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All Programs

2000 All Programs (07/01/1971, 71-73)

The Social Welfare Act of 1967, in Section 2501 of Title 33 of the Vermont Statutes Annotated, sets forth the following social welfare policy for the State of Vermont:

- A. Its social welfare programs shall provide assistance, benefits, care and services to persons of the state in proven need thereof and thereby promote the well-being of all the people of the state.
- B. It is the purpose of its social welfare laws to establish and support programs which contribute to the prevention of dependency and social maladjustment, as well as rehabilitative, preventive and protective services.
- C. Assistance, benefits, care and service shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of race, religion, political affiliation or place of residence within the state.
- D. Assistance, benefits, care and service shall be so administered as to maintain and encourage dignity, self-respect and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices.
- E. It is further declared to be the policy of this state to direct its efforts to the strengthening of family life for the care and protection of children; to assist and encourage the use by any family of all available personal and reasonable community resources to this end; and to provide substitute care of children only when the family, with the use of resources available to it, is unable to provide the necessary care and protection to assure the right of any child of sound health, and normal physical, mental, spiritual and moral development."

Welfare assistance programs are administered in accordance with the provisions of applicable federal law and regulations and with state social welfare law and policy. The following general principles are in effect with regard to the total program:

- F. Policies and procedures for determination of eligibility for aid, benefits and services will:
 - 1. Be consistent with the objectives of maintaining individual dignity, self-respect and self-reliance and of strengthening family life for the care and protection of children.
 - 2. Respect the constitutional and other legal rights of individuals, under relevant provisions of federal and state law, including the Social Security Act and Title VI of the Civil Rights Act of 1964.
 - 3. Not result in practices that violate the individual's privacy or dignity, or harass him in any way.
 - 4. Limit use or disclosure of information concerning applicants or recipients to purposes directly connected with the administration of the program.
- G. Procedures for application and eligibility determination will assure that:
 - 1. Each person who wishes to do so will be given an opportunity to apply or reapply without delay for aid, benefits and services.
 - 2. Prompt action will be taken on each application and reapplication and applicants will be notified in writing of the department's decision on the application.
 - 3. Department decisions will be based on recorded information showing either that all pertinent eligibility requirements are met or that one or more requirements are not met.
 - 4. Aid will be given promptly and will continue regularly to all eligible persons until they are found to be ineligible, so long as aid is being provided under the category.

All Programs

5. Continuing eligibility will be determined, when circumstances change or at specified periodic intervals, in accordance with the same principles as initial application.

H. Procedures for determining initial and continuing eligibility will:

1. Rely upon applicants and recipients as the primary source of information about their eligibility, after an adequate interpretation of requirements, recognizing varying capacities of applicant/recipient to take responsibility for providing adequate factual information.
2. Inform applicants and recipients of their responsibility to furnish complete and accurate information, including prompt notification of changes affecting their eligibility or amount of aid or benefits, and of the penalties for willful misrepresentation to obtain aid or benefits to which they are not entitled.
3. Provide assistance to recipients, when requested, in obtaining needed information. For contact with collateral sources, see respective programs.
4. Provide for obtaining needed information when the recipient is unable to do so, due to physical, mental or other difficulties.
5. Include, except when specifically waived where a simplified method is in use, at least one interview with the applicant or recipient, or, if direct contact is impractical or would delay the decision, with someone acting responsibly for him.
6. Limit verification of conditions of eligibility to what is reasonably necessary to assure that expenditures under the program will be legal, in accord with federal and state law and regulations.

Application of these principles in specific areas is covered in succeeding sections.

INTERPRETIVE MEMO

All Programs Rule Interpretation

All Programs Procedure Interpretation

This interpretive memo remains effective statewide until it is specifically superseded—either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2000 Date of this Memo 11/30/1978 Page 1 of 1

This Memo: is New Replaces one dated _____

QUESTION: What is an Interpretive Memo?

ANSWER: A memo to department staff to clarify or further explain department rules. It differs from the multitude of memos issued in the past for this purpose only in that it incorporates a system for statewide distribution to improve uniformity of rule application and a system of filing and maintenance to avoid their being lost, forgotten or kept longer than intended

Each memo will be referenced to the section in the manual containing the rule being explained and is to be filed into the manual facing that page. Staff who do not maintain a manual but want to save the memos will find it most convenient to file them numerically by rule section reference.

If a memo indicates that it supersedes a former memo, the old memo should be removed and destroyed. When a page of the manual is updated via the bulletin system and the update changes or incorporates the memo, a separate “Interpretive Memo – Maintenance Instruction” will be issued advising that specific memos be removed and destroyed. Interpretive memos will be identified by “facing page” and “date”. The (p.) is provided in the event a memo runs on to more than one sheet of paper; file (p. 2) directly behind (p. 1).

When addressing a question for rule clarification through this system, please reference your question to the rule section in which you need clarification.

Interpretive Memos will be issued on yellow paper prepunched on the right hand margin so they will face the page being clarified when filed in the manual. They will be issued to all department staff who get bulletins. They will be included in manuals issued to new workers so that they too will have the benefit of interpretations issued prior to their arrival.

Applicable memos that have been issued during the past few months are to be republished under this system, and, on completion, all memos regarding rule outside this system will be declared null and void. If you have any old memos which you feel should be incorporated, please submit in question format with the old memo attached and we will reissue under the new system.

INTERPRETIVE MEMO

All Programs Rule Interpretation

Procedural Instruction

This memo remains effective statewide until it is specifically superseded – either by a subsequent memo or by a contradictory rule with a later date.

Facing page 2000 Effective date of this memo December 15, 2016 Page 1 of 2

This memo: is new Replaces one dated January 24, 1997

Several laws govern the disclosure of applicant or recipient information obtained or created by ESD. The purpose of this Interpretive Memo is to clarify the circumstances under which information pertaining to applicants for or recipients of assistance can be disclosed.

Information can be disclosed under the following conditions:

- A. **The individual has signed an authorization to release information consenting to the release of information to another party.**
- B. **The information will be used only for purposes directly related to the administration of the Department.** Examples include:
 - providing information to an individual's representative when a fair hearing has been requested (the AAG representing the department will coordinate the sharing of applicant/recipient records)
 - providing information about eligibility coverage to medical care providers
 - providing information regarding social security numbers and amount of benefits to the Social Security Administration
 - sharing information about mutual clients with other departments within the Agency of Human Services for legitimate program purposes
 - providing information about eligibility for burial assistance, and client resources to funeral homes for burial arrangements

This **does not** include sharing information with a third party (e.g., Vermont Legal Aid, the individual's private attorney, Community Action advocates) intervening on the individual's behalf regarding a Department decision or action when a fair hearing has not been requested. In this situation, a signed authorization to release information must be obtained before any information may be disclosed.

- C. **The disclosure of information is required by law.** Examples include:
 - providing information in response to a court order enforcing a subpoena (a subpoena alone is insufficient to compel the Department to disclose information)
 - providing information pursuant to federal reporting requirements

INTERPRETIVE MEMO

All Programs Rule Interpretation

Procedural Instruction

This memo remains effective statewide until it is specifically superseded – either by a subsequent memo or by a contradictory rule with a later date.

Facing page 2000 **Effective date of this memo** December 15, 2016 **Page** 2 of 2

This memo: is new **Replaces one dated** January 24, 1997

When ESD staff receive a request for information under the claim that the disclosure of such information is required by law, the staff member must refer the matter to an ESD Benefit Programs Policy Analyst.

D. A federal, state, or local law enforcement officer has requested information about a 3SquaresVT household member. The address, social security number, and, if available, photograph of any member of a 3SquaresVT household shall be made available, on request, to any federal, state or local law enforcement officer if the officer furnishes the Department with the name of the member and demonstrates that all three criteria below are met:

1. The member:
 - a. is fleeing to avoid prosecution or custody or confinement after conviction for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under federal or state law; or
 - b. has information that is necessary for the officer to conduct an official duty related to paragraph a above; and
2. locating or apprehending the member is an official duty; and
3. the request is being made in the proper exercise of an official duty.

ESD staff must refer requests for information from law enforcement to an ESD Benefit Programs Policy Analyst.

INTERPRETIVE MEMO

All Programs Rule Interpretation

All Programs Procedure Interpretation

This interpretive memo remains effective statewide until it is specifically superseded—either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2000 Date of this Memo 07/01/2009 Page 1 of 1

This Memo: is New Replaces one dated _____

Disclosing Information to a Noncustodial Parent

When a noncustodial parent requests information about his or her child's ESD benefits:

- A. Inform the noncustodial parent that:
 - a. we cannot confirm receipt of benefits because of confidentiality rules;
 - b. s/he must submit a written request and include the information sought (e.g., Reach Up benefits received during the past 12 months, etc.);
 - c. s/he must submit the latest court order regarding the divorce or separation so we can determine if the court has restricted access to information. If there is no court order, the parent should indicate that in the request letter; and
 - d. inform the parent that we will respond to his/her request within 10 work days of receiving the written request and court order.
- B. Inform the custodial parent about the noncustodial parent's request for information. This gives the custodial parent the opportunity to ensure that we have the most recent court order, and to tell us if there are factors that need consideration before we provide the information (e.g., threats of violence, etc.)
- C. Send the date-stamped written request and the court order to the AAG for review. Indicate whether the custodial parent expressed opposition to releasing the information or is pursuing a new court order.

The supporting legislation:

NOTE: Title 15§670. Access to records

Access to records and information pertaining to a minor child, including but not limited to medical, dental, law enforcement and school records shall not be denied to a parent solely because that parent has not been awarded parental rights and responsibilities. The court may order that access to all or a portion of the records or information shall be denied if access is not in the best interest of the child or if access may cause detriment to the other parent including but not limited to abuse.

(Added 1985, No. 181 (Adj. Sess.), § 8.)

INTERPRETIVE MEMO

All Programs Rule Interpretation

All Programs Procedure Interpretation

This interpretive memo remains effective statewide until it is specifically superseded—either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2000 Date of this Memo 10/03/1995 Page 1 of 2

This Memo: is New Replaces one dated 5/11/84

MAINTAINING YOUR MANUALS

You will periodically receive bulletins describing changes in rules. These bulletins are the means for maintaining your manuals with up-to-date, accurate information.

To maintain your manual means to follow the instructions at the end of the bulletin for removing obsolete pages and inserting the new pages provided. There may also be instructions to remove a page with no replacement or to add a new page with no removal.

In some instances you may find that a page was included in a proposed bulletin but is not included in the final bulletin maintenance instructions. This means that for some reason it was decided not to implement the change.

Bulletins are all numbered and color-coded as follows:

Blue Cover — Emergency (white rule pages)

Update your manual by following carefully the maintenance instructions at the end of the bulletin.

Gold Cover - Proposed (white rule pages)

Keep the bulletin until further instructions. Do not update your manual at this time. These bulletins are issued to give interested individuals and groups an opportunity to comment on proposed rules before they become final. The effective date is usually about four months from the time you received the proposed version. The proposed bulletin informs you of the rule being changed, the date and time of the public hearing, the contact person responsible for the rule changes, and the comment deadline. You will receive a copy of the final version about the same time as the effective date of the rules.

Green Cover - Final (white policy pages)

The final version only includes pages that changed from the proposed to the final version. Therefore, it is important to save your proposed bulletins until you receive further instructions. Maintenance instructions are included on the bulletin cover.

Maintain your manual by removing or inserting pages as directed. If the instructions tell you to insert a page with an “F” next to the bulletin, the page is taken from the final package. If the instructions tell you to insert a page with no “F” next to the bulletin number, the page is taken from the proposed package. In most cases you will need both the proposed and final packages to maintain your manual. If there are no pages to remove but the instructions tell you to insert pages, it will say “Nothing” under the Remove column. You may also remove pages and insert “Nothing.” When a green bulletin is received with no attachments, simply insert the pages from the proposed bulletin with the same number, following the maintenance instructions carefully.

Interpretive Memos

INTERPRETIVE MEMO

All Programs Rule Interpretation

All Programs Procedure Interpretation

This interpretive memo remains effective statewide until it is specifically superseded—either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2000 Date of this Memo 10/03/1995 Page 2 of 2

This Memo: is New Replaces one dated 5/11/84

You will also be receiving papers titled “ Interpretive Memos” (yellow). Insert these immediately into your manuals following the instructions at the top of the memo. The instructions include which section of rule the Interpretive Memo should face and whether the memo is new or replacing an earlier Interpretive Memo. Remove the superseded memos listed in the instructions. Note: there may be more than one Interpretive memo facing a rule section. Keep Interpretive memos in chronological order with the most current directly facing the rule section.

A checklist for each rule manual is sent once a year. It lists every page that should be in the manuals. Instructions for using the checklist and deadlines for requesting pages are printed on the coversheet.

If you have any questions about the bulletins or the maintenance of your manual, please call Afsar Sultana at 241-3525.

Eligibility and Payment

2010 Eligibility and Payment (10/01/2008, 08-20)

Eligibility and payment encompasses the process through which individuals in need of assistance and benefits furnished through department programs may request and receive, if eligible, such assistance or benefits. Steps within this process include:

- A. Application for one or more programs of assistance or benefits.
- B. Documentation of necessary information related to pertinent eligibility conditions.
- C. Decision, by the department, that an individual is eligible or ineligible to receive, or to continue to receive, aid or benefits and the amount thereof.
- D. Notice of decision.
- E. Authorization and payment of aid or benefits for which the individual is found eligible.

Eligibility

2011 Eligibility (10/01/2008, 08-20)

Eligibility refers to conditions under federal and state laws and regulations which must be met to receive assistance or benefits.

Payment

2012 Payment (04/15/1998, 98-6F)

Payment refers to the form, frequency, and method by which aid or benefits become available to eligible individuals for their use or benefit. Conversion of payment method from check to direct deposit or EBT, or coupons to EBT, or cash to coupons does not constitute an adverse action. In the event an applicant or recipient appeals the designated payment method, benefits shall not be paid through the old method pending the outcome of the fair hearing.

The department makes payment to or on behalf of eligible individuals through the following channels:

- electronic benefit transfer (EBT) to the individual or the provider of a service,
- vendor authorization to the provider of a service, or
- check or direct deposit to the individual or the provider of a service.

Direct deposit to a bank account other than the state EBT account is the required payment method for 3SquaresVT benefits to cash-out households when one of the following members of the 3SquaresVT cash-out household has a bank account: the head of household or his or her spouse. Direct deposit to another adult may be the payment method when requested by the head of household. EBT cash is the payment method for all other 3SquaresVT cash-out households.

Direct deposit to a bank account other than the state EBT account is the required payment method for households eligible for state Aid to the Aged, Blind or Disabled-Essential Person (AABD-EP) program benefits when one of the following members of the AABD-EP household has a bank account: the head of household or his or her spouse. Direct deposit to another adult may be the payment method when requested by the head of household. EBT cash is the payment method for all other AABD-EP households.

Direct deposit to a bank account other than the state EBT account is the required payment method for households receiving unrestricted cash benefits under the Reach Up program, when one of the following people living in the household has a bank account:

- the Reach Up recipient-parent head of household or his or her spouse,
- the Reach Up recipient caretaker (who is not a parent),
- a sanctioned non-Reach Up recipient-parent when both parents have failed without good cause to participate in Reach Up,
- the SSI-recipient parent (an SSI recipient is ineligible for Reach Up) or his or her spouse,
- the SSI-recipient caretaker (who is not a parent), or
- the non-Reach Up-recipient caretaker for the Reach Up children.

Direct deposit is the required payment method for protective payees, where applicable, when the protective payee has such an account. Direct deposit to another adult may be the payment method when requested by the head of household. EBT cash is the payment method for all other Reach Up households.

Benefits shall not be deposited to the bank account of a minor unless the minor is the head of household, or his or spouse living with the household.

When direct deposit is the payment method, the applicant or recipient having the bank account must designate a bank name, account name, and account number and authorize payment of benefits into the account. It is the recipient's responsibility to inform the department of any changes in bank, account name or account number.

Payment

A. EBT transaction charges

1. Point-of-Sale (POS) Food: There is no charge to access EBT food benefits through point-of-sale (POS) devices.
2. Point-of-Sale (POS) Cash: There is no charge to access EBT cash benefits through POS devices within the Northeast Coalition of States (NCS), which includes Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island, and Maine. The amount of cash accessed is subject to the retailer's policy for the general public.

The charge for POS cash transactions occurring outside the NCS is \$.10 cents per transaction, deducted from the EBT cash account.

3. Automated Teller Machine (ATM) Cash:

Whether a charge applies to each of a household's first four ATM transactions in a calendar month depends on where the ATM is located:

- a. When the ATM is located within the NCS, the transaction is free.
- b. When the ATM is located outside the NCS, the transaction costs \$0.40, deducted from the EBT cash account.

The charge that applies to a household's fifth or subsequent ATM transaction in a calendar month also depends on where the ATM is located:

- c. When the ATM is located within the NCS, the transaction costs \$0.85, deducted from the EBT cash account.
- d. When the ATM is located outside the NCS, the transaction costs a total of \$1.25, deducted from the EBT cash account.

B. EBT replacement cards

1. There is no charge for the initial card, for one replacement card within 12 months of initial issuance, and for one replacement card every 12 months thereafter.
2. The charge for each replacement card exceeding these limits is \$2.00, deducted from the EBT food account. The charge is deducted from the EBT cash account when the household does not have an EBT food account, or when the household has both types of accounts and the balance in the EBT food account is \$0.

C. Recovery of unused benefits

A household's entitlement to benefits they have not accessed after a specific period of time shall end, and the unused benefits shall revert back to the program from which they were issued. The period specified, by payment method, is: nine months for an EBT food benefit, three months for an EBT cash benefit, and 60 days for a check.

For EBT accounts, no access is defined as no withdrawals from the account during the specified period.

Case Records

2013 Case Records (12/01/1974, 74-116)

Permanent written records, essential to continuing operation of any organization, include individual case records containing the following:

- A. Application(s) for assistance and/or benefits provided under department programs.
- B. Factual data, supporting eligibility findings, including, but not limited to:
 - 1. Documentation of verification of information submitted and any supplementary investigation of eligibility factors.
 - 2. