which is incorporated by reference. The department requires compliance with P.L. 102-237, Subtitle A – Food Stamp Program.~~

~~R986-415-510. Vehicles As An Asset:~~

~~— The department adopts 7 CFR 273.8(g) and (h), 1992 ed. which are incorporated by reference.~~

~~R986-415-512. Commingled Exempt Assets:~~

~~— The department adopts 7 CFR 273.8(f), 1992 ed. which is incorporated by reference.~~

~~R986-415-514. Transfer of Assets:~~

~~— The department adopts 7 CFR 273.8(i), 1992 ed. which is incorporated by reference.~~

~~— 1. Current Department Practices~~

~~— a. Assets that are sold or traded for fair market value or at least at 80% of fair market value are considered as traded or sold for adequate value and will not disqualify a household.~~

~~R986-415-516. Assets of Sponsored Aliens:~~

~~— The department adopts 7 CFR 273.8(c)(3) and 7 CFR 273.11(j), 1992 ed. which are incorporated by reference.~~

~~KEY: food stamps, benefits~~

~~1994~~

~~35A-3-103~~

~~Notice of Continuation February 10, 1997]~~

**Workforce Services, Employment Development
R986-416
Benefits**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23071

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-416. Benefits.~~

R986-416-604. Date of Entitlement.

—The department adopts 7 CFR 273.10(a)(1)(ii) and 7 CFR 273.10(c)(2)(iv) and 7 CFR 273.10(a)(3), 1996 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Title VIII, Section 827, which are incorporated by reference.

~~**R986-416-606. ID Cards.**~~

—The department adopts 7 CFR 274.10, 1992 ed. which is incorporated by reference.

—1. Current Department Practices

—a. Non-photo ID cards are used.

—b. After the initial ID card is issued, replacements are issued at the request of the client.

—c. The only time ID cards will be issued is to homeless, disabled, and elderly clients when the client is able to use their food stamp benefits at a participating restaurant.

~~**R986-416-608. Benefit Issuance.**~~

—The department adopts 7 CFR 273.10(a) and 7 CFR 274.2(a),(b),(c), and (d) and 7 CFR 274.12 and 7 CFR 282.12, 1995 ed. which are incorporated by reference.

—1. Current Department Practices

—a. Initial benefits can be provided either as an emergency issuance which makes the benefits available immediately, or as a daily issuance which makes the benefits available at 6:00 am the next day.

—b. Regular monthly issuances are staggered according to the first letter of the case last name as follows:

—i. a - g available on the 5th

—ii. h - o available on the 11th

—iii. p - z available on the 15th

—c. benefits may be issued earlier than the regular issuance day when a household is moving out of state, provided that the household resides in the state on the first day of the month.

—d. A cash-out issuance of benefits is available to the client on the 1st day of the benefit month.

—e. Eligibility and issuance is based on a calendar month rather than a fiscal month.

—f. A supplemental issuance is made for the month a new individual is added to the case.

—2. The Utah Horizon Card is used to access the food stamp benefits.

—a. The Utah Horizon Card is used at retail grocery stores through point of sale devices (POS) to access food stamp benefits.

—b. Clients eligible for, and choosing, the cash-out program can use their Utah Horizon Card at retail grocery store or at ATM machines to access their food stamp benefits.

~~**R986-416-610. Sales Tax on Food Purchased With Food Stamp Benefits.**~~

—The department adopts 7 CFR 272.1(b), 1992 ed. which is incorporated by reference. The department shall require compliance with Subsection 59-12-104(26).

~~**KEY: food stamps, citizenship**~~

~~**December 1, 1996**~~

35A-3-103

~~**Notice of Continuation February 10, 1997]**~~



**Workforce Services, Employment
Development
R986-417
Documentation**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23072

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~**[R986-417. Documentation:**~~

~~**R986-417-702. Verification:**~~

~~— The department adopts 7 CFR 273.2(f)(1) through (3), 1992 ed. which are incorporated by reference.~~

~~— 1. Current Department Practices~~

~~— a. Non required verifications are requested on a case by case basis based upon the judgement of the caseworker.~~

~~— b. Deductible expenses that do not result in a change in benefits do not need to be verified.~~

~~**R986-417-704. Verification on Reported Changes:**~~

~~— The department adopts 7 CFR 273.2(f)(8), 1992 ed. which is incorporated by reference.~~

~~**R986-417-706. Sources of Verification:**~~

~~— The department adopts 7 CFR 273.2(f)(4) through (7), 1992 ed. which are incorporated by reference.~~

R986-417-708. Income and Eligibility Verification System (HEVS):

— The department adopts 7 CFR 272.8 and 7 CFR 273.2(f)(9), 1992 ed. which are incorporated by reference. The department shall require compliance with Section 35A-3-105:

- 1. Current Department Practices
 - a. Agreements between IRS, Division of Workforce Services, Workforce Information and Payment Services and the Social Security Administration are on file with the department.
 - b. Access to Unemployment Compensation Benefits is by direct access to Division of Workforce Services, Workforce Information and Payment Services computer systems.
 - c. Information received from IRS reports is confidential information and is safeguarded the same as any other case record information.
 - d. IRS information is confidential and is not available to the client. Information that has been verified is no longer confidential and can be released to the client as needed.
 - e. Questions about current eligibility must be resolved or the client is no longer eligible.
 - f. Questions about past eligibility periods do not affect current eligibility and the case is not closed even if it remains unresolved.
 - g. All overpayments are referred to the Office of Recovery Services.

R986-417-710. Application Processing:

— The department adopts 7 CFR 273.2(a) through (e), 7 CFR 273.10(a)(3) and 7 CFR 273.2(j) through (k), 1992 ed. which are incorporated by reference:

- 1. Current Department Practices
 - a. A Public Assistance or categorically eligible household's may apply for Food Stamps at the same time they apply for Public Assistance using the same application form.
 - b. A single interview is conducted for clients who have applied for other assistance at the same time they applied for Food Stamps.
 - c. If applicants fail to appear for their first scheduled interview, a second interview need not be scheduled unless requested by the applicant household. When the second interview is not rescheduled, the application shall not be denied before 30 days. If the applicant household schedules a second interview and does not appear for the second interview, the application can be denied after the second missed interview, but no later than 30 days after the date of application.

R986-417-712. Cases Reopened Without A New Application:

— The department adopts 7 CFR 273.21(k)(2)(ii) and 7 CFR 273.14(f)(2), 1992 ed. which are incorporated by reference:

- 1. Current Department Practices
 - a. When a case is closed as a result of an administrative error, it may be reopened without a new application.
 - b. When a case is closed because the client failed to comply with a request for information, the case may be reopened without a new application if the client provides the requested information by the end of the month in which the case closed.

R986-417-714. Processing Standards:

— The department adopts 7 CFR 273.2(h), 7 CFR 274.2 and 7 CFR 273.10(g), 1992 ed. which are incorporated by reference:

- 1. Current Department Practices
 - a. Applications may be denied after applicants have been interviewed and have been requested, in writing, to provide required verification, if they fail to return with the requested verification after 10 days, but no later the 30th day after the date of application.

R986-417-716. Certification Periods:

— The department adopts 7 CFR 273.10(f), 1992 ed. which is incorporated by reference:

- 1. Current Department Practices
 - a. Certification periods are calendar months rather than fiscal months.
 - b. All households must have a face-to-face interview at the time of application and at the time of review, or at least once every 12 months.
 - i. Households with earned income are only required to have the face-to-face interview once every 12 months.
 - ii. However, if a household requests a face-to-face interview, one must be conducted. The interview must be conducted on the same day that the household brings the review form to the office.
 - iii. Telephone interviews can be done when a face-to-face is waived if one is necessary to determine continued eligibility or the benefit amount.

R986-417-718. Recertification:

— The department adopts 7 CFR 273.14, 1992 ed. which is incorporated by reference:

- 1. Current Department Practices
 - a. For certification periods of two months or less, the notice of expiration and the recertification forms are given to the client during the initial application process.
 - b. The due date for recertification is the first working day of the recertification month.
 - c. As clients report a change in circumstances, the recertification may be extended for up to 12 months since the last recertification was completed.
 - d. Clients will be given the longest certification period possible based on the predictability of the household circumstances.
 - e. In no instance will a certification period extend more than 12 months.
 - f. All cases with earned income will have three month reviews. If an application is received after the 15th of the month, the case will have a four month review for the initial certification period.

KEY: food stamps, benefits

January 20, 1999 35A-3-103
 Notice of Continuation February 10, 1997 7 CFR 273.14]



Workforce Services, Employment
 Development
R986-418
 Case Management

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23073

FILED: 08/01/2000, 18:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~**R986-418. Case Management.**~~

~~**R986-418-802. Case Records.**~~

~~— 1. Current Department Practices~~

~~— a. The automated computer system (PACMIS) assigns a case number to each case record and a client ID number to each client on the case:~~

~~— b. Documentation, eligibility information and determination of benefit level is maintained in the case folder in the name of the head of household:~~

~~— c. Case records are not removed from the local office except by subpoena or by request of the Director or designee, Bureau of Quality Control, or Office of Recovery Service:~~

~~**R986-418-804. Notification.**~~

~~— The department adopts 7 CFR 273.10(g), 7 CFR 273.13, 7 CFR 273.14(b) and 7 CFR 273.21(j)(2), 1992 ed. which are incorporated by reference:~~

~~**R986-418-806. Action on Reported Changes.**~~

~~— The department adopts 7 CFR 273.12, 1992 ed. which is incorporated by reference:~~

~~— 1. Current Department Practices~~

~~— a. Address changes within the local office area are made to the computer so benefits will be issued to correct addresses:~~

~~— b. Benefits may be held without notice if a move is reported but the new address information is missing, incomplete, or inaccurate:~~

- c. Cases may be transferred to another local office when the client reports a change of address.
- d. The two districts coordinate changing the information to the case record.
- e. The client is sent a notice of action to give new local office address, phone number and requesting any needed verifications.

R986-418-808. Replacement of EBT cards and PINs:

— The department adopts 7 CFR 274.12(f)(5), 1995 ed. which is incorporated by reference.

R986-418-810. Restoration of Lost Benefits:

— The department adopts 7 CFR 273.17, 1992 ed. which is incorporated by reference:

- I. Current Department Practices
 - a. Food stamps are not restored if the loss is caused by the household's failure to report information which would have increased its food stamps.

R986-418-812. Claims Against the Household:

— The department adopts 7 CFR 273.16, 7 CFR 273.18, 1992 ed. which is incorporated by reference. The department shall require compliance with Section 35A-3-111.

- I. Current Department Practices
 - a. The Department will make no claim of overpayment against the household for procedural errors. These are procedural errors:
 - i. The agency failed to have the household sign the application form.
 - ii. The agency failed to have the household complete a current work registration form.
 - iii. The agency certified the household in an incorrect district.
 - b. Claims of overpayment are referred to the State Office of Recovery Service for collection.
 - c. When computing an overpayment, if the household fails to report a required change in earned income within the prescribed time frames, do not allow the 20% earned income deduction.

**KEY: food stamps, benefits, government hearings
February 19, 1997** **35A-3-103**
Notice of Continuation February 10, 1997]



Workforce Services, Employment
Development
R986-419
Income Limits

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 23074
FILED: 08/01/2000, 18:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.
(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

- ANTICIPATED COST OR SAVINGS TO:
- ❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
 - ❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.
 - ❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Workforce Services
Employment Development

Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-419. Income Limits:~~

~~R986-419-900. Food Stamp Program Income Limits:~~

~~— The department adopts 7 CFR 273.9 (a), 1995 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law August 22, 1996, which are incorporated by reference.~~

~~— The Food Stamp Program income limits are updated annually. The current limits are listed in the Food Stamps Manual, Tables IV, V, VI. That manual is available for public inspection at each Department of Workforce Services Employment Center and at the Employment Development Division, 1385 South State Street, Salt Lake City, UT.~~

~~KEY: food stamps~~

~~January 20, 1999~~

~~35A-3-103~~

~~Notice of Continuation August 18, 1997]~~

**Workforce Services, Employment
Development
R986-420
Maximum Allotments**

**NOTICE OF PROPOSED RULE
(Repeal)**

DAR FILE NO.: 23075
FILED: 08/01/2000, 18:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986

to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources. This rule is repealed in its entirety.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244

Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

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THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-420. Maximum Allotments:~~

~~**R986-420-100. Maximum Food Stamp Allotments:**~~

~~—The department adopts 7 CFR 273.10(c)(4), 1995 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law August 22, 1996, which are incorporated by reference:~~

~~—The Food Stamp Program maximum food stamp allotments are updated annually. The current maximum allotment amounts are listed in the Food Stamps Manual, Table VII (Basic Coupon Issuance Tables). That manual is available for public inspection at each Department of Workforce Services Employment Center and at the Employment Development Division, 1385 South State Street, Salt Lake City, UT.~~

~~**KEY: food stamps**
January 20, 1999 **35A-3-103**
Notice of Continuation August 18, 1997]~~

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**Workforce Services, Employment
Development
R986-421
Demonstration Programs**

**NOTICE OF PROPOSED RULE
(Repeal)**

DAR FILE NO.: 23076
FILED: 08/01/2000, 18:45
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities, instructs a client how to apply for food stamps and appeal an unfavorable decision, and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

This rule is repealed in its entirety.

