

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

DCF

Department for Children and Families

BULLETIN NO.: 11- 04F

FROM: Dave Yacovone, Commissioner
Department for Children and Families

DATE: January 17, 2012

SUBJECT: Reach Up Program Rules

CHANGES ADOPTED EFFECTIVE February 4, 2012

INSTRUCTIONS

Maintain Manual - See instructions below.

Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin: 11-04F

Information or Instructions - Retain until _____

MANUAL REFERENCE(S):

2201	2225	2241	2330	2391
2210	2235	2276	2333	
2214	2240	2322	2335	

This bulletin changes Reach Up program rules to implement the legislative directive in Act 63, “An Act Making Appropriations for the Support of Government” (June 2, 2011), pertaining to reimbursement of Reach Up financial assistance out of initial retroactive Supplemental Security Insurance (SSI) payments. It changes Reach Up support obligation rules to comply with Act 185, “An Act Relating to Juvenile Judicial Proceedings” (June 5, 2008), which repealed provisions at 33 V.S.A. §3902 and §3903 that had prohibited the collection of child support from noncustodial parents and the accrual of child support debt while they received public assistance.

This bulletin also adds language clarifying Reach Up rules on the application phase, family development plans, orientation, formation of the assistance group, and recoupment.

Reimbursement of Reach Up from Initial SSI

The rule requires that families receiving or applying for Reach Up financial assistance who apply for SSI or who are pending a decision on an SSI application authorize the department to reimburse the state out of SSI retroactive benefits for Reach Up state-funded payments paid to the family for the SSI applicant’s needs while the SSI application was pending. The intent of the rule is to treat families

in state-funded programs the same as those in Temporary Assistance (TANF)-funded Reach Up. When SSI is granted to a member of a TANF-funded family, the federal government deducts from the initial SSI payment an amount equal to the TANF benefit paid for that individual's needs while SSI was pending. Under this rule, the department will recoup amounts paid in state-funded programs in the same manner as the federal government recoups amounts paid in TANF funds. The department will deduct from the initial SSI payment an incremental share of the Reach Up granted for the SSI members while the family was in the state-funded program. An incremental share is the difference between the amount of the Reach Up payment actually made to the family and the Reach Up payment that would have been made had the individual not been included in the grant.

Support Obligations

This bulletin removes the obsolete provisions in current rules that noncustodial parents:

- (a) do not incur a child support debt and
- (b) are not subject to collection of previously incurred child support debts while they receive public assistance, i.e., Reach Up or Postsecondary Education Program benefits, or SSI/AABD for the benefit of their dependent children.

The general assembly amended 33 V.S.A. §3902, "Assignment of Support Rights by Public Assistance Recipients; Proceedings to Establish Support Obligation," by removing those provisions when it enacted Act 185, "An Act Relation to Juvenile Judicial Proceedings," effective January 1, 2009. Removing the obsolete provisions makes Reach Up rules consistent with Vermont statute and with Office of Child Support (OCS) rules. New provisions were not proposed to replace the provisions being removed as they are not necessary and would duplicate OCS rules.

Family Development Plans, Orientation and the Application Phase

Orientation has been an integral part of the Reach Up application process since the department came into full compliance with TANF law and regulations on July 1, 2001. The department, however, implied but did not specify orientation in the Reach Up rules adopted effective on that date. The need for consistency came to light when Reach First rules (adopted April 1, 2008) were being drafted. This bulletin adds clarification to Reach Up rules that orientation is part of the application phase and is an eligibility requirement for adults requesting assistance, including adults being added to an existing financial assistance group.

This bulletin adds clarification that the adult members of a family applying for assistance must agree to meet with the case manager and comply with Reach Up program requirements. This signed agreement is each adult's initial family development plan (FDP), which must be completed before the family can be granted assistance. This requirement also applies to adults being added to an existing financial assistance group.

Formation of the Reach Up Assistance Group

This bulletin adds clarification that individuals who received SSI/AABD, became gainfully employed, and were subsequently granted 1619(b) status by the Social Security Administration are considered SSI/AABD recipients and are not included in the Reach Up assistance group. They

continue to be considered SSI/AABD recipients during any months in which their 1619(b) status remains in effect, whether or not they receive an SSI/AABD payment during those months.

Other Changes

This bulletin also clarifies Reach Up rules on overpayments subject to recoupment, replace words or phrases such as “district director,” that may become obsolete with operational or organizational restructuring, with the general term “commissioner or commissioner’s designee;” correct typographical errors; and remove interpretive memos that are obsolete or have been incorporated into rules.

Withdrawal of Proposed Changes to General Assistance Program

Pursuant to 3 V.S.A. §843(b), the department withdraws the changes to the General Assistance Program rules published in the proposed and final proposed versions of Bulletin 11-04.

Specific Changes to Rule Sections

- 2201** Adds orientation and family development plan (FDP) to Eligibility and Payment Process to clarify they are eligibility requirements for all adult members of the applicant household.

- 2210** Adds clarification that the rule at 2210, Application, pertains specifically to Reach Up, including Reach First as appropriate. Changes reference to district offices to more general term, “the department,” to ensure consistency with operations changes. Adds reference at 2210.2, Choice of Program, to FDP rules at 2330 and 2335 requiring SSI applicants to sign an agreement authorizing the department’s recovery of Reach Up from SSI retroactive payments. Adds reference to rule at 2391.4. Replaces “aid” with “financial assistance.” Corrects typographical error and makes minor changes for consistency of style.

- 2214** Adds clarification at 2214, Change of Circumstances, cross referenced to the rule at 2201, that when a change is the addition of an adult to a financial assistance group, all eligibility conditions apply.

- 2225** Adds clarifications at 2225, Overpayments, that overpayments are recouped from the program in which the overpayment occurred and that the department recoups only overpayments that occurred during the 12 months prior to discovery.

Replaces “district director” with “commissioner or commissioner’s designee.”

- 2235** Removes obsolete provision at 2235, Support Obligations and Payments, that exempted noncustodial parents from incurring child support debt and paying child support while receiving Reach Up and SSI/AABD.
- Removes obsolete provision at 2235.1 pertaining to assigning accrued arrears when applying for financial assistance.
- At 2235.5 replaces “district worker” with “eligibility worker.”
- 2240** Adds clarification at 2240, Formation of Assistance Group, that individuals designated by the Social Security Administration as 1619(b) for SSI purposes are considered SSI recipients regardless of whether or not they receive an SSI benefits in a particular month.
- 2241** At 2241 P.2, Caretaker, removes reference to procedures manual.
- 2276** Adds reference at 2276, Excluded Income, B, to rule 2240.
- 2322** At 2322.1, Application Phase, adds provision that all adults in the applicant household must attend orientation and complete an initial FDP at the application phase and adds a cross-reference to rules 2201 and 2330.
- 2330** At 2330, Family Development Plans, adds reference to rule 2201 B, which specifies that an initial FDP is an eligibility requirement at application. Adds clarification that a second parent who joins the family and requests assistance must complete an initial FDP while the parent’s request is pending. Reformats text to clarify the differences between an FDP at application and a post-assessment FDP. Adds provision that an agreement for recovery of SSI is an FDP requirement for applicants and participants who apply for SSI for themselves or another family member or are pending a decision on an SSI application. Adds reference to rule 2391.4.
- 2333** Adds provisions at 2333, FDP Reviews and Modifications, that an FDP shall be reviewed when a change of circumstances requires eligibility review and when a second parent joins or leaves a household.
- 2335** Adds provision at 2335, Adult Participants, specifying that participants who apply for SSI or are pending a decision on an SSI application shall complete an agreement authorizing the department’s recovery of Reach Up from SSI retroactive payments. Adds reference to rule 2391.4.

2391.4 Replaces “a prorated portion” with “an incremental share,” and adds language specifying the method for determining an incremental share that will be recovered from the initial SSI payment.

2652.2 Adds clarification at 2652.2, Temporary Housing, that this GA benefit is subject to catastrophic eligibility rules at 2621. Removes provision specifying that payments beyond 28 cumulative days in any consecutive 12-month period shall cease upon expenditure of the annual appropriation for this purpose. Corrects rule citation.

Since the last filing, the department has withdrawn the changes to the General Assistance Program rules published in the proposed and final proposed versions of Bulletin 11-04. 3 V.S.A. §843(b)

Rulemaking Process

A. Informal Public Input Process

1. The proposed rule was filed with the Interagency Committee on Administrative Rules (ICAR) on October 7, 2011 and presented at its meeting on October 17, 2011.
2. The proposed rule was filed with the Secretary of State’s Office and the Legislative Committee on Administrative Rules (LCAR) on October 19, 2011.
3. The Secretary of State published notice of rulemaking on their website on October 26, 2011.
4. The department posted the proposed rule on its website <http://dcf.vermont.gov/esd/rules> and notify advocates, subscribers, and members of the public of the proposed rule.

