**DATE: September 18, 2018 -Revised 9/19/18-**

**OPERATIONS MEMORANDUM# 18-09-03**

**SUBJECT:** Changes to Road to Economic Self-Sufficiency through Employment and

Training (RESET) Sanction Policy

**TO:**  Executive Directors

**FROM:** Inez Titus

 Director

 Bureau of Operations

**PURPOSES**

To inform County Assistance Offices (CAOs) of revisions to RESET sanction policy being implemented because of the Pennsylvania Supreme Court’s decision to strike Act 2012-80 (Act 80) on July 18, 2018.

To provide instructions for processing current sanctions that need to be revised to meet the revised RESET policy and for imposing new sanctions.

To provide a letter to be sent to currently sanctioned individuals advising of the changes in the compliance requirements to end a sanction.

**BACKGROUND**

Act 80 modified the cash assistance sanction requirements for failure to comply with work requirements. On July 18, 2018, the Pennsylvania Supreme Court struck Act 80 in its entirety, ruling that the legislative process used to pass the Act did not comply with the Pennsylvania Constitution. The Court’s decision requires DHS to reinstate the sanction requirements that were in effect before Act 80.

The Department is working to make the changes needed to comply with the Court’s decision, and permanent systems changes needed to restore the former sanctions will be forthcoming. CAOs need to review sanctions currently in place and use the temporary process to implement any new sanctions.

**DISCUSSION**

**Cash Assistance Sanction Policy Overview**

Cash assistance recipients are required to comply with work or work-related requirements unless they establish good cause, or they are determined to be exempt. When the mandatory recipient is willfully non-compliant with RESET requirements as outlined on their Agreement of Mutual Responsibility (AMR/PA1661), the CAO must schedule a compliance review. Under policy in effect since Act 80 was enacted, if the recipient was determined willfully non-compliant, the CAO reviewed the case and imposed a sanction at the individual level that escalated to full family after 90 days of non-compliance for the first level sanction, and after 60 days of non-compliance at the second level sanction. Third level sanction was immediately permanent full family.

Since Act 80 has been stricken, the change in sanction policy requires a review of cash assistance days prior to imposing a sanction, in addition to the compliance review. A recipient who has received fewer than 24 months (fewer than 732 days) of cash assistance (based on the Act 35 clock in CIS) will receive an individual-only sanction. If the cash assistance (Act 35) days are 732 or more, the entire family will be sanctioned for non-compliance. Sanctions will no longer be escalated from individual to full family.

 ***Pre-24-months (fewer than 732 Act 35 days)***

* First Sanction: The willfully noncompliant individual in the budget group will be sanctioned for a minimum of 30 days (DS-21) or until the individual states a willingness to participate in RESET.
* Second Sanction: The willfully noncompliant individual in the budget group will be sanctioned for a minimum of 60 days (DS-22) or until the individual states a willingness to participate in RESET.
* Third Sanction: The willfully noncompliant individual in the budget group will be permanently sanctioned (disqualified from the cash assistance program) (DS-23).

***Post-24-months (732 or more Act 35 days)***

* First Sanction: Full family will be sanctioned for a minimum of 30 days (DS-27) or until the noncompliant individual states a willingness to participate in RESET.
* Second Sanction: Full family will be sanctioned for a minimum of 60 days (DS-28) or until the noncompliant individual states a willingness to participate in RESET.
* Third Sanction: Full family will be permanently sanctioned (disqualified from the cash assistance program) (DS-29).

In addition, the Act 80 requirement to comply for at least a week before a sanction can be ended no longer applies. A first or second level sanction must be ended if the client:

1. Verifies that they are working or in an approved work-related activity *and* completes a new AMR agreeing to comply with work and work-related activities; **or**
2. Verifies that they are exempt from or have good cause not to meet the work requirements; **or**
3. Express a willingness to comply with work requirements *and* sign a new Agreement of Mutual Responsibility (AMR) accepting a referral to a contracted program. The sanctioned individual and family members must be reinstated immediately.

**Process for Current Cash Assistance Sanctions**

The CAO will need to review some sanctioned cases, following the procedures outlined below for pre-24 and post-24-month designations.

