



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
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Estelle B. Richman
Secretary

AUG 05 2008

Telephone 717-787-2600/3600
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The Honorable Edwin B. Erickson
Senate of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Senator Erickson:

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

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

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

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

Sincerely,

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

Estelle B. Richman

Enclosure

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

CDL-1

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

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF INCOME MAINTENANCE

[55 Pa.Code Chapter 108]

Family Violence and TANF and GA

[55 Pa.Code Chapter 187]

Support From Relatives Not Living With the Client

Statutory Authority

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

Purpose of Regulation

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

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

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

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

Background

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

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

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

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

Requirements

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

§108.1. (relating to purpose).

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

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

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

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

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

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

§108. 9. (relating to time limits).

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

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

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

§108.10. (relating to verification).

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

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

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

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

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

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

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

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

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

Affected Individuals and Organizations

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

Accomplishments and Benefits

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

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

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

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

Fiscal Impact

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

Paperwork Requirements

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

Effective Date

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

Public Comment

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

Reference Regulation No. 14-513 when submitting comments.

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

Regulatory Review Act

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

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

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

ANNEX A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart A. ASSISTANCE POLICIES AND PROCEDURES

CHAPTER 108. FAMILY VIOLENCE AND TANF AND GA

GENERAL PROVISIONS

§108.1. Purpose.

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

§108.2. Definitions.

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

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

Domestic Violence – One or more of the following:

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

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

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

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

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

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

FVO – Family Violence Option – An option under Federal law that allows the state to identify individuals with a history of domestic violence , refer them for counseling and supportive services and, upon a showing of good cause, waive one or more program requirements for these individuals.

Federal parent locator database – a national computer location system operated by the Federal Office of Child Support Enforcement, to assist states in locating non-custodial parents, putative fathers, and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody and visitation.

PACSES – Pennsylvania Automated Child Support Enforcement System – Pennsylvania's single statewide automated data processing and information retrieval system for child support enforcement under Title IV-D of the Social Security Act.

Work requirements – Requirements set forth in Chapter 165 (relating to Road to Economic Self-Sufficiency through Employment and Training (RESET) program).

§108.3. Universal notification.

The Department will provide applicants and recipients with information about:

- (1) Policies and procedures relating to domestic violence.

(2) Referrals to domestic violence services.

(3) Good cause waivers of certain TANF and GA program requirements

including:

(i) Specific information about program requirements and what activities and contact with others, such as a noncustodial parent, is required if a waiver is not requested.

(ii) Safeguards that may help the individual safely comply with program requirements, including placement of an FVI as defined in § 108.2 (relating to definitions) on Department and DRS files and other confidentiality protections.

(iii) Opportunities to participate as a volunteer in work or work-related activities and to receive supportive services, if the individual receives a good cause waiver.

§108.4. Written notification.

The Department will provide applicants and recipients with written notification of the information described in §108.3 (relating to universal notification).

§108.5. Individual notification.

(a) The Department will provide applicants with written notification of the right to claim good cause based on domestic violence.

(b) The Department will provide recipients, who have not previously disclosed domestic violence, with written notification of the right to claim good cause based on domestic violence as follows:

(1) Prior to referral to the DRS.

(2) When the Department has reason to believe a family or household member has been subjected to or is at risk of further domestic violence.

(3) Prior to reducing benefits for noncooperation with child support requirements according to § 187.26 (relating to noncooperation).

(4) When compliance with work requirements as defined in § 108.2 (relating to definitions) is discussed according to § 165.51 (relating to compliance review) and prior to imposing a sanction for noncooperation with work requirements according to § 165.61 (relating to sanctions).

(5) Prior to denying, terminating, reducing or suspending benefits due to failure to comply with a TANF or GA program requirement.

(c) The Department will provide recipients, who have previously disclosed domestic violence, with written notification of the right to claim good cause based on domestic violence according to paragraphs (1)–(5) of subsection (b) if providing written notification does not place the recipient at risk of further domestic violence.