B. Formal Notice and Comment Period

1. A public hearing was held on Monday, November 28, 2011 at 2:00 p.m., in the Barre District Office Conference Room, McFarland State Office Building, Suite 150, 5 Perry Street, Barre, Vermont 05641. There were no public attendees.
2. The comment period on the proposed rules closed on Monday, December 5, 2011 at 4:30 p.m. The department received comments from two staff members of the Economic Services Division (ESD) of DCF.
3. The department filed copies of the final proposed rule with the Secretary of State and the Legislative Committee on Administrative Rules (LCAR) on December 19, 2011.
4. The department presented the rule to LCAR on Thursday, January 12, 2012 and expects to present it again on Thursday, January 19, 2012.
5. The department expects to file the final rule no later than Friday, January 20, 2012.
6. The rule is expected to be effective on February 4, 2012.

Comments and Responses

Two employees of the Economic Services Division of the Department for Children and Families commented on the proposed rules.

2210.2 Choice of Program

Comment: The commenter questioned whether the rule at 2210.2, Choice of Program, allowing applicants free choice to select either Reach Up financial assistance or Supplemental Security Income (SSI) if eligible for both, would allow an individual to voluntarily close SSI and receive Reach Up instead.

Response: The provision to which the commenter refers is not a rule change. While it is unlikely that an applicant or participant would choose to relinquish over \$600 per person in monthly SSI/AABD benefits to be eligible to receive \$100 or less in Reach Up benefits (the amount of increase by adding one member), the existing rule specifies such free choice.

2322.1 Application Phase

2335.1 Requirement to Report to VDOL

Comment: The commenters suggest that the department make an additional change to the proposed rules and eliminate the requirement at 2322.1 and 2335.1 that certain applicants report to the Vermont Department of Labor (VDOL) as a condition of eligibility. One commenter acknowledges that these comments do not address the proposed rule changes. The commenters offered the following reasons for eliminating this requirement: (1) VDOL staff reductions have resulted in Reach Up applicants not being given an opportunity to engage in a productive job search when they register at VDOL, thus making registration “useless;” (2) after being granted, participants do engage in meaningful job search at VDOL; (3) job searches conducted by applicants do not have a positive effect on Vermont’s federal work participation rate because individuals’ activities count only when they are in receipt of assistance; (4) the “unpredictability” of the postal service and the department’s document processing center cause inappropriate denials due to confirmation of VDOL registration being received by workers processing applications.

Response: The Economic Services Division (ESD) agrees that this comment is beyond the scope of the proposed rules and declines at this time to propose elimination of the requirement to register at VDOL. Prior to proposing such a rule change, ESD would want to collect more input from staff members statewide, evaluate available data, and conduct as comprehensive an analysis as possible to identify how many mandatory VDOL registrants fail to register and are denied, how many applicants register and are denied in error due to lost paperwork, the factors at VDOL favoring job search for active

participants while impeding them for applicants, and any other operational issues that can be addressed procedurally rather than through rule revision.

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2330 Family Development Plans

Comment: The commenters suggest that the requirement for an applicant or participant to sign an agreement authorizing the department's recovery of Reach Up from SSI retroactive payments be an eligibility requirement rather than a family development plan (FDP) requirement.

Response: When H.441, "An Act Making Appropriations for the Support of Government," was introduced, the provision for recovery of Reach Up from SSI retroactive payments had been included as a condition of eligibility. By the time H.441 was enacted as Act 63, the stipulation that authorization be a condition of eligibility had been removed. It was not the intent of the legislature to deny or close benefits for the entire family. If a participant fails or refuses without good cause to sign an authorization of recovery as an FDP requirement, the sanction amount would be similar in dollar value to the amount the department would fail to recover for the same period and would, therefore, be budget neutral.

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking go to the website of the Office of the Vermont Secretary of State at: <http://vermont-archives.org/aparules/> or call Louise Corliss at 828-2863.

For information on upcoming hearings before the Legislative Committee on Administrative Rules go to the website of the Vermont Legislature at: <http://www.leg.state.vt.us/schedule/schedule2.cfm> or call 828-5760.

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Vertical lines in the left margin indicate changes.

Manual Maintenance

If you print copies of on-line rules for a printed manual, remove the pages in the “Remove” column on the left and replace them with the pages in the “Insert” column on the right. When deleted rules are not replaced with updated rules or when interpretive memos are removed, the “Insert” column says to insert “Nothing.”

<u>Remove</u>		<u>Reach Up Rules</u>	<u>Insert</u>	
2201	(01-06)		2201	(11-04)
2210	(79-21)		2210	(11-04)
Interpretive Memo opp. 2212 (10/12/06)			Nothing	
2214	(01-06F)		2214	(11-04)
2225	(97-9)		2225	(11-04)
Interpretive Memo opp. 2225 (3/1/10)			Nothing	
2235	(08-02)		2235	(11-04)
Interpretive Memo opp. 2235 (2/5/11)			Nothing	
2240	(08-10)		2240	(11-04)
2241	(01-06)		2241	(11-04)
2276	(08-02)		2276	(11-04)
Interpretive Memos opp. 2276 (8/26/92, 11/15/04, 4/21/09, 12/1/09)			Nothing	
2322	(00-22)		2322	(11-04)
2330	(08-02)		2330	(11-04)
2333	(08-10)		2333	(11-04)
2335	(00-22)		2335	(11-04)
	2391.4		(08-02)	2391.4 (11-04)

Eligibility and Payment Process

2201 Eligibility and Payment Process

The eligibility and payment process for Reach Up financial assistance consists of steps an applicant takes to request assistance and procedures the department follows to determine eligibility and payments. Steps within the process include:

- A. Application for assistance, including a request by an adult for addition to an existing financial assistance group.
- B. Orientation provided by the department that all adults in a Reach Up applicant assistance group must attend. The orientation shall provide the family with information about all programs administered by the department, services and referrals available to the family, program requirements, participant responsibilities, consequences of failure to meet responsibilities, and incentives for participation and obtaining employment. (Reach First rule 2113)
- C. Documentation of necessary information related to pertinent eligibility conditions including an initial family development plan (FDP) (rules 2322.1, 2330).
- D. Determination of initial or continuing eligibility and the amount of assistance.
- E. Written notice to applicants and participants of eligibility decisions.
- F. Authorization and payment of assistance for which applicants and participants are found eligible.

Application

2210 Application

Application for Reach Up is the specific action of completing, signing and submitting an application form furnished by the department that conveys a desire to receive financial assistance or benefits from the department or to have eligibility for such assistance or benefits considered. An application for Reach Up may be considered as an application for Reach First when required or allowed by Reach First rules (2117, 2118). Application forms shall be signed by:

- A. the individual applying for such assistance or benefits; or
- B. an authorized representative of an individual applying for such assistance or benefits; or
- C. where the applicant is incompetent or incapacitated, someone acting responsibly for him.

The date of application, which governs the time limit for rendering and implementing a decision on the application, is the first date on which a signed application form is received in any department office, regardless of whether such application is sufficiently complete for an immediate decision on eligibility. Since an individual's initial contact(s) with the department may not always result in immediate submittal of a signed application form, all contacts (e.g., in person, by telephone, by mail, by referral from another agency) shall be considered inquiries up to the point of department receipt of a signed application form. Department response to inquiries shall include:

- A. Furnishing application form(s);
- B. Appropriate explanation of program(s) inquired about, including eligibility standards and criteria;
- C. Explanation of applicant rights and responsibilities, including penalties for fraudulent acquisition and use of assistance and/or benefits.

A signed formal application for Reach Up furnished by the department is required to begin action on a request for financial assistance or benefits. Such application may be obtained by calling, writing, or visiting any of the Department's offices.

Any individuals, previously found ineligible for assistance and/or benefits, who believe their circumstances to have changed or who desire to have eligibility reconsidered, may reapply by submitting an up-to-date signed application form to the Department.

The formal application gives individuals the means to furnish information necessary for a decision, protects them from being ruled ineligible without formal application, informs them of their rights and responsibilities, and provides a basis for appeal if they are dissatisfied with any action of or lack of action by the department.

Application

A relative, friend, or other interested party may assist an applicant in completion of necessary forms. The applicant or spouse, authorized representative, or legal guardian must sign the form and thereby assume responsibility for all information entered.

If an applicant has difficulty in completing an application or statement of need and no other person is available to assist, a department employee may record on a department form information furnished by the applicant. In such cases special care must be exercised to review the information entered before the applicant signs and assumes responsibility for the information.

The individual in whose name an application is filed is designated the applicant, or the head of the applicant group. When a group of individuals apply together for assistance or benefits from more than one department program, it is preferable, although not mandatory, that the same member be designated head of the group for all programs.

For an application to be considered complete, the applicant must provide information about whether any members of the family have been convicted of a felony involving possession, use, or distribution of a controlled substance for an act committed after August 22, 1996.