**Pre-24-month (fewer than 732 Act 35 days)**

For individual-only first, second or third sanctions (DS 21, DS 22 and DS 23) with fewer than 732 cash assistance (Act 35) days, no system process action is needed. **Do not escalate these sanctions.** Mail the [attached letter](http://mydhs/cs/groups/webcontent/documents/document/c_279616.docx) explaining that it is no longer necessary to prove compliance for a week before ending a sanction to individuals in DS 21 and DS 22 sanction status.

For full family first, second or third level sanctions (currently DS 27, DS 28 and DS 29) with fewer than 732 cash assistance (Act 35) days at the start of the sanction, follow the instructions below to revert these sanctions from full family to individual-only sanctions, and issue a One Time Issuance (OTI).

For current full family sanctions with fewer than 732 days cash assistance days:

|  |  |  |
| --- | --- | --- |
| Current Code | Processing instructions | Correct pre-24-month code |
| DS 27 | Perform a manual override to reinstate recurring benefit for the eligible children (ECs) in the budget (see attached [Override Process](http://mydhs/cs/groups/webcontent/documents/document/c_279615.docx)).Issue an OTI from July 18, 2018 to the effective date of the override for the difference between the full family benefit (zero dollars) to the amount that would have been paid as a recurring benefit for the ECs in the budget.Send a manual notice and manual [Attachment A.4.1](http://mydhs/cs/groups/webcontent/documents/document/c_279614.docx) (pre-24-months). Create a ServiceNow ticket to change the sanction code to the correct pre-24-month code.Narrate actions and reason for OTI in the case record. | DS 21 |
| DS 28 | DS 22 |
| DS 29 | DS 23 |
|  |  |

Once the sanction code is reverted to the correct pre-24-month code, do not escalate. Instructions on how to process these sanctions will be provided.

**Post-24-month (732 or more Act 35 days)**

For full family first, second and third level sanctions (DS 27, DS 28 and DS 29) with 732 or more cash assistance (Act 35) days, no system process action is needed. No operational changes apply to these cases. Mail the attached letter explaining that it is no longer necessary to prove compliance for a week before ending a sanction to individuals in DS 27 and DS 28 sanction status.

For current individual sanctions (DS 21, DS 22 and DS 23) with 732 or more cash assistance (Act 35) total GA and TANF cash assistance Act 35 days, continue to treat under previous sanction policy based on pre-24 and post-24-months of cash assistance, and escalate to full family sanction at the end of the minimum durational sanction period:

1. Caseworker will need to send a PA 1712 to inform the client 15 days prior to their minimum durational sanction period that they may resume cash assistance if they express a willingness to become compliant or if they have a good cause or exemption.
2. If the client contacts the CAO, the caseworker will determine if a sanction may be ended by:
3. Good cause or an exemption and completing and signing a new AMR; or
4. If no good cause or exemption exists, making a new contractor referral; and
5. Completing and signing a new AMR to participate in work or a work-related activity.

REMINDER – There is no longer a requirement for the client to show compliance for at least a week before the sanction can be ended.

1. If the client does not respond to the PA 1712 or it is determined that a sanction cannot be ended, either because no good cause or exemption exists or because the client is unwilling to say he or she is willing to comply:
* DS 21 – After 90 days, escalate to DS 27 and send manual notice.
* DS 22 – After 60 days, escalate to DS 28 and send manual notice.
* DS 23 – Escalate to DS 29 and send manual notice.
1. Perform a manual override to change recurring benefit to $0.00 and send the manual notice with [Attachment A.4.2](http://mydhs/cs/groups/webcontent/documents/document/c_279613.docx) (post-24-months).

**Process for Imposing New Cash Assistance Sanctions**

 All new sanctions will be imposed following the pre-24-month individual sanction and post-24-month full family sanction policies outlined in this Operations Memorandum.  Continue to send all proposed third sanctions to the Bureau of Employment Programs for review.

**NEXT STEPS**

1. Review this Operations Memorandum with appropriate staff.

            2. Contact your Area Manager if you have any questions.

            3. A list of sanctions to review will be provided to Area Managers.

Attachments