(**DAR Note:** R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*. R986-900 is a proposed new rule that is found under DAR No. 23054 in this *Bulletin*.)

(**DAR Note:** The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-421. Demonstration Programs:~~

~~R986-421-101. Family Employment Program:~~

~~1. The department shall operate a Single Parent Employment Demonstration Program as authorized by Section 1115 of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The Single Parent Employment Program has been renamed the Family Employment Program.~~

~~2. The following definitions apply:~~

~~a. "Diversion" means a one time Family Employment Program payment that may equal up to three months of financial assistance.~~

~~b. "Participant" means any applicant for or recipient of the Family Employment Program.~~

~~c. "Transitional" food stamp benefit means the 24 month period that participants are eligible for food stamp benefits after the end of financial participation in the Family Employment Program.~~

~~3. The goal of the Family Employment Program is to increase family income through employment and child support.~~

~~4. The Family Employment Program will operate statewide.~~

~~5. The following exceptions regarding Family Employment Program participants apply to R986-411 through R986-420:~~

~~a. Participants are required to report the following changes in income:~~

~~(i) change in the income source, both unearned and earned;~~

~~(ii) change in employment status;~~

~~(iii) a change from fulltime to parttime or parttime to fulltime;~~

~~(iv) a change in wage rate or salary.~~

~~b. The diversion payment is not counted in the food stamp allotment calculation.~~

~~c. Recertification must be completed every 12 months with a face-to-face interview at least every 24 months.~~

~~d. Participants will remain in the Family Employment Program for 24 months after termination of financial assistance.~~

KEY: income, demonstration*

January 20, 1999 **35A-3**

Notice of Continuation February 6, 1998]

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Workforce Services, Employment Development **R986-500**

Adoption Assistance

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23051

FILED: 08/01/2000, 18:35

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Department has removed the references to JTPA (Job Training Partnership Act) and Carl Perkins as the department no longer receives funding under those programs. Services supported by those programs have been removed from the rule.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-114

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with this new rule because a separate rulemaking action repeals the current rule.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with this new rule because a separate rulemaking action repeals the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this new rule because all costs related to his rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

R986-500. Adoption Assistance.

R986-500-501. Authority for Adoption Assistance (AA) and Other Applicable Rules.

(1) The Department administers AA pursuant to the authority granted in Section 35A-3-308.

(2) The provisions of R986-100 apply to AA.

(3) The provisions of R986-200 apply to AA, except as noted in this rule.

R986-500-502. General Provisions.

(1) AA may be provided to a birth parent who was or would have been the caretaker of a child relinquished for adoption in the State of Utah.

(2) The relinquishment must have been voluntary. Birth parents who have had their parental rights terminated are not eligible for AA.

(3) The adoption must have met the requirements of Section 78-30-4.14.

(4) AA financial assistance can be provided to a woman who is in her third trimester of pregnancy if she is planning to relinquish custody of the child for the purpose of adoption and if she is otherwise eligible.

(5) A parent must apply for AA no later than the end of the second month after the month of relinquishment. Proof of relinquishment is required.

(6) Relinquishment can be made for any minor child, however a child age 12 or older must agree to the relinquishment.

(7) The Department will coordinate services to assist the client in:

(a) receiving appropriate educational and occupational assessment and planning, including enrolling in appropriate education or training programs, which includes high school completion and adult education programs;

(b) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(c) finding suitable housing;

(d) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act, if the client is otherwise eligible; and

(e) receiving counseling and other mental health services.

(8) If a birth parent relinquishes custody of a child, and before the adoption is finalized, takes back custody of the child, the parent is no longer eligible for AA.

(9) The rule regarding minor parents found at R986-200-213 applies if the parent seeking AA is a minor.

(10) If the minor parent seeking AA is living with her parent(s), or the parent(s) of the father of the child being relinquished, the FEP rule for counting the income of the household found in R986-200-242 applies.

R986-500-503. Services Available to All Pregnant Clients.

(1) The Department will publish and make available to all pregnant clients an easy-to-understand adoption information packet which:

(a) contains information about the public and private organizations that provide adoption assistance specific to the geographical location of the client;

(b) lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(c) explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(d) describes the services and supports available to the client from the Department and other state agencies.

(2) The Department will refer the client for appropriate prenatal medical care, including maternal health services provided under Title 26, Chapter 10, Family Health Services.

(3) The Department will inform the client of free counseling about adoption from licensed child placement agencies and licensed attorneys.

R986-500-504. AA Financial Assistance Eligibility and Amount.

(1) Eligibility and participation are determined by R986-200 except:

(a) the employment plan must contain the requirement that the client enroll in high school or an alternative to high school, if the client does not have a high school diploma; and

(b) the child support enforcement provisions do not apply for the child being relinquished.

(2) If there are other eligible children living in the household assistance unit, the household will receive a monthly supplemental financial AA payment equal to the additional amount the household would have received had the parent(s) not relinquished the child.

(3) If there are no eligible children living in the household, financial AA will be provided equal to a household size of one even if both birth parents are living in the household.

R986-500-505. Time Limits for AA.

(1) Financial AA can be provided up to a maximum of 12 consecutive months from the date of relinquishment.

(2) Payment of financial assistance for part of a month counts as a whole month when calculating the 12 month time limit.

(3) No extensions or exceptions to the time limit will be allowed.

(4) A birth parent who is determined eligible for adoption assistance and becomes ineligible during the 12 month payment period may reestablish eligibility up to the twelfth month if the parent reapplies during the 12 month period.

(5) Months during which no payment of financial assistance was made due to ineligibility or disqualification count toward the 12 month time limit.

(6) There is no limit to the number of times a parent can apply for or be found eligible for AA, however months during which a client receives AA count toward the 36 month time limit for FEP and FEPTP found in R986-200-217. This is true even if there were no other dependent children living in the household.

R986-500-506. Safeguarding Records.

Records pertaining to the adoption will not be kept in the client's case file but will be sent to the Department of Adoption Assistance Specialist and kept private. This includes verification of relinquishment and anything that would identify any agency, organization, or individual assisting with the adoption.

**KEY: adoption assistance
October 2, 2000**

35A-3-114



Workforce Services, Employment
Development
R986-501
Displaced Homemaker Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23077

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: With the loss of JTPA (Job Training Partnership Act) and Carl Perkins funding, this program has been limited to the requirements of Section 35A-3-114. The new rule reflects current department policy and practice.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 35A-3-114(2), 35A-3-114(3)(c), and 35A-3-114(6)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~**R986-501. Displaced Homemaker Program:**~~

~~**R986-501-101. Definitions:**~~

~~A. "Displaced homemaker" means an individual who:~~

~~(1) has been a homemaker for a period of eight or more years without significant gainful employment outside the home, and whose primary occupation during that period of time was the provision of unpaid household services for family members;~~

~~(2) has found it necessary to enter the job market but is not reasonably capable of obtaining employment sufficient to provide self-support or necessary support for dependents, due to a lack of marketable job skills or other skills necessary for self-sufficiency; and~~

~~(3) has depended on the income of a family member and lost that income or has depended on governmental assistance as the~~

parent of dependent children, and is no longer eligible for that assistance:

— B. "Department" means the Department of Workforce Services.

— C. "Eligible service provider" means:

— (1) existing applied technology single parent or homemaker programs at post-secondary institutions designated as applied technology schools, applied technology centers, and secondary adult programs;

— (2) government agencies, private agencies, and community-based organizations which have demonstrated effectiveness in serving displaced homemakers;

— D. "Demonstrated effectiveness" means evidence that an organization or agency has served displaced homemakers for at least three years and provided outreach, pre-employment, skills training, employment, placement, and follow-up services;

— E. "Gainfully employed" means full-time employment with earnings more than 125% of poverty level, as defined by the U.S. Department of Labor Federal Poverty Guidelines. It does not include part-time, temporary, or seasonal employment;

— F. "Placement" means obtaining a position for a displaced homemaker in one or any combination of the following situations: training program, employment, internship, or on-the-job training or apprenticeship;

— G. "Region" means Regional Workforce Services areas: one of five geographical areas of the state designated by the Department and the Utah Association of Counties;

— H. "Council" means Regional Council on Workforce Services: a planning group consisting of representatives from school districts, applied technology centers, post-secondary institutions, employers, clients, employees, county commissioners, veterans, vocational rehabilitation, the Department of Human Services, and the Department of Health located within the region;

— I. "Committee" means a planning group consisting of individuals in the region appointed according to R986-501-105 (B):

R986-501-102. Authority and Purpose:

— A. This rule is authorized under Subsection 35A-3-114(2) which directs the Department to establish programs to serve displaced homemakers;

— B. The purpose of this rule is to establish standards and procedures for the Displaced Homemaker Program;

R986-501-103. Administration and Evaluation:

— A. The Department shall administer a Displaced Homemaker Program which shall consist of local programs developed in each region;

— B. The Displaced Homemaker Program shall encourage regions to develop local programs which coordinate with programs established under the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act which are applicable to displaced homemakers;

— C. The Department, or a designee, shall establish deadlines and develop uniform forms and procedures for making application for and administering this program;

— D. The Department shall contract for an evaluation of the program required by Subsection 35A-3-114(3)(c):

R986-501-104. Application For, Allocation, and Use of Funds:

— A. Applications for funds available under the Displaced Homemaker Program are made on a request-for-proposal basis. Only proposals meeting statutory and Board requirements are eligible for funding;

— B. The Department shall allocate funds as follows:

— (1) eighty-five percent for services: a uniform base to each region with the remainder on a percentage of the total population in each region;

— (2) fifteen percent for evaluation and state administration;

— C. Funds are allocated on a quarterly basis;

— D. Service providers may only use funds to serve displaced homemakers. Funds may not be used for stipends, purchase of equipment, or more than 5% for fiscal agent overhead;

R986-501-105. Development of Local Programs:

— A. A Committee may be appointed in each region to develop a proposal for providing services to displaced homemakers in the region. All eligible service providers must be included in the development and approval of the proposal;

— B. The members of the Committee are appointed by the Regional Council and must include two displaced homemakers and one representative from each eligible service provider in the region;

— C. Each Regional Council designates an employment center, a post-secondary institution or applied technology center with an existing applied technology single parent or homemaker program to serve as the Displaced Homemaker Coordinating Center;

R986-501-106. Required Services in Local Programs:

— Local displaced homemaker programs must include:

— A. Outreach activities to inform the target population of available displaced homemaker services;

— B. Pre-employment services, which include:

— (1) counseling, intake assessment, testing, career guidance, and transitional counseling related to job seeking and job keeping skills;

— (2) self-esteem and assertiveness training;

— (3) educational services, including basic skills and literacy;

— (4) health education, including services designed to improve the physical, emotional, and social aspects of a person's life;

— (5) financial management, including information about insurance, taxes, estate and probate matters, mortgages, and loans; and

— (6) access to education services and resources;

— C. Skills training, including options for open entry and open exit programs and short-term training for entry level jobs with high placement and wage potential and opportunity for upward mobility;

— D. Employment support, including placement in jobs with upward mobility;

— E. Follow-up of displaced homemakers served in the programs conducted at six month intervals for 18 months after placement by the service provider;

R986-501-107. Optional Repayments:

— The fiscal agent for each region must establish a repayment procedure, approved by the Department, to enable displaced homemakers to make payments under Subsection 35A-3-114(6):

~~KEY: displaced homemakers, adult education, applied technology education*~~
~~August 4, 1997~~ ~~35A-3-114(2)~~
~~Notice of Continuation February 19, 1999~~ ~~35A-3-114(3)(c)~~
~~35A-3-114(6)~~

◆ ————— ◆
**Workforce Services, Employment
Development
R986-700
Child Care Assistance**

NOTICE OF PROPOSED RULE
(New)
DAR FILE NO.: 23052
FILED: 08/01/2000, 18:35
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforces Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy. Clients are now paid by two-party check and not by electronic benefit transfer as in the old rule.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been taken from the old rules. Ten-day advance notice of agency action is not required. A client may make a request for hearing orally. There is no time limit on final agency action. Assistance to support education or training is limited to 24 months. Co-payment is now referred to as subsidy deduction. The medical deduction is now \$100. Payment is made by way of two-party check made out to the client and the provider. A decision on eligibility need not be made within 15 days of the date of application. The department now pays for actual hours of needed care, and the need for child care for five hours a day may not necessarily result in payment for a full day of child care. There is no 40-hour per week limit. The categories and payment levels are no longer published in rule but are available at all local offices.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-310

ANTICIPATED COST OR SAVINGS TO:

◆THE STATE BUDGET: This rule change will necessitate the issuance of approximately 7,000 checks per month. The cost of issuing those checks is minimal and will be paid out of the existing budget. Most of the funding for this program is federal.