2210.1 Termination Due to Support Payment

If a family's Reach Up was terminated because of countable child support in excess of the financial assistance grant, either alone or in combination with another reason affecting income eligibility, the department shall reinstate the family's participation in Reach Up effective the first day of the month when all the following conditions are met:

- The family becomes eligible for Reach Up during that month solely because of a loss or reduction of child support within the period of 12 consecutive calendar months beginning with the first full calendar month following the effective date of the Reach Up termination.
- The family has been ineligible for Reach Up since the termination.
- The family requests reinstatement by the 20th day of the month following the month in which the loss or reduction of child support first occurred.
- The family returns the forms required for reinstatement by the end of the month in which they request reinstatement.

During the 12-month administrative period, the Office of Child Support (OCS) shall distribute current child support collected on behalf of the family to the family within two days of receipt.

If, during the 12-month administrative period, the amount of monthly child support collected by OCS falls below the minimum amount that would have made the family ineligible when they were terminated from Reach Up, the department shall mail a Reach Up application to the family, along with other forms required to reinstate the family's eligibility.

Application

2210.2 Choice of Program

An applicant who is eligible for both Reach Up financial assistance and Supplemental Security Income (SSI), with or without the state AABD supplement, shall have free choice to select either program of financial assistance. No individual may, however, receive Reach Up financial assistance concurrently with receipt of federal SSI or state AABD. This prohibition does not preclude designation of a recipient of SSI as payee of a Reach Up grant on behalf of other eligible individuals.

Applicants and participants who apply for SSI or are pending a decision on an SSI application shall sign an agreement authorizing the department's recovery of Reach Up from SSI retroactive payments (rules 2330, 2335). Any family whose Reach Up is funded with state funds will reimburse the department according to the specifications in rule 2391.4.

2210.3 Deadline for Application Processing

Action on applications shall be completed as soon as possible but not later than within 30 days from date of application for Reach Up. Within this deadline a decision must be made concerning the application and a notice of that decision in writing sent to the applicant.

The above program deadline applies except in unusual circumstances (e.g., where a decision cannot be reached because of failure or delay on the part of the applicant or because of some administrative or other emergency that could not be controlled by the agency, in which instances the case record must document the cause for the delay). Failure to meet the established deadline shall not constitute the sole reason for denial of assistance unless it can be established and documented in the case record that such failure is the result of non-cooperation on the part of the applicant.

Change of Circumstances

2214 Change of Circumstances

The department has the responsibility of notifying the applicant of the requirement to report any changes in circumstances within 10 calendar days of the date the change becomes known to the assistance group. Applicants shall report changes that might affect eligibility or the amount of benefits (e.g., changes in income or resources, changes in the size or membership of the assistance group, new address, or termination of school attendance).

Applicants and participants shall notify the district office serving their area, by mail, telephone, or office visit, of any change in individual, family, or assistance group circumstances that may affect continuing eligibility for, or amount of, aid or benefits authorized under any department program. Such changes include, but are not limited to: residence location, family or assistance group composition, employment, income, and resources.

When a change is the addition of an adult to a financial assistance group, all eligibility conditions apply (2201) and are reconsidered for the new assistance group formed by the change.

A change reported for one program shall be considered to have been reported for all programs in which the assistance group is participating; for example, a change reported affecting Reach Up shall be considered reported for Medicaid and 3SquaresVT as well.

The district office shall, upon receipt of a report of changed circumstances, consider such changes in relation to all eligibility factors for all programs through which aid or benefits are currently authorized. If a reported change results in an assistance group's becoming ineligible, assistance shall be terminated for the earliest date for which the processing and notice deadline has not passed. The department shall reduce or terminate financial assistance without minimum advance notice for assistance groups sanctioned for noncompliance with services component requirements.

A description of payment cycles is given at rule 2222.

Reductions and closures resulting from changes reported fewer than ten days before the adverse action approval deadline may take effect for the next following benefit period. This ensures that recipients have a ten-day period in which to provide required verification and that department staff have a ten-day administrative period in which to complete whatever work is necessary to process the change. However, Eligibility Specialists should place a high priority on processing case actions before the next adverse action approval deadline.

When a scheduled review of eligibility will be due in the near future, or when the nature or extent of the change reported otherwise makes a full eligibility review desirable, the District Office may initiate a review in advance of the scheduled time limit.

Change of Circumstances

2214.1 Change of Address

A recipient of Reach Up shall notify the district office immediately of any change in his domicile advising of his new location and mailing address. Changes of domicile for other than visiting purposes shall require a review of circumstances and recomputation of budgeted need. Failure to so notify the district office may cause delay in receipt of assistance or benefits, can result in incorrect payments or render the department unable to determine continued eligibility to receive assistance. Visits away from his/her domicile of less than 30 days shall not generally warrant a change of address.

A recipient of assistance or benefits who moves outside Vermont with the intent to domicile outside the state shall become ineligible upon abandonment of Vermont residence (rule 2233). Assistance shall continue for one full month following abandonment of Vermont residence to enable the recipient to apply for assistance at his/her new residence.

2214.2 Family Separation

An adult participant in the Reach Up program, or an individual acting on behalf of the adult unable to do so, shall notify the district director of any physical separation of the adult and child that continues or is expected to continue for 30 days or more. Eligibility shall continue when the following conditions are met:

- A. The adult participant or, in cases of subsequent separation of parents participating as a two-parent family, the other participant parent continues or supervises continuing care and supervision of the eligible child; and
- B. A home is maintained for the child or for return of the adult participant within six months; and
- C. Eligible family members have continuing financial need.

When the adult participant is unable, due to physical or mental illness requiring hospitalization or care outside the home, to carry on supervision of the child, assistance on behalf of the eligible child may continue to either of the following:

- A. Another caretaker who assumes responsibility for care and supervision of the child;
- B. Another individual, who does not qualify as a caretaker but who can act for the adult participant in an emergency situation, for a temporary period, not to exceed six months, to allow reasonable time for the family to make and carry out permanent plans for the child's care and support without needless disruptive effect on the child.

Change of Circumstances

2214.3 Deceased Participant

Eligibility of an individual recipient terminates upon death. Notice of death, processed through the applicable payment system(s), shall automatically cancel continuing payments and/or benefits to or on behalf of the deceased individual. Vendor payments for services incurred by eligible individuals before death shall, however, be authorized and paid, when billed within fiscal time limits.

Surviving members of an assistance group or household may continue eligible for aid or benefits following death of a group member. Continuing eligibility and resulting payment adjustments shall be established through appropriate eligibility review action.

Overpayments

2225 Overpayments

Overpayments of assistance, whether resulting from administrative error, client error or payments made pending a fair hearing which is subsequently determined in favor of the Department, shall be subject to recoupment. Overpayment amounts from undisclosed earnings shall be determined in accordance with rule 2275.4. Recovery of an overpayment can be made through repayment by the recipient of the overpayment, or by reducing the amount of payment being received by the Reach Up group of which he is a member.

Except for a case involving fraud, no recoupment need be carried out for individuals no longer eligible for Reach Up if the amount of the overpayment is less than \$35.00. Any overpayments of \$35.00 or more should be recovered from individuals no longer eligible for Reach Up. However, if after an attempt has been made to recover the amount and continued attempts at recovery would cost as much or more than the amount of the overpayment, further attempt at collection may be waived, with approval of the commissioner or the commissioner's designee.

Overpayments of assistance that are subject to recoupment from a participant's program benefit shall be recouped from the program in which the overpayment occurred. When participants who have been overpaid in one program transfer to—or subsequently apply for and are found eligible in—another program, the overpayment and recoupment shall not transfer to that other program. Any outstanding overpayment amounts may be recovered in other ways authorized under these rules and shall be recouped if the participant returns to the program in which the overpayment occurred.

No recoupment shall be attempted for months of overpayment occurring more than 12 months prior to the date of discovery unless the overpayment was caused by the recipient's willful withholding of information which affected the amount of payment. When a recipient's willful withholding of information caused the overpayment, recoupment of overpayments that took place within a three-year period prior to the date of discovery can be attempted. When an overpayment not caused by the recipient's willful withholding of information began more than 12 months prior to discovery, the department shall recoup only those overpayment amounts occurring during the 12 months prior to discovery.

Recoupment shall be made each month from any gross income (without application of disregards), liquid resources and Reach Up payments so long as the assistance unit retains from its combined income 90 percent of the amount payable to an assistance unit of the same composition with no income. For assistance units with no other income, the amount of the recoupment will equal 10 percent of the grant amount.

If, however, the overpayment results from Department error or oversight, the assistance unit must retain from its combined income 95 percent of the amount payable to an assistance unit of the same composition with no income. For assistance units with no other income, the amount of the recoupment will equal 5 percent of the grant amount.