(d) The written notification must include an explanation of:

(1) The availability of referrals for assistance for victims of domestic violence.

(2) The availability of a good cause waiver of certain TANF or GA program requirements based on domestic violence.

(3) The confidentiality protections.

(e) The Department will provide oral notification to applicants and recipients of the right to claim good cause based on domestic violence as follows:

(1) Prior to a referral to the DRS.

(2) When the Department has reason to believe a family or household member has been subjected to or is at risk of further domestic violence.

(3) At a compliance review according to § 165.51 in which the recipient participates.

§108.6. Policy for applicants or recipients in immediate danger.

If an applicant or recipient is in immediate danger, the Department will:

(1) Provide a private space to allow the applicant or recipient to call a domestic violence hotline, if requested.

(2) Offer the applicant or recipient help in making arrangements for emergency shelter, medical care, transportation, child care and work.

§108.7. Requirements subject to waiver.

(a) The policies set forth in §§ 108.8-108.13 apply to good cause waivers of requirements for support cooperation, work, time limits, teen parents, verification and other TANF and GA program requirements, based on domestic violence.

(b) The Department may not waive the following TANF or GA program requirements except as provided in subsection (c):

- (1) Minor child under § 145.41 (relating to policy).
- (2) Specified Relative under § 151.41 (relating to policy).
- (3) Income under § 183.5 (relating to income verification).
- (4) Resources under § 177.1 (relating to general requirements).
- (5) Citizenship under § 149.23 (relating to requirements).
- (6) Deprivation under § 153.41 (relating to policy).
- (7) Enumeration under § 155.2 (relating to general).
- (8) Identity under § 125.1 (relating to policy).
- (9) Criminal status under 62 P.S. §§ 432(9) and 481.1 (relating to eligibility; and false statements; investigations; penalty).
- (10) Residency under § 147.23 (relating to requirements).
- (11) GA categorical eligibility requirement under § 141.61 (relating to policy).

(12) Signature on required forms, such as the application for benefits and authorization for release of information form under § 125.1.

(13) Permanent sanction under § 165.61 (relating to sanctions).

(14) Application for and cooperation in establishing eligibility for potential income under 62 P.S. § 432.21(a) (relating to requirement that certain federal benefits be primary source of assistance).

(c) The Department will determine whether to approve a request to waive one or more requirements in paragraphs (3)-(14) of subsection (b) on a case-by-case basis.

§108.8. Claiming good cause based on domestic violence.

(a) An individual may request a good cause waiver of a TANF or GA program requirement based on past, present or risk of further domestic violence, as defined in § 108.2 (relating to definitions).

(b) The Department will grant a good cause waiver of a TANF or GA program requirement if compliance with the program requirement would result in one of the following:

(1) Making it more difficult for the individual or family member to escape domestic violence.

(2) Placing the individual or family member at risk of further domestic violence.

(3) Unfairly penalizing the individual or family member because of domestic violence.

(c) The Department may grant a good cause waiver regardless of whether the alleged abuser is in the household.

§108. 9. Time Limits.

(a) An applicant or recipient may receive up to 12 months of TANF cash assistance that do not count towards the 60-month TANF time limit according to § 141.41(d) (relating to policy) based on past, present or risk of further domestic violence to the individual or family member. The months need not be sequential.

(b) Individuals may receive Extended TANF, as defined in § 141.52 (relating to definitions), if the individual or family member is or has been a victim of domestic

violence or is at risk of further domestic violence according to § 141.53 (relating to eligibility based on domestic violence).

(c) Individuals may be eligible for cash assistance under this section regardless of whether the alleged abuser is in the household.

§108.10. Verification.

(a) An individual who requests a good cause waiver of a TANF or GA program requirement based on domestic violence shall complete the verification form provided by the Department.

(b) The Department will provide the individual with the verification form and instruct the individual to provide verification that may include one of the following:

(1) Law enforcement records.

(2) Court records.

(3) Medical or treatment records, or both.

(4) Social services records.

(5) Child protective services records.

(6) Other records that may verify domestic violence.

(7) Third party verification from a public or private organization or an individual with knowledge of the circumstances including:

(i) A domestic violence service provider.

(ii) A medical, psychological, or social services provider.

(iii) A law enforcement professional.

(iv) A legal representative.

(v) An acquaintance, friend, relative, or neighbor of the claimant, or other individual.

(c) If the individual cannot safely obtain verification described in subsection (b), the individual may affirm on the verification form provided by the Department that she or he cannot safely comply with a TANF or GA program requirement due to domestic violence.

(d) When an individual claims good cause based on domestic violence, the Department may not:

(1) Contact the alleged abuser.

(2) Require the individual to obtain a Protection from Abuse Order.

§108.11. Time frames for good cause waiver determinations based on domestic violence.

The Department will make a good cause waiver determination within 15 calendar days from the date the claim was initiated by the applicant or recipient.

§108.12. Notice of good cause waiver determinations based on domestic violence.

(a) The Department will provide written notice to the individual of its determination regarding the good cause waiver request.

(b) If the Department grants the waiver request, the notice must::

(1) State the program requirement being waived.

(2) Explain the duration of the waiver. If the Department is uncertain of the duration, the notice must explain that the waiver will remain in effect as long as necessary, subject to review every 6 months.

(c) If the Department denies the waiver request, the notice must:

(1) State the program requirement is not waived and the basis for the determination.

(2) State the legal authority for the denial.

(3) Explain the right to appeal.

(4) State what additional verification or information is needed to substantiate good cause and the time frame in which the information must be provided.

(5) Explain that the individual must comply with the program requirement for which the waiver was requested.

§108.13. Review of waivers.

When the Department determines that a waiver of a TANF or GA program requirement based on domestic violence is appropriate, it will grant the waiver for as long as necessary, subject to review every 6 months as follows:

(1) An individual who verified domestic violence under § 108.10(b) (relating to verification) need not provide new or additional verification at the 6-month review if circumstances have not changed since the waiver was initially granted or since the last 6-month review.

(2) An individual who affirmed domestic violence under § 108.10(c) may provide verification as listed under § 108.10(b) to have the waiver continue.

(3) An individual who affirmed domestic violence but remains unable to provide verification under § 108.10(b) may again affirm domestic violence on the verification form provided by the Department under § 108.10(c). The individual may receive a waiver for an additional 6 months.

(4) An individual who remains unable to provide verification under §108.10(b) after 12 months, may have the waiver continue by affirming domestic violence under §108.10(c), subject to approval by the Department. The individual's waiver and benefits will continue pending the approval process. If the waiver is approved, the individual may, if necessary, continue to affirm at each subsequent 6-month redetermination.

§108.14. Safeguarding information.

(a) Unless required by law or pursuant to the individual's written authorization, the Department may not disclose or release the following information about an applicant, recipient or family member who has disclosed domestic violence, has a protection from abuse order or is at risk of further domestic violence by the disclosure of information:

(1) The residential address, the name and address of the individual's employer, education, training, or work program or other work activity, the name and address of the children's school and the identity and location of child care or medical providers.

(2) Whether the individual or family member is living in a domestic violence shelter and location of the shelter.

(3) The amount of benefits received by the individual or family member.

(b) The individual's written authorization must be provided on a form approved by the Department. The form must include the name of the requestor, the information requested and the purpose of the request.

(c) The Department shall place an FVI, as defined in § 108.2 (relating to definitions), on the electronic and paper files of an individual or family member who has disclosed domestic violence, has a protection from abuse order or is at risk of further physical or emotional harm by the disclosure of confidential information.

§108.15. Alternate address.

(a) A victim of domestic violence may use an alternate mailing address if one of the following applies:

(1) The individual has applied for or received a good cause waiver based on domestic violence.

(2) The individual is at risk of further domestic violence.

(3) The individual is a participant in the Address Confidentiality Program administered by the Pennsylvania Office of Victim Advocate.

(b) The Department will ask an individual who discloses domestic violence, has applied for or received a good cause waiver or is at risk of domestic violence, whether it is safe to send mail to the home address or whether it would be safer to send mail to an alternate address.

§108.16. DRS responsibility for the FVI.

(a) The Department will instruct the DRS to place an FVI in PACSES, as defined in § 108.2 (relating to definitions) for an individual who receives cash assistance and discloses domestic violence.

(b) If the FVI is placed on the file:

(1) The DRS will not disclose information according to § 108.14 (relating to safeguarding information).

(2) The DRS and other Department staff will not access a DRS file unless authorized to do so.

(3) DRS will transmit the FVI to the Federal parent locator database as defined in § 108.2 (relating to definitions).

§108.17. Agreement of Mutual Responsibility (AMR).

(a) To ensure confidentiality, the Department will not record information about domestic violence on the AMR, as defined in § 123.22 (relating to definitions).

(b) If the Department has waived a TANF or GA program requirement based on domestic violence, the Department will record on the AMR that a waiver of that requirement has been granted, but not the basis for the waiver.

§108.18. Referral for services.

When an applicant or recipient discloses domestic violence or requests a referral to domestic violence services, the Department will provide the individual with names, phone numbers, and information about the services of local domestic violence agencies, which may include shelter, safety planning and counseling.

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Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 187. SUPPORT FROM RELATIVES NOT

LIVING WITH THE CLIENT

SUPPORT PROVISIONS FOR CASH ASSISTANCE

* * * * *

§187.22. Definitions.

* * * * *

[Domestic violence—One or more of the following:

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

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

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

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

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.]

* * * * *

§187.27. Waiver of cooperation for good cause.

(a) *Good cause circumstances.* Cooperation requirements may be waived for good cause. Requirements for granting a good cause waiver based on a claim of domestic violence, as defined in §108.2 (relating to definitions), may be provided under §§108.7 and 108.8 (relating to requirements subject to waiver and claiming good cause based on domestic violence). Other [Good] good cause circumstances include the following:

* * * * *

[(4) Action to establish paternity or obtain child or spousal support would make it more difficult for the individual or family member to escape domestic violence, as defined in §187.22 (relating to definitions), or unfairly penalize the individual who has been victimized by the violence, or who is at risk of further violence.]

(b) *Proving the good cause claim.* The applicant or recipient of cash assistance shall provide relevant verification.

(1) A good cause claim may be verified with the following types of evidence:

* * * * *

(v) Court, medical, criminal, child protective services, social services, psychological or law enforcement records [which verify domestic violence, as defined in §187.22].

* * * * *

[(vii) *Domestic Violence Verification Form.* The CAO and applicant or recipient will complete this form for all good cause claims based on domestic violence in accordance with one of the following circumstances:

(A) To accompany acceptable verification as specified in subparagraph (iv), (v) or (vi) that an applicant or recipient has provided.

(B) To grant good cause upon written consent of the applicant or recipient based on verification of the good cause claim provided by a third party on the form.

(C) To grant good cause for up to 6 months when an applicant or recipient affirms she is at risk of domestic violence and unable to safely obtain other evidence to verify the claim of domestic violence within the established time frames for providing verification.]

(2) When the [applicant or recipient of cash assistance] individual initiates a claim of good cause, the [CAO] Department, court or the DRS may provide [assistance] help with obtaining verification. If requested by the [applicant or recipient] individual, the [CAO] Department, court or DRS will provide [assistance] help in securing the needed evidence by advising how to obtain specific documents that may be available and by undertaking to obtain specific documents the [applicant or recipient] individual is not able to obtain. [The CAO may not contact the putative father or noncustodial parent to verify good cause based on a claim of domestic violence.]

* * * * *

(c) *Good cause determination.* The [CAO] court or the DRS will make a determination within 45 days from the day the claim was initiated by the applicant or recipient of cash assistance. The Department will make a determination within 15-calendar days from the date the claim was initiated by the applicant or recipient. The [CAO] Department, court or the DRS may approve additional days for the determination to be completed.

* * * * *

(4) When good cause is determined to exist, the [CAO] Department will review the circumstances upon which the good cause determination is based, at least every six months.

* * * * *

[(ii) If the good cause waiver was granted based on the recipient's affirmation under subsection (b)(1)(vii)(C), and she is unable to provide verification as specified in subsection (b)(1)(iv)—(vii)(A) and (B), the CAO will make a determination of good cause based on a current assessment of the recipient's circumstances. This assessment will be completed by an individual with domestic violence training and substantiated by completion of the verification of good cause based on the domestic violence form under subsection (b)(1)(vii).]

Regulatory Analysis Form

(1) Agency Department of Public Welfare Office of Income Maintenance Bureau of Policy	This space for use by IRRC
(2) I.D. Number (Governor's Office Use) <div style="text-align: center; font-size: 1.2em;">14-513</div>	IRRC Number:
(3) Short Title Family Violence Option	
(4) PA Code Cite 55 Pa.Code Chapter 108 55 Pa.Code Chapter 187	(5) Agency Contacts & Telephone Numbers Primary Contact: Edward Zogby, Director Bureau of Policy 787-4081 Secondary Contact: Mindy Marciano, Director, Division of Welfare Reform Initiatives 772-7829
(6) Type of Rule Making (Check One) <input checked="" type="checkbox"/> Proposed Rule Making <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rule Making Omitted	(7) Is a 120-Day Emergency Certification Attached? (To be used only for emergency-certified regulations.) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language. The purpose of this proposed rulemaking is to add a new Chapter 108 (relating to Family Violence and TANF and GA) to Title 55 of the Pennsylvania Code. The Department proposes to codify requirements that support victims of domestic violence who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) or General Assistance (GA) cash assistance programs. The proposed rulemaking also amends 55 Pa.Code Chapter 187 (relating to support from relatives not living with the client) by deleting regulations relating to domestic violence that will be incorporated into the newly proposed Chapter 108. The Department will use the policies in this proposed rulemaking to help identify victims of domestic violence, refer them to appropriate services, waive TANF or GA program requirements when appropriate and protect the confidentiality of domestic violence victims.	

Regulatory Analysis Form

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Public Welfare Code, Act of June 13, 1967, P.L. 31 No. 21, 62 P.S. §§ 201(2) and 403(b)); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193); and the Domestic Relations Code, 23 Pa. C.S. §§ 4301-4381, 5103, 7101-7901 and 8101-8418.

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

This proposed regulation is not mandated by a Federal or state law, court order or regulation.

Although these rules are discretionary, the Department has the regulatory authority to promulgate this proposed regulation under 42 U.S.C. A. § 602(a)(7) (relating to eligible states; state plan).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Concerned about the pervasiveness of domestic violence and its impact on families needing assistance, Congress addressed these issues in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) under the "Family Violence Option" (FVO) at 42 U.S.C.A. §§ 602 (a)(7) and 608 (a)(7)(C)(iii) (relating to prohibitions; requirements). The Department recognizes that clients may rely on public assistance as a means to escape domestic violence, address safety issues and become financially independent of abusive partners or family members.

States that adopt the FVO may waive one or more public assistance program requirements for a victim of domestic violence if complying with those requirements would make it more difficult for the victim to escape domestic violence, unfairly penalize the individual or place the individual at risk of further domestic violence.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Domestic violence can interfere with a client's ability to comply with welfare requirements, causing the loss of needed benefits. At times, welfare requirements such as cooperating in establishing paternity and establishing and enforcing child support, engaging in job training, looking for work and getting a job, can place victims and their families at risk of further domestic violence. Without this regulation victims may be reluctant to disclose domestic violence because of the embarrassment, stigma or fear of retaliation by the abuser.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

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

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

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

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

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Applicants and recipients of cash assistance who disclose domestic violence will benefit from this regulation. This regulation is designed to identify and help individuals with a history of domestic violence, not to require compliance. With the current TANF population this regulation could benefit approximately 30,000 individuals and families.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In April 1997, the Department convened the Domestic Violence/ TANF Task Force to develop strategies to implement the FVO.

The Domestic Violence/TANF Task Force, which continues to meet on a bimonthly basis, includes victims of domestic violence, representatives from the Department's Office of General Counsel, Office of Income Maintenance, Office of Children, Youth and Families, Office of Mental Health and Substance Abuse Services, Office of Administration, the Commonwealth's Department of Health and Office of Inspector General, domestic violence service agencies, the Pennsylvania Coalition Against Domestic Violence (PCADV), Women Against Abuse and legal advocates from the Women's Law Project, Community Legal Services and the Community Justice Project.

The goal of the Domestic Violence/TANF Task Force is to advise and assist the Department in the implementation of the TANF FVO. The Task Force provides input and recommendations to assist the Department in supporting victims of domestic violence, who apply for or receive TANF benefits, to achieve economic self-sufficiency.

Linda A. Sullhey 2-7-08

Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures that may be required.

Respond in complete sentences or with a data table or columns.

There are no new costs or savings to the regulated community associated with compliance with this proposed regulation. No new legal, accounting or consultant procedures are required.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures that may be required.

Respond in complete sentences or with a data table or columns.

There are no new costs or savings to local governments associated with compliance with this proposed regulation. No new legal, accounting or consultant procedures are required.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures that may be required.

Respond in complete sentences or with a data table or columns.

There are no new costs or savings to state government associated with compliance with this proposed regulation. No new legal, accounting or consultant procedures are required.

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Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

This proposed regulation change has no budgetary impact. This program is part of the Cash Grants appropriation, providing supportive services to eligible individuals. DPW makes referrals concerning family violence to outside agencies for these services.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	0	0	0	0	0	0
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

The proposed regulation does not change eligibility requirements for the Family Violence under TANF and GA, and will have no impact on the Cash Grants appropriation.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

Regulatory Analysis Form

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This proposed regulation has no costs or budgetary impact.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives were not considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

This proposed rulemaking is not more stringent than federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The Commonwealth's family violence policies are comparable to other surrounding states such as Maryland, New Jersey and New York. A comparison of contiguous states indicates that the Commonwealth's policies relating to the FVO meet or exceed the policies of neighboring states. Virginia, for example, did not elect to adopt the FVO and does not have equivalent policies to aid victims of domestic violence obtain waivers for program requirements. Ohio also did not adopt the FVO. In those states, however, FVO-equivalent policies may be adopted at the county level at the discretion of the county. The proposed rulemaking will not put Pennsylvania at a competitive disadvantage with other states or be an incentive for health and human service providers or individuals to leave Pennsylvania.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The Department proposes to delete regulations relating to domestic violence from Chapter 187 (relating to support from relatives not living with the client) and add cross references to Chapter 108. The definition of Domestic Violence has been deleted from 55 Pa. Code § 187.22 (relating to definitions), proving the good cause claim and good cause determination have been deleted from 55 Pa. Code § 187.27 (relating to waiver of cooperation for good cause). Additionally, the Department proposes minor technical revisions to this chapter. For example, the acronym "CAO" is replaced with the term "Department".

Regulatory Analysis Form

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

If warranted, based on the public comments received, the Department will meet with affected individuals and organizations and discuss specific issues relating to the proposed rulemaking.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports that will be required as a result of implementation, if available.

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

(29) Please list any special provisions that have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

This proposed rulemaking applies to victims of domestic violence and their families. There are special provisions addressing the needs of those individuals who are living in the same household as their abuser. Good cause waivers of one or more of a TANF or GA program requirements may be granted regardless of whether the alleged abuser is in the household. Victims of domestic violence may be eligible to receive TANF cash assistance for up to 12 months which would not be counted towards their 60 month TANF time limit and may also qualify for Extended TANF benefits beyond the 60 month TANF time limit regardless of whether or not the alleged abuser is in the household.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

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

(31) Provide the schedule for continual review of the regulation.

This proposed rulemaking will be subject to internal review through the Department's Quality Control and Corrective Action review process which is monitored by the U.S. Department of Health and Human Services.