◆LOCAL GOVERNMENTS: This rule does not apply to local government and, therefore, there are no costs or savings to local governments.

◆OTHER PERSONS: There are no costs or savings associated with this new rule because a separate rulemaking action repeals the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance costs will be the issuance of the checks, which is anticipated to be minimal and will be absorbed by the existing budget.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

**R986. Workforce Services, Employment Development.
R986-700. Child Care Assistance.
R986-700-701. Authority for Child Care Assistance (CC) and Other Applicable Rules.**

- (1) The Department administers Child Care Assistance (CC) pursuant to the authority granted in Section 35A-3-310.
- (2) Rule R986-100 applies to CC.
- (3) Applicable provisions of R986-200 apply to CC, except as noted in this rule.

R986-700-702. General Provisions.

- (1) CC is provided to support employment.
- (2) CC is available, as funding permits, to the following clients who are employed or are participating in activities that lead to employment:
 - (a) parents;
 - (b) specified relatives; or
 - (c) clients who have been awarded custody or appointed guardian of the child.

(3) Child care is provided only for children living in the home and only during hours when neither parent is available to provide care for the children.

(4) If a client is eligible to receive CC, the following children, living in the household unit, are eligible:

(a) children under the age of 13; and

(b) children age 13 to 18 years if the child is:

(i) physically or mentally incapable of self-care as determined by a medical doctor, doctor of osteopathy or licensed or certified psychologist; and/or

(ii) under court supervision.

(5) Clients who qualify for child care services will be paid if and as funding is available. When the child care needs of eligible applicants exceed available funding, applicants will be placed on a waiting list. Eligible applicants on the list will be served as funding becomes available. Special needs children will be prioritized at the top of the list and will be served first. "Special needs child" means a child identified by the Department of Human Services, Division of Services to People with Disabilities, as having a physical or mental disability requiring special child care services.

(6) The amount of CC might not cover the entire cost of care.

(7) A client is only eligible for CC if the client has no other options available for child care. The client is encouraged to obtain child care at no cost from a parent, sibling, relative, or other suitable provider. If suitable child care is available to the client at no cost from another source, CC cannot be provided.

(8) CC can only be provided for an eligible provider and will not be provided for illegal or unsafe child care. Illegal child care is care provided by any person or facility required to be licensed or certified but where the provider has not fulfilled the requirements necessary to obtain the license or certification.

(9) Neither the Department nor the state of Utah are liable for injuries that may occur when a child is placed in child care even if subsidized by the Department.

(10) Foster care parents receiving payment from the Department of Human Services are not eligible to receive CC.

(11) Once eligibility for CC has been established, eligibility must be reviewed at least once every six months. The review is not complete until the re-certification forms are signed and returned to the local office. All requested verifications must be provided at the time of the review. If the Department has reason to believe the client's circumstances have changed, affecting either eligibility or payment amount, the Department will reduce or terminate CC even if the certification period has not expired.

R986-700-703. Client Rights and Responsibilities.

In addition to the client rights and responsibilities found in R986-100, the following client rights and responsibilities apply:

(1) A client has the right to select the type of child care which best meets the family's needs.

(2) If a client requests help in selecting a provider, the Department will refer the client to the local Child Care Resource and Referral agency.

(3) A client is responsible for monitoring the child care provider. The Department will not monitor the provider.

(4) A client is responsible to pay all costs of care charged by the provider. If the child care assistance payment is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

(5) In addition to the requirements for reporting other material changes that might affect eligibility, outlined in R986-100-113, a client is responsible for reporting a change in the client's need for child care, a change in the client's child care provider, and a change in the amount a provider charges for child care, to the Department within 10 days of the change.

(6) If a material change which would result in a decrease in the amount of the CC payment is reported within 10 days the decrease will be made effective beginning the next month and sums received in the month in which the change was reported will not be treated as an overpayment. If the client fails to report the change within 10 days, the decrease will occur as soon as the Department learns of the change and the overpayment will be assessed back to the date of the change.

(7) A client is responsible for payment to the Department of any overpayment made in CC.

(8) Any client receiving any type of CC who is not receiving full court ordered child support must cooperate with ORS in obtaining child support from the absent parent. Child support payments received by the client count as unearned income.

(9) All clients receiving CC must cooperate in good faith with the Department in establishing paternity unless there is good cause for not cooperating.

R986-700-704. Establishment of Paternity.

(1) If ORS notifies the Department that a client is not cooperating with the establishment of paternity, the client may appeal to a Department ALJ by following the procedures for hearings set forth in R986-100.

(2) The ALJ will make a determination on the question of whether or not the client is making a good faith effort to cooperate based on the same criteria ORS uses in FEP cases.

(3) The procedure and rules for establishing good cause for not cooperating in the establishment of paternity are the same as in R986-200. If the client appeals both a good faith determination and alleges good cause for not cooperating, the ALJ will join the two issues together and make a decision on the questions of good faith and good cause at the same hearing.

R986-700-705. Eligible Providers and Provider Settings.

(1) The Department will only pay CC to eligible clients who pay for child care in the following settings:

(a) licensed and accredited providers:

(i) licensed homes;

(ii) licensed family group homes; and

(iii) licensed child care centers.

(b) providers who are not required by law to be licensed:

(i) license exempt homes;

(ii) license exempt centers;

(iii) the child's own home; and

(iv) the home of a relative.

(c) homes with a Residential Certificate obtained from the Bureau of Licensing.

(2) License exempt providers must register with the Department and agree to maintain minimal health and safety criteria by signing a certification before payment to the client can be approved. The minimum criteria are that:

(a) the provider be at least 18 years of age and physically and mentally capable of providing care to children;

(b) the provider's home is equipped with hot and cold water, toilet facilities, and is clean and safe from hazardous items which could cause injury to a child. This applies to outdoor areas as well;

(c) there are smoke detectors and fire extinguishers on all floors of the house where children are provided care;

(d) there are no individuals residing in the home who have felony criminal convictions, or misdemeanor convictions which are offenses against a person, or have been subject to a substantiated finding of child abuse or neglect by the Utah Department of Human Services, Division of Child and Family Services or a court;

(e) there is a telephone in operating condition with a list of emergency numbers located next to the phone which includes the phone numbers for poison control and for the parents of each child in care;

(f) food will be provided to the child in care of sufficient amount and nutritional value to provide the average daily nutrient intake required. Food supplies will be maintained to prevent spoilage or contamination. Any allergies will be noted and care given to ensure that the child in care is protected from exposure to those items; and

(g) the child in care will be immunized as required by the Utah Immunization Act and that good hand washing practices will be maintained to discourage infection and contamination.

(3) The following providers are not eligible for receipt of a CC payment:

(a) a member of household assistance unit who is receiving one or more of the following assistance payments: FEP, FEPTP, diversion assistance or food stamps for any child in that household assistance unit. The person may, however, be paid as a provider for a child in a different household assistance unit;

(b) a sibling living in the home;

(c) household members whose income must be counted in determining eligibility for CC;

(d) a parent, foster care parent, stepparent or former stepparent, even if living in another residence;

(e) illegal aliens;

(f) persons under age 18;

(g) a provider providing care for the child in another state; and

(h) a provider who has committed fraud as a provider, as determined by ORS or by a court.

R986-700-706. Provider Rights and Responsibilities.

(1) Providers assume the responsibility to collect payment for child care services rendered. Neither the Department nor the State of Utah assumes responsibility for payment to providers.

(2) A provider may not charge clients receiving a CC subsidy a higher rate than their customers who do not receive a CC subsidy.

(3) The Department will pay related providers at the exempt rate regardless of whether or not the provider has a certificate or license. Related under this paragraph means: siblings who are at least 18 years of age and who live in a different residence than the parent, grandparents, aunts, uncles, or people of prior generations of grandparents, aunts, or uncles, as designated by the prefix grand, great, great-great, or great-great-great.

(4) The provider is entitled to know the date on which payment for CC was made to the parent and the amount of the payment.

(5) If a provider accepts payment from funds provided by the Department for services which were not provided, the provider may be referred for criminal prosecution.

(6) Records will be kept by the Department for individuals who are not approved providers and against whom a referral or complaint is received. Provider case records will be maintained according to Office of Licensing standards.

R986-700-707. Subsidy Deduction.

(1) "Subsidy deduction" means a dollar amount which is deducted from the standard CC subsidy for Employment Support CC. The deduction is determined on a sliding scale and the amount of the deduction is based on the parent(s) countable earned and unearned income and household size.

(2) The parent must pay the amount of the subsidy deduction directly to the child care provider.

(3) If the subsidy deduction exceeds the actual cost of child care, the family is not eligible for child care assistance.

(4) The full monthly subsidy deduction is taken even if the client receives CC for only part of the month.

R986-700-708. FEP, and Diversion CC.

(1) FEP CC may be provided to clients receiving financial assistance from FEP or FEPTP. FEP CC will only be provided to cover the hours a client needs child care to support the activities required by the employment plan. FEP CC is not subject to the subsidy deduction.

(2) Additional time for travel may be included on a case by case basis when circumstances create a hardship for the client because the required activities necessitate travel of distances taking at least one hour each way.

(3) Diversion CC is available for clients who have received a diversion payment from FEP. There is no subsidy deduction for the months covered by the FEP diversion payment. If the client is working a minimum of 15 hours per week in the two months immediately following the period covered by the diversion payment, the client is not subject to a subsidy deduction until the third month after the period covered by the diversion payment.

R986-700-709. Employment Support (EC) CC.

(1) Parents who are not eligible for FEP CC or Diversion CC may be eligible for Employment Support (ES) CC. To be eligible, a parent must be employed or be employed while participating in educational or training activities. Work Study is not considered employment. A parent who attends school but is not employed at least 15 hours per week, is not eligible for ES CC.

(a) If the household has only one parent, the parent must be employed a minimum of 15 hours per week.

(b) If the family has two parents, CC can be provided if:

(i) one parent is employed a minimum of 35 hours per week and the other parent is employed a minimum of 15 hours per week and their work schedules cannot be changed to provide care for the child(ren). CC will only be provided during the time both parents are in approved activities and neither is available to care for the children; or

(ii) one parent is employed and the other parent cannot work or provide child care because of a physical, emotional or mental

incapacity. Any employment or educational or training activities invalidate a claim of incapacity. The individual claiming incapacity must be receiving SSI, be 100 percent disabled by the VA or provide proof, by way of a report signed by a medical doctor, doctor of osteopath or licensed/certified psychologist, which states that:

(A) the parent cannot work; and

(B) the incapacity prevents the parent from caring for a child; and

(C) the incapacity is expected to last at least 30 days.

(2) Employed or self-employed parent client(s) must make, either through wages or profit from self-employment, a rate of pay equal to or greater than minimum wage multiplied by the number of hours the parent is working. If the prevailing community standard is below minimum wage, the employed parent client must make at least the prevailing community standard.

(3) If a parent was receiving FEP or FEPTP, and their financial assistance was terminated due to increased income, and the parent is otherwise eligible for ES CC, the subsidy deduction will not be taken for the two months immediately following the termination of FEP or FEPTP, provided the client works a minimum of 15 hours per week. The third month following termination of FEP or FEPTP CC is subject to the subsidy deduction.

R986-700-710. Income and Asset Limits for ES CC.