Overpayments

If the individual responsible for the overpayment is no longer eligible or moves to another assistance group, recovery shall be either from that individual, the original assistance group, the new assistance group or both, at the Department's option as determined by the commissioner or the commissioner's designee.

If through the Department's administrative oversight certain requirements in the Child Support Program are not met, such as support payments not deducted from the first Reach Up benefit, the Department may recoup from the individual or assistance group. If a fraud referral is made, recoupment must be delayed pending the outcome of the fraud investigation.

Support Obligations and Payments

2235 Support Obligations and Payments

Physical absence of a parent from the home, for any reason, does not relieve the parent of legal responsibility for support of dependent children. Any payment of Reach Up financial assistance made to or for the benefit of a dependent child creates a debt due and owing to the Department for Children and Families (DCF) by any noncustodial parent. The amount of said debt shall equal the amount of Reach Up paid, unless the Family Court rules otherwise, or unless the Office of Child Support (OCS), on behalf of the commissioner, enters into a voluntary agreement with the responsible parent to limit the debt, or unless the noncustodial parent presents a court order that limits said debt.

Participating parents who receive assistance through a Solely State Funded Program (2180-2183.1) shall assign all child support rights to the DCF. The participating parent shall apply for services from the OCS, if not already receiving such services, and cooperate fully with the OCS in their efforts to collect the assigned support. The department shall deny or terminate assistance to participating parents, caretaker relatives and guardians who fail or refuse to apply for services from OCS.

2235.1 Assignment of Support Rights

Assignment of support rights is the legal procedure by which a person receiving public assistance agrees to turn over to the state any right to child support, including arrearages, paid by the noncustodial parent in exchange for receipt of a financial assistance grant and other benefits. The state will use a portion of such child support to defray or recoup its expenditures for Reach Up financial assistance.

Assignment of support rights is a condition of eligibility for Reach Up financial assistance. This requirement applies to parents and other caretakers and may not be waived. Assignment of support rights to the department means all rights to support from any other persons applicants for financial assistance may have, including rights to support in their own behalf or on behalf of any members of the Reach Up assistance group.

The biological parent will sign the assignment of support rights when one of the parents is a stepparent, regardless of which parent is the applicant.

Support Obligations and Payments

2235.2 Cooperation with Child Support

A parent or other caretaker of a child included in the Reach Up assistance group shall be required to cooperate in all practical and feasible means of establishing parentage and pursuing support from any noncustodial parent, unless good cause for refusal to cooperate is claimed and the decision is pending or granted.

Failure to cooperate, as determined by OCS, shall result in a 25 percent reduction in the amount of the family's Reach Up grant.

Areas in which the applicant's active cooperation is required include, but are not limited to:

- A. Identifying and locating the parent of a child included in the assistance group.
- B. Establishing the parentage of a child born out-of-wedlock included in the assistance group.
- C. Obtaining support payments for the applicant or participant and for a child included in the assistance group.
- D. Obtaining any other payments or property due the applicant or participant or the child.
- E. Appearing at times and places as requested to provide information or give witness at a judicial hearing.
- F. Paying to the child support collection agency any child support payments received after an assignment of support has been made.

The department shall notify OCS of all noncustodial, legally liable relatives of children included in the Reach Up assistance group within two working days of the time assistance is granted, unless a request for a waiver from the requirement to cooperate is pending. The department must notify the applicant or participant of the right to request a waiver based on good cause (rule 2235.3) as an exception to the cooperation requirement.

Information provided to OCS is subject to verification with the applicant or participant.

2235.3 Good Cause for Refusal

The department shall excuse a Reach Up financial assistance applicant or participant from cooperating with the establishment of parentage and pursuit of support when there is, in the department's judgment, good cause for noncooperation. Good cause exists when the department determines that cooperation is not in the best interest of the child for whom assistance is requested and is reasonably anticipated to result in any one of the following:

- A. Serious physical or emotional harm to the child for whom support is being sought.

Support Obligations and Payments

- B. Physical or emotional harm to the participant parent or caretaker so serious that it reduces the ability to care for the child adequately.
- C. At least one of the following circumstances exists, and the commissioner or the commissioner's designee agrees that, because of the existence of that circumstance in the particular case, requiring a parent or other caretaker to cooperate in proceedings to establish parentage or pursue support would be detrimental to the child for whom support would be sought:
 - 1. The child for whom support is sought was conceived as a result of incest or forcible rape;
 - 2. Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction, or
 - 3. The applicant or participant is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep or relinquish the child for adoption, and the discussions have not gone on for more than three months.

2235.4 Request for Waiver

A parent or other caretaker requesting a waiver of the cooperation requirement must provide evidence of a good cause circumstance or sufficient information to permit the department to determine the circumstances. A grant to a potentially eligible assistance group shall not be denied, reduced, or delayed pending a good cause decision.

When good cause is claimed, the penalty for noncooperation (rule 2235.2) will not be imposed as long as the individual is fully cooperating in obtaining evidence necessary to support waiver of the cooperation requirement. Upon request, the eligibility worker will provide reasonable assistance in obtaining evidence to support the claim.

At its discretion, the department may verify the evidence received or seek additional evidence necessary to evaluate a good cause claim. In processing requests for waiver of the cooperation requirement, the department will:

- A. not contact the noncustodial parent from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim; and
- B. notify the parent or other caretaker of the child, prior to making such necessary contact, to enable the individual to:
 - 1. present additional evidence or information so that contact with the noncustodial parent becomes unnecessary;
 - 2. agree to the contact;

Support Obligations and Payments

3. withdraw the family's request for assistance; or
4. refuse to allow the contact after being advised that this refusal will result in denial of the good cause claim.

Acceptable evidence upon which the department will base a determination of good cause includes, but is not limited to, documents such as law enforcement records; court documents; criminal records; birth certificates; medical records; social service, child protective services; or psychological records; records of adoption proceedings; and sworn statements from individuals, other than applicant or participant, with knowledge of the circumstances. Statements must be sworn to before a person authorized to take sworn statements, such as a notary public, justice of the peace, or county clerk.

If additional evidence is needed, the applicant or participant must be promptly notified of the type of documentation required.

Whenever the waiver request is based in whole or in part upon the anticipation of emotional harm to the child, the participant parent, or the caretaker, the present emotional state and health history of the individual subject to emotional harm must be considered as well as the extent of involvement of the child in the establishment of parentage or support enforcement activity to be undertaken. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

When a claim is based on the applicant's or participant's anticipation of serious physical harm, no evidence is submitted in support of the claim, and the eligibility worker believes the claim to be credible, the claim will be investigated by the eligibility worker, with assistance from the child support worker if appropriate, to determine whether the applicant or participant has good cause for refusal to cooperate. The request and any available documentation should be submitted to the commissioner or the commissioner's designee.

On the basis of the evidence, the commissioner or the commissioner's designee will determine whether cooperation would be against the best interest of the child for whom support would be sought. This determination will be made within a time frame that does not exceed 30 days from the day good cause claim is made, except when the required verification cannot be obtained within that time frame. The department will not deny, reduce, or delay assistance pending good cause determinations if the requester is cooperating in the collection of evidence.

OCS is prohibited from attempting to establish parentage or collect support in cases where the caretaker claims good cause for refusal to cooperate until a decision has been made regarding the waiver request. OCS may, however, attempt to establish parentage and collect support without the cooperation of the parent or other caretaker following a decision by the commissioner or the commissioner's designee that this can be done without risk to the child.

Support Obligations and Payments

2235.5 Review of Good Cause Waivers

A review of the continued existence of good cause circumstances upon which the waiver was granted is required no less frequently than at each redetermination of eligibility for those cases in which determination of good cause is based on a circumstance that may change. A formal decision based upon resubmission of evidence shall not be required, however, unless the eligibility worker determines that significant change of circumstances relative to good cause has occurred.

Formation of the Assistance Group

2240 Formation of the Assistance Group

An "assistance group" is defined as one or more individuals whose requirements, income, and resources are considered as a unit to determine need for financial assistance.

A Reach Up assistance group must include one or more eligible dependent children. In addition, the assistance group must include all siblings, including half-siblings, living with the dependent child or children and qualifying under the age criteria, as defined in policy. A parent must be included in the assistance group if the parent lives in the home with a child included in the assistance group. A parent whose residence in the home is interrupted by active duty in the uniformed services of the United States or by education, training, or employment away from home must be included in the assistance group.

There are three exceptions to the requirement that a Reach Up assistance group include at least one eligible child. They are:

- A. A family in which the only dependent child (or children) is a disabled child recipient of SSI/AABD benefits.
- B. A family that consists of a pregnant woman (with or without the father or stepfather of her unborn child) having no children in her household when either the woman self-declares on her Reach Up application or it has been medically verified that the pregnant woman's expected delivery date falls within the next 30 days and it has been determined that the child, if born, would be eligible for Reach Up.
- C. A family that consists of a pregnant woman (with or without the father or stepfather of her unborn child) having no children in her household when high risk pregnancy has been medically verified, or by self-declaration on her Reach Up application if the applicant is a pregnant minor, and the pregnant woman's expected delivery date falls within the three-month period following the month of application but not within the next 30 days and the following two criteria (a and b) have been met:
 1. The child, if born, would be eligible for Reach Up.
 2. The pregnant woman meets at least one of the following conditions:
 - The pregnant woman is a minor. In addition, when a woman has been eligible for and receiving Reach Up financial assistance as a pregnant minor, and her 18th birthday falls before the 30th day immediately preceding her expected delivery date, her eligibility for Reach Up on the basis of being a pregnant minor continues through the end of the pregnancy.
 - The pregnant woman is not a minor and requests consideration for early Reach Up eligibility on the basis of her belief that she is unable to work due to a high-risk pregnancy and is found eligible on this basis.

Formation of the Assistance Group

A pregnant woman who has been determined disabled by the state's disability determination agent for Medicaid in accordance with applicable requirements of the Social Security Act shall be presumed to be unable to work due to a high-risk pregnancy.

The ability to work of all other pregnant women having no children in their household who seek Reach Up benefits before the 30th day immediately preceding the pregnant woman's expected delivery date (and who are not eligible as minors and not members of the grandparented group identified in the following bullet) shall be determined on the basis of a case-by-case assessment of the medical conditions present, to what degree those conditions are controlled or modified by treatment, and other relevant medical factors.

This determination shall be made by the commissioner or his or her designee on the basis of medical evidence provided by the woman's obstetrician, nurse-midwife, or other qualified medical professional (as determined by the commissioner or his or her designee) and obtained by the pregnant woman, and additional medical data when deemed necessary by the commissioner or his or her designee, which he or she shall obtain from the treating obstetrician, nurse-midwife, or other qualified medical professional, or on a consultative basis.

Medical professionals who perform examinations required to enable the department to determine a pregnant woman's ability to work due to a high-risk pregnancy will be provided reasonable reimbursement from administration funds.

The determination of a pregnant woman's ability to work shall be based on whether she can perform any substantial gainful activity which exists in the local or adjacent labor markets and shall not be limited to a determination of whether she is able to perform work in which she is currently or has been previously engaged. Non-medical factors, including but not limited to previous employment history, current employment status and availability of alternative sources of income support, and health-related factors, such as a pattern of substance abuse on the part of the pregnant woman, or other high-risk behaviors on her part, shall not be the basis of a determination that a pregnant woman is unable to work due to a high-risk pregnancy.

In the case of a pregnant woman seeking Reach Up benefits on this basis, the department shall determine eligibility no later than 10 calendar days following receipt of all information necessary to make the eligibility decision.

- The pregnant woman is eligible for and receiving Reach Up benefits on the basis of pregnancy on June 30, 1996, and continues to be eligible on that basis.

Formation of the Assistance Group

The assistance group may also include the following individuals when they are living in the same household:

- A. A needy caretaker.
- B. A needy essential person.

The assistance group shall not include an individual receiving benefits under the SSI/AABD program. Income and resources of a SSI/AABD recipient shall be excluded from consideration in determining income and resources for the Reach Up financial assistance group. For purposes of this rule, the terms “SSI/AABD recipient” and “individuals receiving benefits under the SSI/AABD program” include disabled individuals who received SSI/AABD, became gainfully employed, and were subsequently granted 1619(b) status by the Social Security Administration. They shall continue to be considered SSI/AABD recipients during any months in which their 1619(b) status remains in effect, whether or not they receive an SSI/AABD payment during those months.

An individual participating in the Job Corps program who normally returns home on weekends is entitled to be a member of the Reach Up financial assistance group.

The assistance group shall not include a sibling or a parent subject to the five-year bar for qualified aliens. The income and resources of such a sibling shall not be considered in determining the eligibility and payment of otherwise eligible dependent children. The income of such a parent is considered available to otherwise eligible children after applying the following disregards.

- A. The standard employment expense deduction (rule 2275) for each employed parent or the amount of earned income of the employed parent, whichever is less. In no case can the amount of the standard employment expense deduction for an employed parent exceed the amount of his or her gross earned income after deduction of any allowable self-employment business expenses.
- B. All payments by such parents of alimony or child support for individuals not living in the household.
- C. An amount equal to the need standard which is the sum of:
 - the basic needs standard for a family size corresponding to the number of individuals, including the parents, who are or could be claimed as dependents for income tax purposes by the parents and
 - the actual shelter expense up to the maximum applicable to the family’s county of residence.
- D. Amounts paid by the parents to individuals not living in the house but who are or could be claimed by the parents as dependents for income tax purposes.

Caretaker

2241 Caretaker

A caretaker is defined as an individual other than a natural, step, or adoptive parent whose relationship to one or more eligible children qualifies the caretaker for inclusion in the Reach Up assistance group. If a parent living in the home is incapable of exercising parental obligations, both the parent and a caretaker living with the children and responsible for the children's care and supervision may be included in the assistance group. There can be only one person designated as the caretaker for the assistance group at any given time.

The needs of caretakers eligible for either SSI/AABD or Reach Up shall be met only through such financial assistance in their own right.

The department shall take the following steps to determine eligibility for one or more children living with a caretaker other than a parent and for the caretaker.

A. Eligibility of the Child's Assistance Group Without the Caretaker

First, the department shall determine the eligibility of the children's assistance group without the caretaker. The assistance group is formed according to rule 2240 and must meet all requirements for Reach Up eligibility. A housing allowance may be included in the assistance group's needs, up to the housing allowance maximum, if the caretaker charges for housing.

If the children's assistance group is not eligible for Reach Up, the caretaker is not eligible either.

B. Eligibility of the Caretaker

If the children's assistance group is eligible, the department shall find out whether the caretaker responsible for the child seeks Reach Up financial assistance. If so, the department shall determine whether the caretaker is needy. A caretaker is needy if the caretaker meets the financial eligibility criteria for Reach Up eligibility.

To determine whether the caretaker meets these criteria, the department considers the income and resources of the caretaker and the following persons, if any, living with the caretaker and one or more eligible children: the caretaker's spouse, minor children, and other tax dependents. The caretaker's group does not include the children eligible for Reach Up.

For the caretaker to be considered needy, the combined countable resources of the caretaker's group, as defined above, must not exceed the Reach Up resources maximum. Countable resources are determined according to Reach Up rules.

The combined countable income of the caretaker's group is determined according to the rules for initial Reach Up eligibility, as if the caretaker's group were the assistance group. Payments made by a member of the group to a person outside the home who is or could be claimed as a tax dependent may be deducted from that member's earned income.

Caretaker

For the caretaker to be considered needy, the combined countable income of the caretakers group must not exceed the ratably reduced needs of the caretakers group, determined according to Reach Up rules. The housing allowance included in this determination, combined with the housing allowance included in the eligibility determination for the children's assistance group with the caretaker, must not exceed the caretakers total housing costs.

If the income and resources of the caretakers group meet the financial criteria described in this subsection, the caretaker is needy. If they do not, the caretaker is not needy and is not included in the children's assistance group.

C. Inclusion of the Needy Caretaker in the Children's Assistance Group

Once the department has determined the caretaker needy, the caretaker's needs may be included in the children's assistance group, along with the caretakers income. When the caretaker is included in the child's assistance group, only the caretaker's shelter expenses, up to the maximum housing allowance, are included in the groups needs.

If the caretaker's income exceeds the difference between the ratably reduced needs for the children's assistance group without the caretaker and the ratably reduced needs for the same group with the caretaker, the caretaker should not be included in the assistance group. This insures that the caretaker's income is not used to support a child for whom the caretaker has no support obligation.

Resources of a caretaker who does not have the legal responsibility of a parent to support the child are not considered available to the child. The caretaker's income is also not considered as available to the child unless the caretaker has indicated a commitment to make ongoing monetary contributions toward the support of the child. In such cases only the income actually contributed to the child, considered unearned income to the child, would be counted.

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Excluded Income

2276 Excluded Income

- A. Home produce used by the household for its own consumption.
- B. Any income received by a recipient of SSI/AABD living in the Reach Up household (rule 2240).
- C. All income to an undergraduate student (may include parent as well as child in Reach Up Grant) from student grants, loans, or work/study if:
 - 1. such loans or grants are made under a program administered or insured by the U. S. Commissioner of Education; or
 - 2. the sponsor of the grant or loan precludes its use for maintenance purposes; or
 - 3. the work/study program is administered by a college or university recognized by educational authorities in which the undergraduate student is enrolled half time or more than half time, as defined in relation to the definition of full time used by the school.

Examples of excludable income sources: Basic Educational Opportunity Grants, Vermont Student Assistance Corporation grants or loans, Senatorial Scholarships, Supplemental Educational Opportunity Grants (SEOG), and College Work-Study Programs (CWSP).

That portion of any Veterans Administration Educational Assistance Program payment that is for the student and is actually used for tuition, books, fees, child care services necessary for enrollment, etc., is also excluded.

- D. Student financial assistance provided under Title IV of the Higher Education Act or Bureau of Indian Affairs Student Assistance programs.

Examples of programs in Title IV of the Higher Education Act include:

- 1. Pell Grants;
- 2. Supplemental Educational Opportunity Grants (SEOG);
- 3. State Student Incentive Grants (SSIG);
- 4. College Work Study (CWSP);
- 5. Perkins Loans (formerly National Direct Student Loans). These are different from loans under the Carl D. Perkins Vocational and Applied Technology Education Act, which are not totally disregarded see 5 below;
- 6. Guaranteed Student Loans (GSLP), including PLUS loans and Supplemental Loans for Students.

Excluded Income

- E. Student financial assistance provided under the Carl D. Perkins Vocational and Applied Technology Education Act is disregarded as income or resources when the assistance is made available to meet attendance costs. Attendance costs include:
1. tuition and fees normally assessed a student carrying the same academic workload as the applicant/recipient, as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study as the applicant/recipient; and
 2. an allowance for books, supplies, transportation, dependent care and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.
- F. Reimbursements for expenses (child or dependent care, transportation, purchase or maintenance of clothing, meals, etc.) attributable to participation in unpaid voluntary activities, including the value of meals provided during the course of these activities, shall not be considered either earned or unearned income for the purpose of determining eligibility for or the amount of benefits to be received from the Reach Up program.
- G. Aid from other sources to meet needs not covered by the assistance grant, for example:
1. Aid granted for a specific purpose, such as vocational rehabilitation, including incentive allowances being paid by the Division of Vocational Rehabilitation to an active Reach Up recipient.
 2. Aid for items and/or services not included in the standard assistance plan or medical assistance, such as special training for a child through a private agency, eyeglasses, dental care, etc.
 3. General Assistance benefits.
- H. Payments made pursuant to a court order for support or alimony, or an Administrative Order for support issued by the Human Services Board, or a contract between the Office of Child Support and noncustodial parent requiring the payment of support. This income exclusion is limited to payments actually made by a member of the assistance group toward the support of a person(s) outside the assistance group. The payment amount is deducted first from the assistance group's countable earned income with any balance deducted from unearned income.
- I. Federally subsidized adoption assistance for special needs children, when verified by the Family Services Division (FSD) or a comparable agency in another state.
- J. Payments for dependent care for a child who is not a member of the Reach Up assistance group but for whom a Reach Up parent, stepparent or caretaker is legally liable. The child and the child care must meet the requirements in rule 2316.

Excluded Income

The provider of care must be at least 18 years of age, or at least 16 years of age if the provider has a high school diploma or GED or attends secondary school full time, and must meet the conditions specified under rule 2316 for providers of child care.

The actual amount paid or the FSD maximum payment rate for child care, whichever is less, shall be deducted from the parents or caretakers countable gross earned income.

- K. In determining the countable income of a nonparental caretaker (rule 2221), payments for dependent care for an incapacitated spouse or other household member who is or could be claimed by the caretaker as a tax dependent.

The dependent care must be necessary for the employment of the nonparental caretaker. Payments for dependent care provided by a member of the assistance group, other legally liable relative or legal guardian do not qualify as necessary dependent care expenses under this policy.

The provider of care must be 16 years of age or older and submit a completed and signed form 218 P. The child must meet the age requirements in rule 2316.1.

The actual amount paid, up to a maximum of \$175 per month, shall be deducted from the household's gross earned income.

- L. The value of 3SquaresVT benefits under the Food Stamp Act of 1977.
- M. The value of the U. S. Department of Agriculture donated foods (surplus commodities).
- N. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- O. Earned income of an eligible child if the child is a full- or part-time student. A student is a person who is enrolled in a school, college, university, or a course of vocational or technical training designed to fit him or her for gainful employment. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break.
- P. Court ordered cash contributions for medical support paid by a noncustodial parent.
- Q. Payments for support services and/or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives and Active Corps of Executives and any other program under Titles II and III pursuant to Section 418 of P. L. 93-133.
- R. Payments to individual volunteers under Title I of P. L. 93-133 Section 404(g), University Year For Action Payments under P. L. 93-113, and PL 96-143, Section 9 (VISTA) payments, unless determined by the Director of ACTION to be equivalent to or greater than the federal or state minimum wage.

Excluded Income

- S. The tax-exempt portions of payments made pursuant to P. L. 92-203 (Alaska Native Claims Settlement Act of 1973).
- T. Payments distributed per capita to or held in trust for members of any Indian Tribe under P. L. 92-254, P. L. 93-134, or P. L. 94-540.
- U. Payments received for the care of foster children in the custody of and placed by the Family Services Division.

The room-and-board portion of income received by developmental home providers furnishing qualified foster care to individuals placed by the Department of Developmental and Mental Health Services (DDMHS) or by a developmental or mental health services agency under contract with DDMHS. (See 2253.2).

- V. Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under the U. S. Housing Act of 1937, as amended.
- W. Reach Up support services, either as reimbursements or advance payments to the individual for child care, transportation, work-related expenses, work-related supportive services, education, or training-related supportive services.

Payments or reimbursements for child care expenses provided under Child Care Assistance for non-participants in Reach Up are also excluded as income in determining eligibility for or the benefit amount in Reach Up .

- X. Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older American Act of 1965, as amended.
- Y. The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the Special Food Service Program for children under the National School Lunch Act, as amended (P. L. 92- 433 and P. L. 93- 150).
- Z. Receipts distributed to members of certain Indian tribes referred to in Section 5 of P. L. 94-114 effective October 17, 1975.
- AA. Any income received from an emergency fuel supplement or energy allowance to assist with the cost of heating.
- AB. The first \$50 in child support payments made by an absent parent on behalf of an assistance group member within each calendar month. When more than one absent parent makes child support payments on behalf of a single Reach Up assistance group in the same calendar month, the maximum amount of child support to be disregarded in determining the assistance group's eligibility is \$50.

Excluded Income

- AC. Payments to persons of Japanese or Aleut ancestry as restitution for injustices suffered during the Second World War.
- AD. Vermont and Federal Earned Income Tax Credits (EITC), whether received with each paycheck or as a refund (lump sum), shall not be counted as income.
- AE. Payments made from the Agent Orange Settlement Fund or any other fund established because of the Agent Orange product liability litigation are excluded as income in determining eligibility for or the benefit amount in Reach Up financial assistance. This provision is retroactive to January 1, 1989 according to P. L. 101-201 enacted December 6, 1989 and P. L. 101-239 enacted December 19, 1989.
- AF. Payments made pursuant to the Radiation Exposure Compensation Act (Public Law 101-426).
- AG. Payments made under Indian Trust Funds Acts (Public Laws 97-458 and 98-64) and initial purchases made with such funds by the original recipient of the funds.
- AH. Interest held in a trust or in restricted lands pursuant to section 8 of Public Law 93-134 and up to \$2,000 annual income received from the lease or other uses of the individually-owned trust or restricted lands.
- AI. Distributions made under Public Law 100-241 which amended the Alaska Native Claims Settlement Act as follows:
1. cash, including cash dividends on stock received from a Native Corporation, to the extent that it does not, in the aggregate, exceed \$2000 per individual per calendar year; or
 2. stock including stock issued or distributed by a Native Corporation as a dividend or distribution on stock; or
 3. a partnership interest; or
 4. land or an interest in land, including land or an interest in land received from a Native Corporation as a dividend or distribution on stock; or
 5. an interest in a settlement trust.
- AJ. Payments made pursuant to the Maine Indian Claims Settlement Act of 1980 to a member of the Passamaquoddy Indian Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians.
- AK. Payments made to a member of the Aroostook Band of Micmacs pursuant to the Aroostook Band of Micmacs Settlement Act.

Excluded Income

- AL. Financial assistance paid through the Disaster Relief Act of 1974 as amended by Public Law 100-707 in 1988 and provided as major disaster and emergency assistance is excluded both as income and a resource in determining eligibility or benefit levels. This disaster coverage is intended to provide relief to people living or working in an area severely struck by natural or man-made disaster. The disaster must have been so severe as to cause the President to designate a Federal Disaster Zone. Additional relief provided under these circumstances by States, local governments and disaster assistance organizations is also excluded.
- AM. German reparations to concentration camp survivors, slave laborers, partisans, and other victims of the Holocaust. Settlement payments to victims of Nazi persecution or their legal heirs resulting from the confiscation of assets during World War II.

Participation Phases

2322 Participation Phases

Adults move toward work and independence from financial assistance by progressing through the phases of the services component. There are four phases of the component: the application phase, the pre-work-ready phase, the work-ready phase, and the employment phase.

Participation in each of the second and third phases is limited to 12 cumulative months for each adult during a lifetime (rule 2322.5). Not all adults will spend 12 months in each of these phases, however; many will spend only a short time in them, and some will skip the work-ready phase. The time it takes to progress through the pre-work-ready phase and the work-ready phase will vary depending on the participants needs, abilities, and employment goal. Any full calendar month for which an adult receives Reach Up financial assistance is counted toward the 12-month limit for the phase to which the adult is assigned as of the first day of the month, even if the work requirement is deferred or modified.

2322.1 Application Phase

Applicants begin their participation in the Reach Up Program's services component when they submit their application for Reach Up financial assistance. At that time, all adults in the applicant household must attend orientation and must complete an initial FDP agreeing to meet with the case manager at a scheduled time directly after being found eligible for Reach Up financial assistance (rules 2201, 2330). During this phase some applicants will be required to report to the Department of Labor (DOL) or other organizations and to cooperate with job search and activities related to job search. As soon as applicants begin participating in the financial assistance component, they must proceed to the pre-work-ready phase of the program.

2322.2 Pre-Work-Ready Phase

During the pre-work-ready phase, adult participants receiving Reach Up financial assistance must meet with their case manager to begin the assessment process, set an employment goal, and develop their FDP. No later than 30 days following the participants first meeting with the case manager, these planning activities must be completed to a degree that allows appropriate assignment to a participation phase according to the criteria in rule 2322.5. In the case of participants previously assigned to a later phase, these planning activities will start with a review of the participants previous assessment, employment goal, and FDP.

The following participants will be expected to begin meeting their work requirement as soon as they have their first meeting with the case manager:

- principal-earner parents;
- parents choosing to share the work requirement; and
- participants previously assigned to the work-ready phase or the employment phase during a prior period of receipt of financial assistance.

Participation Phases

All other participants shall be expected to participate in countable work activities consistent with the employment goal to the extent they are capable prior to assignment to a participation phase.

Following assignment to the pre-work-ready phase, participants shall engage in FDP-approved activities designed to increase the number of hours they can participate in countable work activities. During this phase, they shall engage in countable work activities to the extent they can. As appropriate, case managers shall refer pre-work-ready participants to vocational rehabilitation or other service providers to address their limitations and barriers.

The participant who has increased participation in countable work activities during the pre-work-ready phase to the extent that the work requirement is met shall move to the work-ready phase immediately. Unless granted an extension (rule 2341.4), any adult participant who has not advanced to the work-ready phase after having received 12 cumulative calendar months of financial assistance (rule 2322.5) shall be work-ready on the first day of the 13th cumulative month they receive assistance. At that time the participant must move to the work-ready phase.

2322.3 Work-Ready Phase

Adult participants in the work-ready phase must meet their full work requirement in countable work activities unless they have been granted a modification of or deferment from the work requirement. During this phase, all participants engage in the activities that provide the most expeditious route to attainment of their employment goal. Under no circumstances may participants spend more than 12 full cumulative calendar months in this phase (rule 2322.5).

After completing the activities leading to the employment goal or reaching the 12-month limit for the work-ready phase, participants move to the employment phase, in which they must seek and obtain unsubsidized employment (rule 2343).

2322.4 Employment Phase

Participants shall meet the work requirement through employment when they have completed all required FDP activities leading to their employment goal or received 24 months of financial assistance, whichever comes first. Participants in the employment phase must seek unsubsidized employment that meets their work requirement.

Participants in the employment phase must accept any unsubsidized job offered unless they qualify for one of the limited exceptions in rule 2343.4.

After the required period of intensive job search (rule 2350.2), the case manager shall place those unable to obtain unsubsidized employment in subsidized work, a community service placement, or any other activity that will enhance the participant's employability and that, in combination with any unsubsidized work, meets the work requirement. All participants not meeting their work requirement solely with unsubsidized employment shall be expected to continue to seek unsubsidized employment while in other activities.

Participation Phases

2322.5 Assignment to a Phase

After the family has been approved for participation in the Reach Up financial assistance component, the adults move to the pre-work-ready phase for assessment and development of an employment goal. Next, the case manager must assign the adult to the appropriate participation phase in according to the following criteria:

- Participants capable of pursuing their employment goal without engaging in countable work activities other than job search and unsubsidized employment shall move to the employment phase and seek unsubsidized employment that meets their work requirement immediately.
- Participants for whom all three of the following conditions are true shall set an employment goal they can attain with their existing qualifications, move to the employment phase, and seek unsubsidized employment that meets their work requirement immediately:
 1. They have no barriers.
 2. They have a certification, license, or particularized work experience or skills that would qualify them for a position paying gross wages equal to or in excess of 150 percent of the federal poverty level for their family size.
 3. The position in (2.) exists in the current job market within an hour's commute of home.
- Participants who can meet their work requirement with countable work activities but whose FDP requires them to engage in activities designed to prepare them for attainment of their employment goal shall proceed to the work-ready phase. During this phase, they will meet their work requirement by engaging in countable work activities included in their FDP.
- Participants who have limitations or barriers that bar them from meeting their work requirement with approved work activities shall remain in the pre-work-ready phase to engage in approved activities that help them move toward being work-ready. Principal-earner parents and parents sharing the work requirement, however, shall not be assigned to the pre-work-ready phase.
- Notwithstanding the assignment conditions specified above, participants previously assigned to the work-ready or employment phase shall return to their last assigned phase and cannot be assigned to a prior phase. Any limitations or barriers that now bar such participants from meeting their work requirement with approved work activities may be considered possible grounds for deferment or modification of the work requirement.

Participation Phases

2322.6 Months of Financial Assistance

The department shall calculate the number of months a participant has spent in the pre-work-ready phase or the work-ready phase according to the following rules.

- A. The count of cumulative months of Reach Up financial assistance receipt begins no earlier than the first full month the participant receives Reach Up financial assistance.
- B. Only full months of receipt of Reach Up financial assistance are counted.
- C. Months of assistance received prior to July 1, 2001, are not counted unless the participant received Aid to Needy Families (ANFC) during the Welfare Restructuring Demonstration Project (WRP) period (July 1, 1994, through June 30, 2001) and has a work-ready date established in accordance with department rules stated in rule 2341.5.

Family Development Plans

2330 Family Development Plans

Every participating family must have a family development plan (FDP). The FDP charts and documents each family's participation in the Reach Up services component (rule 2320). The FDP sets forth each adult participant's employment goal (rule 2331), the plan and schedule of activities the participant must engage in to attain the goal, and the specific FDP requirements the participant must fulfill to avoid sanctions.

Development of the FDP begins when a family applies for Reach Up financial assistance (rule 2201B). A second parent who joins a participating family and requests assistance shall develop an initial FDP while a decision on eligibility is pending, as a condition of his or her eligibility and continuing eligibility for the rest of the assistance group. At application or when a second parent joins the household, the adult members must meet the requirements of rule 2322.1.

Within 30 days of the first meeting between the participant and the case manager, the family's FDP shall include the following:

- employment goal of each adult participant;
- an assessment (rule 2302.3) of each adult participant's strengths and whether the participant has any limitations or barriers to employment, including a literacy evaluation followed by referral to an appropriate resource or program, if needed;
- an evaluation of the participant's current ability to participate in work activities;
- an identification of the services, supports, and accommodations needed to overcome any limitations or barriers and move the family toward self-sufficiency and to enable each adult participant to fulfill personal and family responsibilities, consistent with the goals of the Reach Up program; and
- assignment of responsibilities among the case manager and family members with respect to the activities the participant must engage in that constitute the FDP (rule 2334) and work requirements (rule 2340), together with a time schedule for fulfillment of these responsibilities and requirements.
- definition of goals for successful completion of required activities or tasks relative to incentive payments (rule 2317).
- an agreement authorizing the department's recovery of Reach Up from SSI retroactive payments for each Reach Up family member who applies for SSI or is pending a decision on an SSI application. Any family whose Reach Up is funded with state funds will reimburse the department according to the specifications in rule 2391.4.

FDP Reviews and Modifications

2333 FDP Reviews and Modifications

The case manager shall establish a schedule for review of the FDP that includes a personal contact with the participant at least once per month to review the FDP and, if necessary, to modify the plan. The personal contact with the participant may be made by the case manager or, when it is in the best interest of the participant, by the case manager's designee.

In addition to regularly scheduled reviews of the FDP, the case manager shall review and, if necessary, modify the plan in the following circumstances:

- Services required by the FDP are unavailable.
- The participant is nearing the end of the pre-work-ready phase. The case manager shall review the FDP at least 30 days before the end of the phase.
- A deferment or modification of the work requirement has been requested.
- A deferment or modification is scheduled to end within 60 days. The case manager shall review the FDP no fewer than 30 days before the deferment or modification expires.
- The participant has started an unsubsidized or subsidized job. The case manager shall review the FDP within 30 days of the date the participant started the job.
- The participant has lost unsubsidized or subsidized employment.
- The participant is nearing the date set for attaining the employment goal. The case manager shall review the FDP at least 30 days prior to that date.
- Changes to the FDP are needed to protect the well-being of the children.
- The participant is not making satisfactory progress in achieving the goals of the plan, or it becomes apparent that the participant cannot achieve them in the time allowed.
- A family member has failed to comply with an FDP requirement or a work requirement.
- A change of circumstances requires an eligibility review.
- A second parent joins or leaves a household.