(1) Rule R986-200 is used to determine:

(a) who must be included in the household assistance unit for determining whose income and assets must be counted to establish eligibility, except a specified relative may not opt out of the household assistance unit when determining eligibility for CC. The income and assets of the specified relatives in the household must be counted;

(b) what is counted as income and assets. The asset limit for ES CC is \$8,000 after allowable deductions; and

(c) how to estimate income.

(2) The following income deductions are the only deductions allowed on a monthly basis:

(a) the first \$50 of child support received by the family;

(b) court ordered and verified child support and alimony paid out by the household;

(c) \$100 for each person with countable earned income; and

(d) a \$100 medical deduction. The medical deduction is automatic and does not require proof of expenditure.

(3) The household's countable income, less applicable deductions in paragraph (2) above, must be at, or below, 56 percent of the state median income.

(4) Charts establishing income limits and the subsidy deduction amounts are available at all local Department offices.

R985-700-711. CC to Support Education and Training Activities.

(1) CC may be provided when the client(s) is engaged in education or training and employment, provided the client(s) meet the work requirements under Section R986-700-709(1).

(2) The education or training is limited to courses that directly relate to improving the parent(s)' employment skills.

(3) Child care will only be paid to support education or training activities for a total of 24 calendar months. The months need not be consecutive.

(4) Education or training can only be approved if the parent can realistically complete the course of study within 24 months.

(5) Any child care assistance payment made for a calendar month, or a partial calendar month, counts as one month toward the 24-month limit.

(6) There are no exceptions to the 24-month time limit, and no extensions can be granted.

(7) CC is not allowed to support education or training if the parent already has a bachelor's degree in a marketable occupation.

(8) CC cannot be approved for graduate study or obtaining a teaching certificate.

(9) In a two-parent family receiving CC for education or training activities, the monthly CC subsidy cannot exceed the established monthly local market rates.

R986-700-712. CC for Certain Homeless Families.

(1) CC can be provided for homeless families with one or two parents when the family meets the following criteria:

(a) The family must present a referral for CC from an agency known by the local office to be an agency that works with homeless families, including shelters for abused women and children. This referral will serve as proof of their homeless state. Local offices will provide a list of recognized homeless agencies in local office area.

(b) The family must show a need for child care to resolve an emergency crisis.

(c) The family must meet all other relationship, income, and asset eligibility criteria.

(2) CC for homeless families is only available for up to three months in any 12-month period. When a payment is made for any part of a calendar month, that month counts as one of the three months. The months need not be consecutive.

(3) Qualifying families may use child care assistance for any activity including, but not limited to, employment, job search, training, shelter search or working through a crisis situation.

(4) If the family is eligible for a different type of CC, the family will be paid under the other type of CC.

(5) When a homeless family presents a referral from a recognized agency, the Department will, if possible, schedule the application interview within three working days of the date of the application.

R986-700-713. Amount of CC Payment.

(1) CC will be paid at the lower of the following levels:

(a) the maximum monthly local market rate established by the Local Market Survey. The Local Market Survey is conducted by the Department and based on the provider category and age of the child. The Survey results are available for review at any Department office; or

(b) the rate established by the provider for services; or

(c) the unit cost multiplied by the number of hours approved by the Department. The unit cost is determined by dividing the maximum statewide limit by the number of hours a client needing full-time child care would need per month.

(2) An enhanced CC payment is available to clients who are participating more than 172 hours per month. The enhanced subsidy cannot exceed \$100 more than the monthly local market rate or a total of \$528 per month, whichever is less. A two-parent

family receiving CC for education or training activities is not eligible for the enhanced CC subsidy.

R986-700-714. CC Payment Method.

CC payments to parents will be generated monthly by a two-party check issued in the parent's name and the chosen provider's name. The check is mailed to the client. In the event of an emergency, a payment up to a maximum of \$125 can be made on the Horizon card. Emergency payments can only be made where a parent is in danger of not being able to obtain necessary child care if the parent is required to wait until the two party check can be issued.

R986-707-715. Overpayments.

(1) An overpayment occurs when a client or provider received CC for which they were not eligible.

(2) If the Department has reason to believe that a CC overpayment has occurred, a referral for collection will be made to ORS.

(3) If ORS determines that the overpayment was because the client committed fraud, including forging a provider's name on a two party CC check, the client will be disqualified from further receipt of CC:

(a) for a period of one year for the first occurrence of fraud;

(b) for a period of two years for the second occurrence of fraud; and

(c) for life for the third occurrence of fraud.

(4) If a client receives an overpayment but was not at fault in creating the overpayment, the client will be responsible for repayment but there is no disqualification or ineligibility period.

(5) If ORS determines that the client was at fault in the creation of an overpayment for any reason other than fraud in paragraph (3) above, the client will be given an opportunity to repay the overpayment without a disqualification or ineligibility period for the first occurrence. If there is a second fault overpayment for reasons other than fraud in (3) above and the first overpayment has not been paid off, the client will be ineligible for CC until both overpayments have been satisfied. If the second overpayment occurred after the first overpayment was repaid in full, the second overpayment will not result in disqualification or ineligibility.

(6) If the client does not cooperate with ORS in its investigation or collection efforts, the Department will terminate CC upon notification from ORS that the client is not cooperating.

(7) These disqualification and ineligibility periods are in lieu of, and not in addition to, the disqualification periods found in R986-100-117.

(8) If the Department has reason to believe an overpayment has occurred, a referral to ORS has been made, and it is likely that the client will be determined to be disqualified or ineligible as a result of the overpayment, payment of future CC may be withheld, at the discretion of the Department, to offset any overpayment which may be determined by ORS.

R986-700-716. CC in Unusual Circumstances.

(1) CC may be provided for study time, to support clients in education or training activities if the parent has classes scheduled in such a way that it is not feasible or practical to pick up the child between classes. For example, if a client has one class from 8:00 a.m. to 9:00 a.m. and a second class from 11:00 a.m. to noon it

might not be practical to remove the child from care between 9:00 a.m. and 11:00 a.m.

(2) An away-from-home study hall or lab may be required as part of the class course. A client who takes courses with this requirement must verify study hall or lab class attendance. The Department will not approve more study hall hours or lab hours in this setting than hours for which the client is enrolled. For example: A client enrolled for 10 hours of classes each week may not receive more than 10 hours of this type of study hall or lab.

(3) CC will not be provided for private kindergarten or preschool activities when a publicly funded education program is available.

(4) CC may be authorized to support employment for clients who work graveyard shifts and need child care services during the day. If no other child care options are available, child care services may be authorized for the graveyard shift or during the day, but not for both.

(5) CC may be authorized to support employment for clients who work at home, provided the client makes at least minimum wage from the at home work, and the client has a need for child care services. The client must choose a provider setting outside the home.

(6) On a case-by-case basis, the Department may fund child care for children with disabilities at a higher rate if the needs of the child necessitate.

KEY: child care
October 2, 2000

35A-3-310

◆ ————— ◆
Workforce Services, Employment
Development
R986-701
Child Care Assistance General
Provisions

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23078

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. Ten-day advance notice of agency action is no longer required. A client may orally request a hearing. There is no time limit on final administrative action.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-401

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-701. Child Care Assistance General Provisions:~~

R986-701-101. References:

The department adopts 45 CFR 255 and 256, 1992 ed., which are incorporated by reference. All references to 45 CFR refer to the Code of Federal Regulations 45, Parts 200 to 499, 1991 ed. Referenced materials are available for public review at the Division of Employment Development.

~~R986-701-102. Definitions:~~

~~The following definitions apply:~~

~~a. "Applicant" means any person requesting assistance under any of the programs discussed:~~

~~b. "Assistance" means payments made on behalf of an eligible client:~~

~~c. "Department" means the Department of Workforce Services:~~

~~d. "Regional" or "local office" means the or local office of the Department of Workforce Services:~~

~~e. "Recipient" means any individual receiving assistance under any of the programs discussed:~~

~~f. "Client" means an applicant or recipient of any department program:~~

~~g. "Confidential information" means information that has limited access under the provisions of Section 63-2-201:~~

~~h. "FP" means child care for Temporary Assistance for Needy Families/Family Employment Program:~~

~~i. "EC" means Employment Support Child Care:~~

~~j. "FEP" means Family Employment Program:~~

~~k. "FEWP" means Family Emergency Work Program:~~

~~l. "GA/EWP" means General Assistance Emergency Work Program:~~

~~m. "SSI" means Supplemental Security Income:~~

~~n. "Special needs child" means a child identified by the Department of Human Services, Division of Services to People with Disabilities as having a physical or mental disability requiring special child care services:~~

~~o. "DD" means Diversion child care.~~

~~R986-701-103. Availability of Program Manuals:~~

~~The department adopts 45 CFR 205.70, 1991 ed., which is incorporated by reference:~~

~~R986-701-104. Client Rights and Responsibilities:~~

~~1. Any client may apply or reapply at any time for any department program by completing and signing an application and turning it in at the correct local office:~~

~~2. If the client needs help to apply, help will be given by the local office staff:~~

~~3. Department workers will identify themselves to the client:~~

~~4. The client will be treated with courtesy, dignity and respect:~~

~~5. Verification and information will be requested clearly and courteously:~~

~~6. If the client must be visited after working hours, an appointment will be made:~~

~~7. The client's home will not be entered without the client's permission:~~

~~8. Clients may have an agency conference to talk about their case:~~

~~9. Clients may look at information concerning their case except confidential information:~~

~~10. Anyone may look at a copy of the program manuals located at any local office:~~

~~11. The client must give complete and correct information and verification:~~

~~12. The client is responsible for repaying any overpayment of assistance:~~

- ~~13. Workers will comply with ten-day notice requirements:

 - ~~a. Notice of case action must explain in writing what action is being taken and the action effective date.~~
 - ~~b. Notice of adverse case action must be sent at least ten days before the action effective date.~~~~
- ~~14. The client has a right to a review of decisions.~~
- ~~15. Clients have the right to receive information about the following:

 - ~~a. The assistance programs offered through the department.~~
 - ~~b. Child care placements and settings:

 - ~~i. Clients have the right to select the type of child care which best meets the family needs;~~
 - ~~ii. Illegal child care will not be supported;~~
 - ~~iii. Assistance that is available to help clients obtain child care services;~~
 - ~~iv. The department is not responsible for the safety of a child placed in license exempt care.~~~~~~
- ~~16. The client must contact the local office worker whenever any change is needed in the purchase of child care.~~

R986-701-105. Safeguarding Information:

- ~~1. The department adopts 45 CFR 205.50, 1991 ed., which is incorporated by reference. The department requires compliance with Sections 63-2-101 through 63-2-909.~~
- ~~2. Current Departmental Practices:

 - ~~a. Workers shall safeguard all information about specific clients.~~
 - ~~b. There are no provisions for taxpayers to see any information from the clients' records.~~
 - ~~c. The regional director or designee shall decide if a situation is an emergency warranting release of information to someone other than the client. The information may be released only to an agency with comparable rules for safeguarding records. The information released cannot include information obtained through an income match.~~~~

R986-701-106. Complaints and Agency Conferences:

~~Clients may request an agency conference at any time to resolve a problem regarding their case. Clients may have an authorized representative attend the agency conference.~~

R986-701-107. Hearings:

- ~~1. Current Departmental Practices:

 - ~~a. Clients may ask for a hearing any time they do not agree with a case action.~~
 - ~~b. The department conducts hearings informally.~~
 - ~~c. The hearing will be conducted by the Department of Workforce Services, Division of Adjudication.~~
 - ~~d. Hearings may be conducted by telephone when the applicant or recipient agrees to the procedure.~~
 - ~~e. Requests for a hearing must be in writing. Only a clear expression by the claimant to the effect that they want an opportunity to present their case is required.~~
 - ~~f. The applicant or recipient has the option of appealing a hearing decision to either the director of the Division of Adjudication or to the District Court.~~
 - ~~g. Final administrative action must be taken within 90 days from the request for the hearing unless the client asks for a~~~~

~~postponement of a scheduled hearing. The period of postponement can be added to the 90 days.~~

~~h. Child care subsidies will not continue during the fair hearing process once a case is closed. If a decision is ruled in favor of the parent, retroactive child care subsidies will be paid to cover the fair hearing period.~~

~~KEY: children, child care, general provisions~~

~~October 1, 1998~~

~~35A-3-401~~

~~Notice of Continuation February 6, 1998]~~



**Workforce Services, Employment
 Development
 R986-702
 Conditions of Eligibility and Client
 Payment Amount**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23079

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. Assistance to support education or training is limited to 24 months. Household composition is now in Rule R986-100.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-401

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~**R986-702. Conditions of Eligibility and Client Payment Amount.**~~

~~**R986-702-201. Need for Child Care.**~~

- ~~1. The client must have a need for child care.~~
- ~~2. Child care is provided only to support hours when neither parent is available to provide care for the children.~~
- ~~3. FEP families participating in self-sufficiency activities outlined in the employment plan may have a need for child care.~~
- ~~4. Low income families may have a need for child care when both parents are employed and work schedules cannot be changed to provide care for the children:

 - ~~a. Need for child care is substantiated by earnings or profit from wages or self employment.~~
 - ~~b. Profit from self employment must be equal to or greater than minimum wage or the prevailing community standard.~~~~
- ~~5. Low income and single parent families may have a need for child care when the parent is engaged in training or education and employment:

 - ~~a. Child care will only be paid to support these activities for a total of 24 calendar months out of 48 months.~~
 - ~~b. When any payment is made for parents who receive child care for training for a calendar month, that month counts as part of the 24 month limit.~~~~

~~6. Parents may be involved in any combination of a minimum of 15 hours of employment per month, when involved in training, and education.~~

~~7. There are no exceptions to these limits.~~

~~8. Clients who qualify for child care services will be served with available funds. When the child care needs exceed the available funds, applicants will be placed on a waiting list. Applicants on the list will be served as funds become available and as long as they are found eligible. Special needs children will be prioritized at the top of the list and will be served first.~~

~~9. Parents are not eligible to receive subsidy payments if they do not pay the subsidy payment to the declared provider.~~

~~**R986-702-202. Residence.**~~

~~1. The department adopts 45 CFR 233.40, 1991 ed., which is incorporated by reference.~~

~~2. Applicants are required to apply in the local office area where they reside.~~

~~3. Persons in the custody of the criminal justice system, residents of facilities administered by the criminal justice system, residents of nursing homes and residents in an institution or group home that is administered under a contract with a governmental unit or administered by a governmental unit are not eligible. Individuals who reside in a temporary shelter may be eligible.~~

~~4. Recipients must be a U.S. Citizen or admitted to the U.S. for permanent residency in order to qualify for child care subsidies.~~

~~**R986-702-203. Income Adjustment.**~~

~~1. The parent must pay the income adjustment indicated for the appropriate income level and number of children in care.~~

~~2. Income adjustments are listed in R986-770-735.~~

~~3. The parent must pay all child care income adjustments to the child care provider.~~

~~4. If the income adjustment exceeds the actual cost of child care, the family is not eligible for child care assistance.~~

~~5. Income adjustments may not be prorated.~~

~~6. The provider is responsible to collect the full cost of care.~~

~~**R986-702-204. Child Support Enforcement.**~~

~~1. The department adopts 45 CFR 232, 1991 ed., which is incorporated by reference.~~

~~2. Eligibility for all Child Care services requires that the parent cooperate with the Office of Recovery Services (ORS) to obtain child support from the absent parent:~~

~~a. Parents who have been removed from a public assistance grant for not cooperating with ORS will be given the opportunity to cooperate with ORS by providing a contract indicating they are not receiving financial assistance from the department.~~

~~b. The parent may request a good cause exemption for not cooperating with ORS. Good cause requests will be approved or denied by the department.~~

~~**R986-702-205. Relationship.**~~

~~1. The concept of family relationship is used to determine whose income and assets to count and who to include in the child care assistance case.~~

- ~~2. Parents include natural parents, adoptive parents, and step-parents.~~
- ~~3. An adoptive parent is one who has legally adopted a child. Adoptive parents and stepparents have the same financial responsibility as natural parents.~~
- ~~4. One parent may live away from the home for an extended time for the following reasons:

 - ~~a. incarceration;~~
 - ~~b. military service;~~
 - ~~c. employment in another area.~~~~
- ~~5. The parent is still considered part of the household and his income must be counted.~~
- ~~6. A child is a person under age 18 related by blood, marriage or adoption and who is not emancipated.~~
- ~~7. A child may be legally or factually emancipated as follows:

 - ~~a. over the age of 18;~~
 - ~~b. legally married;~~
 - ~~c. no longer receives care and support from a parent.~~~~
- ~~8. An emancipated child is not considered part of the household.~~
- ~~9. Children must be living in the same home as the person seeking assistance.~~
- ~~10. Child care assistance may be provided when a child lives with a specified relative. Specified relatives include:

 - ~~a. natural parents, brothers and sisters;~~
 - ~~b. stepparents, stepbrothers and stepsisters;~~
 - ~~c. aunts, uncles, first cousins, first cousins once removed, nephews and nieces;~~
 - ~~d. people of prior generations as designated by the prefix grand, great, great-great, or great-great-great;~~
 - ~~e. parents, brothers, and sisters by legal adoption;~~
 - ~~f. the spouse of any person listed above;~~
 - ~~g. the former spouse of any person listed above.~~~~
- ~~11. Unrelated adults living in the home are not considered part of the household.~~

R986-702-206. Eligible Children.

- ~~1. Children under age 13 whose parents are eligible for child care may receive services.~~
- ~~2. Children age 13 to 18 years whose parents are eligible for child care may receive services when the child is:

 - ~~a. physically or mentally incapable of self care as determined by a physician or a licensed or certified psychologist;~~
 - ~~b. under court supervision.~~~~

KEY: children, child care, eligibility, client payment
~~October 1, 1998~~ ~~35A-3-401~~
~~Notice of Continuation February 6, 1998]~~



Workforce Services, Employment
Development
R986-703
Child Care Programs

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23780

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. Copayment is now referred to as subsidy deduction.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC

HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

Workforce Services, Employment Development **R986-704** Income Rules and Eligibility Calculations

R986. Workforce Services, Employment Development.

~~[R986-703. Child Care Programs:~~

~~R986-703-301. FEP Child Care (FP):~~

- ~~1. Parents receiving FEP or FEWP may receive child care services to support the hours of participation in an approved self sufficiency plan.~~
- ~~2. Child care for two parent families may only be approved when both parents are employed and work schedules cannot be changed to provide care for the children.~~
- ~~3. When one parent is incapacitated, child care may only be approved if the incapacity interferes with the parent's ability to care for the child.~~
- ~~4. No co-payment is charged to these families.~~

~~R986-703-303. Diversion Child Care (DD):~~

~~Families participating in diversion from the Family Employment Program can receive three months of child care.~~

~~R986-703-305. Employment Support Child Care (EC):~~

- ~~1. Low income families not eligible for other types of child care may qualify for EC child care to support employment, education, and training activities.~~
- ~~2. Income eligibility requirements are listed in R986-704-406.~~
- ~~3. Two parent households may only receive EC child care when:

 - ~~a. Both parents are employed and their schedules cannot be changed so that one parent is available to care for the children;~~
 - ~~b. One parent must be employed a minimum of 35 hours and the other parent must be employed for a minimum of 15 hours; or~~
 - ~~c. One parent is employed and the second parent cannot work or provide child care because of a physical, emotional or mental incapacity. The incapacity must be such that it eliminates the parent's ability to care for the child. Any employment invalidates a person's claim to incapacity. To claim an incapacity a parent must meet the following criteria:

 - ~~d. provide a Medical Report Form 21 completed by a physician or licensed/certified psychologist which indicates that the incapacity is expected to last at least 30 days. The medical report must also state that the incapacity will eliminate the parent's ability to work or care for the child.~~
 - ~~e. Parents whose FEP cases closed for increased income and have at least \$1 earned income can receive first two months child care services without a co-payment.~~~~~~

KEY: child care, program type

October 1, 1998 **35A-3**
Notice of Continuation February 6, 1998]



NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23081

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. The medical deduction is now \$100.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
 - ❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.
 - ❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.pixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

[R986-704. Income Rules and Eligibility Calculations.

R986-704-401. Definitions:

- 1. The following definitions apply:
 - a. "Income" means cash or in-kind benefits received by individuals. It includes earned income and unearned income.
 - b. "Earned income" means income in cash or in-kind for which a person performs a service.
 - c. "Unearned income" means income for which a person performs no service.
 - d. "Countable income" means gross income minus exemptions, allowable disregards, and earned income expenses.
 - e. "disregards" means a portion of income that is not counted.
 - f. "Bona fide loan" means a loan which has been contracted in good faith without fraud or deceit and is genuinely endorsed in writing for repayment.
 - g. "Best estimate" means the determination of what a client's income will be in the current month or future months based on the best information available.

R986-704-402. Income Calculations:

- 1. The income of all parents in the home, including step-parents, is counted.
- 2. The income of the specified relative and the specified relative's spouse who apply for child care assistance is counted.
- 3. When minor parents live with their parents, the income of both the parents and the minor parents is counted.

R986-704-403. Rules for Income Exclusions:

- 1. Unearned income exclusions:
 - a. bona fide loans;
 - b. Food Stamps;
 - c. surplus food donated by the United States Department of Agriculture;
 - d. WIC vouchers;
 - e. supplemental food assistance received under the Child Nutrition Act of 1966, and the special food service program for children under the National School Lunch Act. This includes money from the Child Care Food Program;
 - f. rental subsidies;
 - g. net proceeds received from the sale of a primary residence or an automobile;

- h. tax refunds;
- i. Home Energy Assistance Target payments or utility payments made by other agencies;
- j. insurance payments;
- k. payments or grants received due to natural disaster;
- l. special payments to aliens. Income received by the sponsor of an alien must be counted;
- m. all per capita payments made to tribal members by either the Secretary of Interior or the tribe. Income derived from privately owned land is countable income;
- n. payments made under Public Law 92-203, Public Law 96-240 and Public Law 94-114;
- o. student income;
- p. payments to replace or repair lost, stolen or damaged property;
- q. child support or alimony paid by the parent to another family;
- r. unearned income of an SSI recipient.
- 2. Earned income exclusions are as follows:
 - a. earned income of a dependent child if the child is under age 18 and living in the home;
 - b. earned income of an SSI recipient;
 - c. Earned Income Tax Credit.

R986-704-404. Countable Income:

- 1. The following income is countable:
 - a. any cash contribution or gift which exceeds \$30;
 - b. monthly income from a sales contract is unearned income the month it is received;
 - c. lump sum payments:
 - i. The following are exempt lump sum payments:
 - A. lump sums of income that is excluded;
 - B. insurance settlements for destroyed exempt property;
 - C. lump sum payments from SSI;
 - D. Social Security reimbursements of Medicare premiums;
 - E. money received from a third party source, if the money will be recouped by ORS;

R986-704-405. Income Deductions:

- 1. The following income deductions are allowed:
 - a. The first \$50 of child support received by the family;
 - b. Court ordered and verified child support and alimony paid out by the household;
 - c. \$100 for each person with countable earned income;
 - d. \$50 medical deduction.

R986-704-406. Income Eligibility:

- 1. A best estimate of a client's income will be used to calculate eligibility and co-payment amount for child care services.
- 2. Countable income, less applicable deductions, must not exceed the amounts on Table H listed in R986-707-706.

KEY: child care, eligibility, income

July 2, 1997

35A-3

Notice of Continuation February 6, 1998]



Workforce Services, Employment
Development
R986-705
Resources

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23082

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.pixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-705. Resources:~~

~~R986-705-501. Resource Standards:~~

~~1. An asset is resource that has value. It includes real property and personal property:~~

~~2. A resource can never be income and a resource in the same month:~~

~~3. A resource includes any portion of income that remains in someone's possession after the month it is received:~~

~~4. Countable resources include all assets that are not exempt and that are available to the client:~~

~~R986-705-502. Resource Limit:~~

~~The resource limit for all families is \$8,000.~~

~~R986-705-503. Countable Resources:~~

~~1. Resources that are not available to the client have no countable value:~~

~~2. The countable value of a resource is the equity value:~~

~~a. The equity value of a resource is the difference between the current market value and any amount the client still owes:~~

~~b. The current market value is the amount of money the client could get for the resource if it were sold on the open market:~~

~~R986-705-504. Exempt Resources:~~

~~1. The following resources are exempt:~~

~~a. the primary home in which the family lives and the lot on which it sits. If the family owns more than one home, count the equity value in the other home;~~

~~b. the value of one car for each person in training, employment or job search;~~

~~c. ownership or interest in any land or account which is held in trust by the United States, this state or in a tribal account;~~

~~d. shares received as payments under Public Law 92-203;~~

~~e. per capita payments or any resource purchased with per capita payments made to tribal members by the Secretary of the Interior or the tribe;~~

~~f. an irrevocable trust including the value of an irrevocable burial trust fund;~~

~~g. One burial space and any item related to repositories used for the remains of the deceased for any member of the household, including caskets, concrete vaults, crypts, urns, grave markers and the value of opening and closing:~~

R986-705-505. Availability of Resources.

- 1. A resource is available when a family member owns it or has the legal right to sell it or dispose of it.
- 2. The resources of a ward controlled by a legal guardian are available to the ward, even if the ward is not living with the guardian.
- 3. Joint accounts:
 - a. Count all the funds as a resource for the client if the client can legally withdraw funds from the account.
 - b. If more than one of the account holders is eligible for child care assistance, divide the funds equally among them.
 - c. If the client claims that the resource belongs to someone else, the client may refute access to the account by showing:
 - i. a statement about the ownership of the funds. The statement should include the reason the joint account was set up and who made the deposits to and withdrawals from the account;
 - ii. supporting statements from the other account holders.
 - d. If the resource belongs to someone else, the money must be removed or access must be restricted.
 - e. If access is restricted the resource is not counted.
- 4. Property owned by more than one person is a countable resource unless there is a condition of ownership specifically prohibiting the sale of any part of the resource without permission of the other owners:
 - a. If the other owners refuse to sell the property, the fair market value of the client's share may be reduced. The client may refute the equity determination by providing a statement from a knowledgeable source documenting the fair market value of the client's share.
- 5. When legal factors hinder making a resource available, it is exempt until it can be made available:
 - a. If a resource is not legally available but can be made available by client action, the client must take steps to make it available unless:
 - i. it is doubtful that reasonable actions will succeed;
 - ii. the likely cost of making the resource available exceeds its value.
 - b. An applicant must take all reasonable steps to make the resource available before the application can be approved.

R986-705-506. Transfer of Resources.

— There is no penalty for the transfer of resources.

KEY: child care, resources

~~1992~~ ~~35A-3~~
Notice of Continuation February 6, 1998]



Workforce Services, Employment
Development
R986-706
Provider Payment and Contracting

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 23083

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. Payment is made by way of two-party check to the client and provider. This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 35A, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
 - ❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.
 - ❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-706. Provider Payment and Contracting.~~

~~R986-706-601. Types of Care:~~

~~1. The department will pay for child care in the following settings:~~

- ~~a. Licensed Settings:

 - ~~i. licensed Homes;~~
 - ~~ii. licensed family group homes;~~
 - ~~iii. licensed child care centers.~~~~
- ~~b. License Exempt Settings:

 - ~~i. license exempt homes;~~
 - ~~ii. the child's own home;~~
 - ~~c. Certified homes;~~
 - ~~d. Accredited centers.~~~~

~~2. License exempt care will be paid if state law does not require the facility to be licensed:~~

~~3. License exempt providers must sign health and safety certification before payment can be approved:~~

~~4. Certain persons may not receive money from the agency for child care. These persons include:~~

- ~~a. a member of a FEP filing unit for license exempt child care services for that filing unit. The person may be paid as a care provider for a different filing unit;~~
- ~~b. a member of a Food Stamp household for child care services for participants in that household. The person may be paid as a care provider for a different household.~~

~~R986-706-602. Child Care Payments:~~

~~1. Child care costs will be reimbursed at the lower of the following:~~

- ~~a. the maximum rates available for review at any department office;~~
- ~~b. the lower rate when private care is less than the maximum rate paid by the department.~~

~~2. Participants are responsible for the cost of care provided which exceeds the amount approved by the department.~~

~~3. Providers are not expected to give services to parents without receiving payment directly from the parent. Providers assume all responsibility to collect payment for services rendered.~~

~~KEY: child care, provider payment, contracting~~

~~October 1, 1998~~

~~35A-3~~

~~Notice of Continuation February 6, 1998]~~

Workforce Services, Employment Development **R986-707** Eligibility

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 23084

FILED: 08/01/2000, 18:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: Most of the provisions of this rule have been moved into the new rules published simultaneously with this repeal. Eligibility decision is no longer required within 15 days of the date of application. The department now pays for actual hours of needed care and the need for child care for five hours a day, may not necessarily result in payment for a full day of child care. There is no 40-hour per week limit. The categories and payment levels are no longer published in rule but are available at all local offices. Payment is made by two-party check and not by electronic benefit transfer.

This rule is repealed in its entirety.

(DAR Note: The provisions of this repealed rule, and other repealed rules under Title R986 appearing in this *Bulletin*, are reenacted in the new rules under Title R986 appearing in this *Bulletin* at DAR No. 23047 through DAR No. 23054.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with the repeal of this rule because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a separate rulemaking action reenacts the provisions of this rule in a new section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business as a new rule is being implemented simultaneously.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
 Employment Development
 Second Floor
 140 East 300 South
 PO Box 45244
 Salt Lake City, UT 84145-0244, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

~~[R986-707. Eligibility:~~

~~**R986-707-701. Eligibility Determination:**~~

- ~~— 1. Child care eligibility for FEP recipients will be determined by the local office worker.~~
- ~~— 2. The date of the application shall be the day the completed forms are received by the local office.~~
- ~~— 3. Services will not be approved for a period prior to the date of the application.~~
- ~~— 4. An eligibility decision will be made within 15 days of the date of the application.~~
- ~~— 5. The applicant will be notified in writing of the disposition of the application.~~

~~**R986-707-702. Review of Eligibility:**~~

- ~~— 1. Eligibility for child care will be reviewed at minimum every six months.~~
- ~~— 2. The client must report changes in circumstances that affect eligibility.~~
- ~~— 3. A face-to-face interview is not required.~~
- ~~— 4. The review is not complete until the recertification forms are signed and returned to the local office. All requested verifications must be provided.~~

~~**R986-707-703. Establishing and Maintaining Case Records.**~~

- ~~— 1. A case record will be established and maintained on each parent applying for or receiving service.~~
- ~~— 2. Case records will not be removed from the local office except by subpoena or by request of the Division of Employment Development, the Bureau of Quality Control, or the Office of Recovery Services.~~
- ~~— 3. Client records will be kept in a secure file.~~

~~— 4. Records may be released to Department of Human Service (DHS) agencies for the administration of other DHS programs with the approval of the Division of Employment Development director.~~

~~— 5. Provider case records will be maintained according to Office of Licensing standards.~~

~~— 6. Records will be kept for individuals who are not approved providers and against whom a referral or complaint is received.~~

~~— 7. The department may publish lists of provider names and addresses.~~

~~**R986-707-704. Improper Payments:**~~

~~— 1. Improper payment occurs when a parent receive child care assistance for which they are not eligible.~~

~~— 2. If child care benefits have been overpaid or given for an ineligible case, a referral for collection will be made to ORS.~~

~~— 3. If child care benefits have been underpaid by the department, the underpaid amount will be paid to the parent if there are no outstanding child care obligations owed to the department.~~

~~**R986-707-705. Rates of Payment:**~~

~~— 1. The following definitions apply:~~

~~— a. A full day of care is defined as five to ten hours:~~

~~— b. Full-time basis is defined as care for five days a week for five or more hours each day or care for 40 or more hours a week on a variable schedule:~~

~~— 2. For those children approved for care beyond ten hours per day, the daily rate will be used for up to ten hours and the hourly rate for service beyond the ten hours:~~

~~— 3. An hourly rate shall be used for hours less than four:~~

~~— 4. Urban/Rural designations are determined based on Census Bureau data that identifies all territory, population, and housing as urban or rural. "Urban" comprises all places of 2,500 or more persons incorporated as cities, villages, and towns; but excluding the rural portions of extended cities. "Rural" comprises all housing, territory, and population, not classified as urban:~~

~~— 5. Child Care payments are based on four categories of care and five provider types:~~

~~A. Categories:~~

~~— (1) Infant newborn - 24 months old:~~

~~— (2) Toddler two - three years old:~~

~~— (3) Pre-school four - five years old:~~

~~— (4) School age six - 12 years 11 months old:~~

~~B. Provider type:~~

~~— (1) In the child's home:~~

~~— (2) In the Provider's home exempt from licensing:~~

~~— (3) In the Licensed Provider's home:~~

~~— (4) In a Child Care Center:~~

~~— 6. Due to the need to frequently update the Child Care Rates for Providers, the current rates are listed on Table I (Child Care Rates for Providers), found in Volume VHB of the Child Care Policy Manual, which is available for public inspection at each local Employment Center of the Department of Workforce Services and the administrative offices of the Department located at 1385 So. State Street, Salt Lake City, Utah:~~

~~**R986-707-706. Child Care Payment Method and Eligibility:**~~

~~— 1. Due to the need to frequently update the Income Eligibility Limits (Table II) and the Co-payment Schedule (Table III), the~~

current limits are listed in Table II and Table III. These Tables are found in Volume VHB of the Child Care Policy Manual, which is available for public inspection at each local Employment Center of the Department of Workforce Services and the administrative offices of the Department located at 1385 South State, Salt Lake City, Utah.

2. Child care payments to parents are generated by the Electronic Benefit Transfer (EBT) process.

3. Eligible parents will access benefits with the Utah Horizon card.

~~KEY: child care*~~

~~October 1, 1998 35A-3-103
Notice of Continuation February 6, 1998]~~

◆ ————— ◆

**Workforce Services, Employment
Development
R986-800
Displaced Homemaker Program**

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23053

FILED: 08/01/2000, 18:35

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to remove outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: With the loss of JTPA (Job Training Partnership Act) and Carl Perkins funding, this program has been limited to the requirements of Section 35A-3-114. The new rule reflects current department policy and practice.

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-114

ANTICIPATED COST OR SAVINGS TO:

◆**THE STATE BUDGET:** The funding for the Displaced Homemaker Program is limited to fees collected from marriage license issuances. There are no new costs or savings associated with this new rule because a separate rulemaking action repeals the current rule.

◆**LOCAL GOVERNMENTS:** This rule does not apply to local government; therefore, there are no costs or savings.

◆**OTHER PERSONS:** There are no costs or savings associated with this new rule because a separate rulemaking action repeals the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this new rule because all costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

R986-800. Displaced Homemaker Program.

R986-800-801. Authority for the Displaced Homemaker Program and Applicable Rules.

The Department provides services to displaced homemakers pursuant to Section 35A-3-114. The definitions, acronyms, residency, and safeguarding of information provisions of R986-100 apply to this program.

R986-800-802. General Provisions.

Services are available to a displaced homemaker who:

(1) has been a homemaker for a period of eight or more years without significant gainful employment in the labor market, and whose primary occupation during that period of time was the provision of unpaid household services for family members;

(2) has found it necessary to enter the job market but is not reasonably capable of obtaining employment sufficient to provide self-support or necessary support for dependents, due to a lack of marketable job skills or other skills necessary for self-sufficiency; and

(3) has depended on the income of a family member and lost that income or has depended on governmental assistance as the

parent of dependent children, and is no longer eligible for that assistance.

R986-800-803. Available Services.

(1) The Department provides the following services to displaced homemakers either directly or through referral:

(a) employment and skills training, career counseling, and placement services specifically designed to address the needs of displaced homemakers;

(b) assistance in obtaining access to existing public and private employment training programs;

(c) educational services, including information on high school or college programs, or assistance in gaining access to existing educational programs;

(d) health education and counseling, or assistance in gaining access to existing health education and counseling services;

(e) financial management services which provide information on insurance, taxes, estate and probate matters, mortgages, loans, and other financial issues;

(f) prevocational self-esteem and assertiveness training; and

(g) encouragement of placement in any displaced homemaker program established or offered by any local, state or federal agency.

(2) Most of these services are available through workshops conducted by the Department.

KEY: displaced homemakers

October 2, 2000

35A-3-114

Workforce Services, Employment Development
R986-900
Food Stamps

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23054

FILED: 08/01/2000, 18:35

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Workforce Services has rewritten all of R986 to removed outdated references and make the rules conform to changes in the law and department policy.

SUMMARY OF THE RULE OR CHANGE: The Food Stamps rules have been completely rewritten and no longer include information from federal law or the federal regulations. The department is limited in its authority in the program and can only choose options and request waivers from the Department of Agriculture. A list of identified options and applicable waivers are being proposed to replace the old rules. These are found at new Rule R986-900. Rule R986-100 is being added and includes food stamps. That rule provides information on client rights and responsibilities,

instructs a client how to apply for food stamps, and appeal an unfavorable decision and how information is safeguarded. Applicable federal law and regulations are compiled in the department's policy manual, which is available at all local offices. A complete text of all applicable federal laws and regulations is available at the Department of Agriculture's web site. The department determined that to rewrite a comprehensive set of state rules for food stamps would not provide the public with any additional information than is available from these two sources.

(DAR Note: R986-100 is a proposed new rule that is found under DAR No. 23047 in this *Bulletin*.)

(DAR Note: This new rule, together with the other new rules under Title R986 appearing in this *Bulletin*, will replace the repealed rules under Title R986 appearing in this *Bulletin* at DAR No. 23055 through DAR No. 23084.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Food stamps is a federally funded program. There are no costs or savings associated with this new rule because a separate rulemaking action repeals the provisions of the current rules.

❖LOCAL GOVERNMENTS: This rule does not apply to local government; therefore, there are no costs or savings.

❖OTHER PERSONS: There are no costs or savings associated with this new rule because a separate rulemaking action repeals the provisions of the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this new rule because all costs related to this rule are included within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will have no fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Workforce Services
Employment Development
Second Floor
140 East 300 South
PO Box 45244
Salt Lake City, UT 84145-0244, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Suzan Pixton at the above address, by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at wsadmpo.spixton@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 09/20/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 09/18/2000, 6:00 p.m., 1385 South State Street, Room 157, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2000

AUTHORIZED BY: Robert Gross, Director

R986. Workforce Services, Employment Development.

R986-900. Food Stamps.

R986-900-901. Authority for Food Stamps and Applicable Rules.

(1) Food stamps provide assistance to eligible individuals in accordance with the requirements found in: The Food Stamp Act of 1977 as amended (7 USC 2011 et seq); 7 CFR 271 through 7 CFR 283; and PRWORA and its amendments. The complete text of all applicable federal laws and regulations can be found at the United States Department of Agriculture web site. The state maintains a policy manual describing the benefits and eligibility requirements for receipt of food stamps. The policy manual is available at all Department offices. The provisions of 7 CFR 271 through 7 CFR 283 (1999) are incorporated herein by reference.

(2) The provisions of R986-100 apply to food stamps except where specifically noted in that rule.

R986-900-902. Options and Waivers.

The Department administers the food stamp program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to adopt a standard utility allowance for utilities rather than allow the actual utility expense as a deduction from income when determining eligibility for food stamps. The standard utility allowance is updated annually and is available upon request from the Department.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.

(b) If a client fails to appear for the scheduled face-to-face interview required by 7 CFR 273.2 (e)(3), the Department is not required to attempt to schedule another interview unless the client contacts the Department and requests another interview. If the client misses two scheduled interviews and does not express an interest in

pursing the application, the application can be denied without waiting until the 30th day as required by 7 CFR 273(g)(3).

(c) If a client does not provide initial verification as requested within ten days of the interview, the Department can deny the household's application at the expiration of the ten days and is not required to wait until the 30th day following the date of application.

(d) The Department is not required to conduct a face-to-face interview for each recertification period as required by 7 CFR 273.14(b)(3)(i), provided that at least one face-to-face interview, in conjunction with recertification, is conducted each year.

(e) The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

(f) The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

(g) The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

(h) FEP and FEPTP clients may opt to have their food stamp benefits paid as cash. This waiver will expire on December 31, 2000.

(i) The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

(j) If the application was received before the 15th of the month, the initial certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

KEY: food stamps, public assistance

October 2, 2000

35A-3-103

◆ ————— ◆

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Human Services, Recovery Services **R527-450** Federal Tax Refund Intercept

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23030
FILED: 07/26/2000, 17:24
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Subsection 62A-11-107(8), the Office of Recovery Services (ORS) is empowered to adopt, amend, and enforce rules as necessary to carry out its legal responsibilities listed in Chapter 11 of the Utah Code, including the collection of child and spousal support, and cooperation with the federal government in programs designed to recover money due the state. Pub. L. No. 104-134, enacted April 26, 1966, also known as the Debt Collection Improvement Act (DCIA), provides for the collection of spousal support through the federal tax intercept program if ORS is enforcing a spousal support debt. 45 CFR 303.72 outlines federal requirements for requesting collection of past-due support by federal tax refund intercept and how collections received by ORS shall be distributed. As authorized under these laws and regulations, this rule provides the certification criteria for federal tax intercept, the notice requirements, the conditions under which an earned income credit may be refunded, the requirements for distribution of funds collected through this process, and when ORS is required to delete or modify a previously certified debt.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides in a clear and brief manner the information necessary for certifying a support debt for federal tax refund intercept, for making necessary refunds and adjustments, and for distributing collected amounts. The laws and regulations upon which it is based are still in effect.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Human Services
Recovery Services
Fourteenth Floor, Eaton/Kenway Building
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsadmin.hsorssl.c.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 07/26/2000

Insurance, Administration **R590-171** Surplus Lines Procedures Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23035
FILED: 07/28/2000, 16:50
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 allows the commissioner to make rules to implement the provisions of the Insurance Code. Subsection 31A-15-103(3) allows the commissioner to prescribe, by rule, how surplus lines brokers will pay commissions or other remunerations on insurance placed by an a surplus lines broker as well as advertise the availability of surplus lines broker's services. Subsection R590-171-7(C) states that the surplus lines agent may compensate the producer and Subsections R590-171-7(A) and R590-171-7(B) and Section R590-171-6 describe how surplus lines coverage is to be marketed and placed. Subsection 31A-15-103(11) gives the commissioner authority to: 1) authorize an advisory organization to examine surplus lines transactions; and 2) to prescribe a form to be used between the advisory organization and the department. Section R590-171-4 recognizes the Surplus Lines Association of Utah as the advisory organization over surplus lines brokers and sets the parameters of their authority. Section 31A-15-111 gives the commissioner authority to require a surplus lines broker to be a member of the advisory organization. This rule does this in Subsection R590-171-4(B).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments for or against this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Surplus lines insurers are not licensed to sell insurance nor do they pay taxes on the premiums they receive. This rule sets the amount of the stamping fee on surplus lines policies to replace premium taxes surplus lines insurers do not pay. The rule also sets marketing practices that surplus lines brokers are to follow so that these insurers are limited to selling coverage to only high risk and unique classes of business that cannot get coverage with the traditional licensed carriers. Because surplus lines insurers do not pay taxes or go through the licensing process to sell insurance in Utah, it is important that they be limited to covering hard to place risks. Otherwise, they would be unfairly competing against traditional insurers that are required to be licensed and pay taxes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at idmain.jwhitby@state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/28/2000



**End of the Five-Year Notices of Review
and Statements of Continuation Section**

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food

Animal Industry

No. 22913 (AMD): R58-7-2. Definitions.
Published: June 15, 2000
Effective: July 18, 2000

No. 22905 (AMD): R58-14. Holding Live Raccoons or Coyotes in Captivity.
Published: June 15, 2000
Effective: July 18, 2000

Commerce

Occupational and Professional Licensing

No. 22887 (AMD): R156-26 (Changed to R156-26a). Certified Public Accountant Licensing Act Rules.
Published: June 15, 2000
Effective: July 18, 2000

No. 22878 (NEW): R156-55d. Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules.
Published: June 15, 2000
Effective: July 18, 2000

No. 22888 (REP): R156-65. Burglar Alarm Security and Licensing Act Rules.
Published: June 15, 2000
Effective: July 18, 2000

Education

Administration

No. 22945 (AMD): R277-400. Emergency Preparedness Plan.
Published: July 1, 2000
Effective: August 1, 2000

No. 22946 (AMD): R277-455. Standards and Procedures for Building Plan Review.
Published: July 1, 2000
Effective: August 1, 2000

No. 22948 (AMD): R277-716. Alternative Language Services (ALS).
Published: July 1, 2000
Effective: August 1, 2000

No. 22949 (AMD): R277-750. Education Programs for Students with Disabilities.
Published: July 1, 2000
Effective: August 1, 2000

No. 22950 (AMD): R277-916. Technology, Life, and Careers, and Work-Based Learning Programs.
Published: July 1, 2000
Effective: August 1, 2000

Environmental Quality

Air Quality

No. 22668 (CPR): R307-801. Asbestos.
Published: July 1, 2000
Effective: August 1, 2000

Water Quality

No. 22860 (AMD): R317-2-13. Classification of Waters of the State.
Published: June 1, 2000
Effective: August 1, 2000

Human Services

Child and Family Services

No. 22876 (AMD): R512-1. Description of Division Services, Eligibility, and Services Access.
Published: June 15, 2000
Effective: July 20, 2000

No. 22877 (AMD): R512-41. Qualifying Adoptive Families and Adoption Placement.
Published: June 15, 2000
Effective: July 20, 2000

Recovery Services

No. 22937 (NEW): R527-332. Unreimbursed Assistance Calculation.
Published: July 1, 2000
Effective: August 1, 2000

No. 22936 (AMD): R527-928. Lost Checks.
Published: July 1, 2000
Effective: August 1, 2000

Insurance

Administration

No. 22875 (NEW): R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans.
Published: June 1, 2000
Effective: July 21, 2000

NOTICES OF RULE EFFECTIVE DATES

Natural Resources

Wildlife Resources

No. 22880 (AMD): R657-5. Taking Big Game.
Published: June 15, 2000
Effective: July 18, 2000

No. 22938 (AMD): R657-5-15. Crossbows.
Published: July 1, 2000
Effective: August 1, 2000

No. 22939 (AMD): R657-41. Conservation and
Sportsman Permits.
Published: July 1, 2000
Effective: August 1, 2000

No. 22940 (AMD): R657-47. Trust Fund Permits.
Published: July 1, 2000
Effective: August 1, 2000

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2000, including notices of effective date received through August 1, 2000, the effective dates of which are no later than August 15, 2000. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Because of space constraints, the Keyword Index is not included in this *Bulletin*.

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architectural and Engineering Services	22821	5YR	05/04/2000	2000-11/101
<u>Fleet Operations</u>					
R27-1 (Changed to R27-10)	Identification Mark for State Motor Vehicles	22728	AMD	06/01/2000	2000-9/2
R27-2	Fleet Operations Adjudicative Proceedings	22807	NSC	05/23/2000	Not Printed
R27-10	Identification Mark for State Motor Vehicles	22808	NSC	06/26/2000	Not Printed
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	22729	AMD	06/01/2000	2000-9/3
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	22809	NSC	05/23/2000	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Purchasing and General Services</u>					
R33-3	Source Selection and Contract Formation	22678	AMD	06/15/2000	2000-6/3
R33-5	Construction and Architect-Engineer Selection	22679	AMD	06/15/2000	2000-6/10
R33-5-510	Application	22971	NSC	08/01/2000	Not Printed
<u>Records Committee</u>					
R35-2	Declining Appeal Hearings	22787	NSC	05/23/2000	Not Printed
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-7-2	Definitions	22913	AMD	07/18/2000	2000-12/5
R58-14	Holding Live Racoons or Coyotes in Captivity	22905	AMD	07/18/2000	2000-12/5
R58-17	Aquaculture and Aquatic Animal Health	22931	5YR	06/15/2000	2000-13/73
R58-17-2	Definitions	22879	NSC	06/26/2000	Not Printed
<u>Plant Industry</u>					
R68-2	Utah Commercial Feed Act Governing Feed	22753	NSC	05/01/2000	Not Printed
R68-8-7	Labeling of Agricultural Seed Varieties	22646	AMD	05/30/2000	2000-5/4
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	22657	5YR	02/10/2000	2000-5/64
R70-310	Grade A Pasteurized Milk	22658	AMD	04/03/2000	2000-5/5
R70-310-2	Adoption of USPHS Ordinance	22707	NSC	05/01/2000	Not Printed
R70-630	Water Vending Machine	22596	5YR	01/11/2000	2000-3/91
R70-630	Water Vending Machine	22597	AMD	03/03/2000	2000-3/5
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-1-7	Disciplinary Hearings	22639	AMD	03/27/2000	2000-4/4
R81-1-12	Alcohol Training and Education Seminar	22752	NSC	05/01/2000	Not Printed
R81-1-12	Alcohol Training and Education Seminar	22812	AMD	07/03/2000	2000-10/4
CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-1	Procurement of Architectural and Engineering Services	22572	NEW	03/13/2000	2000-2/5
R131-2	Capitol Hill Facility Use	22568	NEW	03/13/2000	2000-2/4
R131-7	State Capitol Preservation Board Master Planning Policy	22574	NEW	03/13/2000	2000-2/7
COMMERCE					
<u>Administration</u>					
R151-46b	Department of Commerce Administrative Procedures Act Rules	22761	AMD	06/01/2000	2000-9/4

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Occupational and Professional Licensing</u>					
R156-1-205	Advisory Peer Committees - Direct to Appoint with Concurrence of Board - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act - Compliance with Utah Administrative Procedures Act - No Provision for Per Diem and Expenses	22587	AMD	02/15/2000	2000-2/8
R156-1-308a	Renewal Dates	22645	AMD	03/20/2000	2000-4/12
R156-17a	Pharmacy Practice Act Rules	22318	AMD	see CPR	99-17/10
R156-17a	Pharmacy Practice Act Rules	22318	CPR	02/15/2000	2000-2/17
R156-17a-602	Operating Standards - Pharmacy Intern - Scope of Practice	22738	NSC	05/01/2000	Not Printed
R156-24a-503	Physical Therapist Supervisory Authority and Responsibility	22734	NSC	05/01/2000	Not Printed
R156-26 (Changed to R156-26a)	Certified Public Accountant Licensing Act Rules	22887	AMD	07/18/2000	2000-12/7
R156-31b-304	Quality Review Program	22576	AMD	02/15/2000	2000-2/10
R156-31b-304	Quality Review Program	22663	NSC	02/24/2000	Not Printed
R156-31c-201	Issuing a License	22577	AMD	02/15/2000	2000-2/11
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	22725	5YR	04/06/2000	2000-9/183
R156-46b	Division Utah Administrative Procedures Act Rules	22861	AMD	07/06/2000	2000-11/6
R156-55b	Electricians Licensing Rules	22740	AMD	06/01/2000	2000-9/20
R156-55b	Electricians Licensing Rules	22966	NSC	08/01/2000	Not Printed
R156-55b-304	Continuing Education	22910	NSC	06/26/2000	Not Printed
R156-55c-102	Definitions	22965	NSC	08/01/2000	Not Printed
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules	22878	NEW	07/18/2000	2000-12/18
R156-56	Utah Uniform Building Standard Act Rules	22398	AMD	see CPR	99-20/15
R156-56	Utah Uniform Building Standard Act Rules	22398	CPR	02/15/2000	2000-2/21
R156-56	Utah Uniform Building Standard Act Rules	22790	AMD	07/01/2000	2000-10/5
R156-56	Utah Uniform Building Standard Act Rules	22967	NSC	08/01/2000	Not Printed
R156-56-602	Factory Built Housing Dealer Bonds	22478	AMD	see CPR	99-22/7
R156-56-602	Factory Built Housing Dealer Bonds	22478	CPR	02/15/2000	2000-2/24
R156-56-706	Amendments to the IPC	22449	AMD	see CPR	99-21/7
R156-56-706	Amendments to the IPC	22449	CPR	01/18/2000	99-24/47
R156-56-706	Amendments to the IPC	22791	AMD	07/01/2000	2000-10/18
R156-56a	Recreational Vehicle Rules	22862	REP	07/06/2000	2000-11/7
R156-57	Respiratory Care Practices Act Rules	22482	AMD	01/04/2000	99-23/13
R156-57-302a	Qualifications for Licensure - Examination Requirements	22701	AMD	05/02/2000	2000-7/6
R156-59	Employee Leasing Company Act Rules	22677	AMD	04/17/2000	2000-6/11
R156-59	Professional Employer Organization Act Rules	22786	NSC	07/10/2000	Not Printed
R156-59-302a	Qualifications for Licensure	22863	AMD	07/10/2000	2000-11/9
R156-60c	Professional Counselor Licensing Act Rules	22726	5YR	04/06/2000	2000-9/183

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R156-61	Psychologist Licensing Act Rules	22588	AMD	02/15/2000	2000-2/12
R156-61-302e	Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training	22735	NSC	05/01/2000	Not Printed
R156-63	Security Personnel Licensing Act Rules	22801	AMD	06/15/2000	2000-10/24
R156-63-302a	Qualifications for Licensure - Application Requirements	22736	NSC	05/01/2000	Not Printed
R156-65	Burglar Alarm Security and Licensing Act Rules	22737	NSC	05/01/2000	Not Printed
R156-65	Burglar Alarm Security and Licensing Act Rules	22888	REP	07/18/2000	2000-12/21
R156-66	Utah Professional Boxing Regulation Act Rules	22589	AMD	02/15/2000	2000-2/14
R156-71	Naturopathic Physician Practice Act Rules	22507	AMD	01/04/2000	99-23/14
R156-71-202	Naturopathic Physician Formulary	22700	AMD	05/02/2000	2000-7/7
R156-71-202	Naturopathic Physician Formulary	22792	AMD	06/15/2000	2000-10/26
<u>Real Estate</u>					
R162-6	Licensee Conduct	22514	AMD	01/27/2000	99-24/10
R162-10	Administrative Procedures	22624	AMD	03/20/2000	2000-4/14
R162-103	Appraisal Education Requirements	22768	AMD	06/01/2000	2000-9/21
R162-104	Experience Requirement	22769	AMD	06/01/2000	2000-9/23
R162-105	Scope of Authority	22770	AMD	06/01/2000	2000-9/25
R162-106	Professional Conduct	22626	AMD	03/20/2000	2000-4/16
R162-107	Unprofessional Conduct	22771	AMD	06/01/2000	2000-9/27
<u>Securities</u>					
R164-2	Investment Adviser - Unlawful Acts	22642	NEW	03/20/2000	2000-4/18
R164-4	Licensing Requirements	22643	AMD	03/20/2000	2000-4/29
R164-11	Registration Statement	22864	NSC	05/25/2000	Not Printed
R164-12	Sales Commission	22865	NSC	05/25/2000	Not Printed
R164-14	Exemptions	22644	AMD	03/20/2000	2000-4/20
R164-14	Exemptions	22866	AMD	05/25/2000	Not Printed
R164-26	Consent to Service of Process	22867	NSC	05/25/2000	Not Printed
CORRECTIONS					
<u>Administration</u>					
R251-101	Corrections Advisory Council Bylaws	22961	NSC	08/01/2000	Not Printed
R251-705	Inmate Mail Procedures	22962	NSC	08/01/2000	Not Printed
R251-710	Search	22963	NSC	08/01/2000	Not Printed
EDUCATION					
<u>Administration</u>					
R277-106	Professional Practices Advisory Commission Appointment Process	23003	NSC	08/01/2000	Not Printed
R277-400	Emergency Preparedness Plan	22945	AMD	08/01/2000	2000-13/18
R277-401	Child Abuse-Neglect Reporting by Education Personnel	23004	NSC	08/01/2000	Not Printed
R277-404	Year-Round School and Effective Facility Use Program	22563	REP	02/01/2000	2000-1/8

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-430	Capital Outlay Equalization Qualification	22564	REP	02/01/2000	2000-1/10
R277-455	Standards and Procedures for Building Plan Review	22946	AMD	08/01/2000	2000-13/20
R277-459	Teachers' Supplies and Materials Appropriation	23007	5YR	07/12/2000	2000-15/27
R277-462	Comprehensive Guidance Program	22669	AMD	04/03/2000	2000-5/6
R277-464	Highly Impacted Schools	23008	5YR	07/12/2000	2000-15/27
R277-472	Reading Performance Improvement Awards Program	22593	NSC	01/25/2000	Not Printed
R277-472	Reading Performance Improvement Awards Programs	23005	NSC	08/01/2000	Not Printed
R277-473	Testing Procedures	22717	NEW	05/16/2000	2000-8/3
R277-501	Educator Licensing Renewal	22609	NEW	03/03/2000	2000-3/8
R277-501	Educator Licensing Renewal	22718	AMD	05/16/2000	2000-8/4
R277-507	Driver Education Endorsement	22528	AMD	02/01/2000	2000-1/11
R277-514	Board Procedures: Sanctions for Misconduct	22670	AMD	04/03/2000	2000-5/8
R277-514	Board Procedures: Sanctions for Misconduct	23006	NSC	08/01/2000	Not Printed
R277-520	Rule on the Appropriate Assignment of Teachers	23009	5YR	07/12/2000	2000-15/28
R277-520	Rule on the Appropriate Assignment of Teachers	23010	NSC	08/01/2000	Not Printed
R277-607	Truancy Prevention	22610	AMD	03/03/2000	2000-3/11
R277-702	Procedures for the Utah General Educational Development Certificate	22719	AMD	05/16/2000	2000-8/8
R277-716	Alternative Language Services (ALS)	22948	AMD	08/01/2000	2000-13/21
R277-750	Education Programs for Students with Disabilities	22949	AMD	08/01/2000	2000-13/23
R277-904	Applied Technology Center and Service Region Standards and Operating Procedures	22611	AMD	03/03/2000	2000-3/13
R277-916	Technology, Life, and Careers, and Work-Based Learning Programs	22950	AMD	08/01/2000	2000-13/24
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-110	General Requirements: State Implementation Plan	22623	NSC	02/25/2000	Not Printed
R307-110-19	Section XI, Other Control Measure for Mobile Sources	22553	AMD	02/10/2000	2000-1/14
R307-110-19	Section XI, Other Control Measures for Mobile Sources	22660	NSC	02/25/2000	Not Printed
R307-115	General Conformity	22688	NSC	03/20/2000	Not Printed
R307-121-2	Amount of Credit	22686	NSC	03/20/2000	Not Printed
R307-122-2	Amount of Credit	22687	NSC	03/20/2000	Not Printed
R307-150	Emission Inventories	22605	AMD	04/06/2000	2000-3/21
R307-320	Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program	22724	5YR	04/05/2000	2000-9/184
R307-403-8	Offsets: Banking of Emission Offset Credit	22607	NSC	01/25/2000	Not Printed
R307-415-5a	Permit Applications: Duty to Apply	22606	AMD	04/06/2000	2000-3/23
R307-801	Asbestos	22668	R&R	see CPR	2000-13/67
R307-801	Asbestos	22668	CPR	08/01/2000	2000-13/67

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Drinking Water</u>					
R309-113 (Changed to R309-600)	Drinking Water Source Protection	22732	AMD	06/12/2000	2000-9/30
R309-114 (Changed to R309-710)	Drinking Water Source Protection Funding	22709	AMD	06/12/2000	2000-8/9
R309-302	Required Certification Rules for Backflow Technicians in the State of Utah	22730	5YR	04/10/2000	2000-9/185
R309-351 (Changed to R309-705)	Utah Federal State Revolving Fund (SRF) Program	22711	AMD	05/16/2000	2000-8/11
R309-405	Compliance and Enforcement: Administrative Penalty	22604	NEW	04/17/2000	2000-3/25
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	22704	NEW	06/12/2000	2000-7/8
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	22927	NSC	06/27/2000	Not Printed
<u>Environmental Response and Remediation</u>					
R311-201-4	Eligibility for Certification	22762	AMD	07/17/2000	2000-9/39
<u>Radiation Control</u>					
R313-12	General Provisions	22598	AMD	03/10/2000	2000-3/27
R313-15	Standards for Protection Against Radiation	22599	AMD	03/10/2000	2000-3/34
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	22600	AMD	03/10/2000	2000-3/56
R313-22	Specific Licenses	22601	AMD	03/10/2000	2000-3/59
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	22602	AMD	03/10/2000	2000-3/77
R313-34	Requirements for Irradiators	22603	AMD	03/10/2000	2000-3/86
R313-34	Requirements for Irradiators	22720	5YR	04/03/2000	2000-9/186
<u>Solid and Hazardous Waste</u>					
R315-1-1	Definitions	22537	NSC	01/25/2000	Not Printed
R315-1-1	Definitions	22772	AMD	07/15/2000	2000-9/43
R315-2	General Requirements - Identification and Listing of Hazardous Waste	22538	NSC	01/25/2000	Not Printed
R315-2	General Requirements - Identification and Listing of Hazardous Waste	22773	AMD	07/15/2000	2000-9/45
R315-2-9	Characteristics of Hazardous Waste	22653	NSC	02/25/2000	Not Printed
R315-2-9	Characteristics of Hazardous Waste	22794	NSC	05/25/2000	Not Printed
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	22539	NSC	01/25/2000	Not Printed
R315-3-20	Hazardous Waste Incinerator Plan Approvals	22654	NSC	02/25/2000	Not Printed
R315-5	Hazardous Waste Generator Requirements	22541	NSC	01/25/2000	Not Printed
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	22541	NSC	01/25/2000	Not Printed

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