When there are indications that a participant's failure to comply with program requirements or make satisfactory progress toward the goals of the plan may be due to a previously unidentified barrier, the case manager shall reassess the participant for barriers and make appropriate referrals, if there is an indicated need.

FDP Reviews and Modifications

Case managers' supervisors shall conduct routine reviews of FDPs to ensure quality of service. Case managers' supervisors shall also review the FDP whenever they have notice that there may be issues of noncompliance or quality of service. After the review, the supervisor shall modify the FDP, if necessary.

Adult Participants

2335 Adult Participants

The following requirements apply to every participating adult, including minor parents (rule 2336), unless an exception is noted.

- Each adult shall participate in the development of the FDP.
- Each adult who is not referred to the Department of Labor (DOL) at the time of the application for financial assistance shall report as directed by the case manager for assessment and evaluation activities.
- Each participating adult shall begin to comply with the FDP requirements as soon as the requirement is included in the FDP and available.
- Adults shall engage in their FDP activities for the number of hours per week that the activities are scheduled and available, unless good cause (rule 2363) exists for not doing so.
- When required by the case manager, the participant shall provide written verification from the service provider or project supervisor of attendance and participation in any FDP activity. The frequency of the verification will depend upon the intensity and duration of the activity. A case manager shall assist a participant having difficulty obtaining verification from the service provider at the participants request.
- Each adult shall continue to comply with the FDP requirements.
- Adult participants who apply for SSI for themselves or apply for SSI on behalf of a child in their care, or who are pending a decision on an SSI application, shall have an FDP requirement of completing an agreement authorizing the department's recovery of Reach Up funded with state funds from SSI retroactive payments, according to the specifications in rule 2391.4.

2335.1 Requirement to Report to VDOL

When an adult referred to the Department of Labor (DOL) at the time of filing an application for financial assistance fails to report and cooperate with the directives of the DOL worker without good cause, the department will deny financial assistance to the adult's family. Adults required to report to DOL include applicant parents who join a household in receipt of financial assistance. An adult who accepts employment after reporting as directed may receive Reach Up services, provided that the family is eligible for such services in accordance with department rules.

Adult Participants

The following adults shall report to DOL for job search within two working days of having filed an application for Reach Up financial assistance and shall accept any unsubsidized job offered:

- Adults who are not the primary caretakers of the children in two-parent families with two able-to-work parents, except for minor parents (rule 2336).
- Both adults who choose to share the work requirement (rule 2343.1) in two-parent families with two able-to-work parents. If the principal-earner parent fails to report without good cause, the department shall deny the family's Reach Up assistance application. If the primary caretaker parent fails to report to DET without good cause, the sharing option will no longer be available, and the principal-earner parent will have full responsibility for meeting the reporting and work requirements.
- Single parents, caretakers, and able-to-work parents in two-parent families with an able-to-work-part-time or unable-to-work parent, provided that such adults:
 - have no barriers to obtaining and maintaining a job;
 - have a recent and stable work history; and
 - received wages for their most recent job that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the family's size.

For purposes of this section, a recent and stable work history is demonstrated when the adults most recent job was within the past 12 months and the adult worked in that position for at least six months. The annualized wage is determined by multiplying the hourly wage by 2080, the number of hours in a full year of 40-hour work weeks, even if the adult did not work 40 hours per week.

2335.2 Primary Caretaker Parents

Primary caretaker parents not sharing a work requirement must meet with the case manager for assessment, to develop their FDP, and to establish an employment goal. As long as the principal-earner parent reports to DOL and fulfills the work requirement, the primary caretaker parent is not required to pursue an employment goal or fulfill the work requirement. The FDP of a primary caretaker parent shall, however, include requirements to participate in activities essential to the principal-earner parent's fulfillment of the work requirement.

Subject to program rules and limitations, the department will provide support services to primary caretaker parents who elect to engage in any of the following FDP activities:

- parenting classes or activities designed to address an identified parenting need;
- pursuit of a secondary education diploma or participation in a recognized equivalent program;
- substance abuse, mental health, or domestic abuse counseling; and
- pursuit of an employment goal within the program time limits (rule 2322).

Solely State-Funded Programs

2391 Solely State-Funded Programs

The department shall establish the solely state-funded and separate state programs of Reach Up described in 2391.1-2391.4 and assign families to them, as specified in 2392-2393. Eligible families not assigned to or choosing to participate in separate state or solely state-funded programs remain in TANF-funded Reach Up.

The department shall not assign families to solely state-funded programs if they are eligible to receive TANF-funded assistance and excluded from the calculation of the federal TANF participation rate.

The following families are excluded from the participation rate calculation:

- families with no eligible adults;
- families in which at least one adult is sanctioned for noncompliance with Reach Up requirements and has been sanctioned fewer than four of the past twelve months; and
- families not included in the calculation of the federal TANF participation rate because a parent is caring for a child younger than 12 months.

2391.1 Parental Nurturing Component

In establishing the parental nurturing component, the department seeks to foster parental nurturing of infants and young children in their own homes while preserving their family's eligibility for federal TANF assistance. Parents in families assigned to this component continue to move toward self-sufficiency through participation in Reach Up.

Families assigned to this component must include a parent ineligible for a federal exemption from the TANF participation rate calculation who chooses deferment from the Reach Up work requirement to care for a child younger than two (2365).

Assignment to this component is mandatory for qualifying families.

2391.2 Minor Parents' Safety Net Component

In establishing the minor parents' safety net component, the department seeks to provide a safety net for minor parents ineligible for federal TANF assistance due to noncompliance with the supervised living or participation requirements (2362.2). Minor parents in families assigned to this component continue to move toward self-sufficiency through participation in Reach Up.

Families assigned to this component must include a minor parent sanctioned for noncompliance with the supervised living or participation requirements.

Assignment to this component is mandatory for qualifying families.

Solely State-Funded Programs

2391.3 Special Needs Component

In establishing the special needs component, the department seeks to provide additional months of financial assistance funded by state not claimed as TANF-MOE for families progressing toward self-sufficiency at a slower pace due to their special needs. Parents in families assigned to this component continue to move toward self-sufficiency through participation in Reach Up.

Families assigned to this component:

- include at least one member who is ineligible for federal TANF assistance due to receipt of 60 or more months of such assistance as an adult and have not been selected for a hardship exemption (rule 2392) from the limit on receipt of federal TANF assistance; or
- are not meeting their federal TANF work requirement.

Assignment to this component is mandatory for families qualifying because they have not been selected for a hardship exemption. Assignment of families to this component because they are not meeting their federal TANF work requirement is limited by the number of families whose assignment is required to meet federal TANF participation rate targets plus 1 percent (rule 2393.1).

2391.4 SSI and SSDI Applicant Component

At the discretion of the commissioner, the department may operate a solely state-funded program for families with a work-eligible adult who has applied for SSI/AABD and meets the following criteria:

- A. the individual's pending SSI application has been reviewed and is supported by Vermont Vocational Rehabilitation;
- B. the SSI applicant chooses to participate in this program;
- C. the SSI applicant agrees to comply with all Reach Up program rules and understands that while he or she continues to be subject to sanction for failing to comply with family development plan requirements the participant will not be subject to sanction for non-compliance with the work requirement; and
- D. the SSI applicant signs a Recovery of Reach Up Assistance Agreement authorizing the Social Security Administration (SSA) to send the initial SSI/AABD payment to this department so the amount of Reach Up assistance received can be deducted.

Regardless of the amount of the initial SSI/AABD payment, the deduction shall be made for Reach Up assistance issued during the period from the first day of eligibility for SSI/AABD, or the day the Recovery of Reach Up assistance agreement is signed, if later to the date the initial SSI/AABD payment is received by the department. When the SSI/AABD grant does not include all members of the Reach Up

Solely State-Funded Programs

household, the deduction shall be for an incremental share of the Reach Up granted and funded with state funds, to reflect only those included in the SSI/AABD grant. An incremental share is the difference between the amount of the Reach Up payment actually made to the family and the Reach Up payment that would have been made had the individual not been included in the grant. The department shall send any remainder due to the SSI/AABD recipient within 10 days. An exception to this provision applies to individual whose SSI/AABD is based on drug addiction or alcoholism. After SSI/AABD is granted and SSA has reimbursed Vermont for Reach Up assistance received, SSA will pay the remainder of the initial SSI/AABD payment to the recipient's representative payee.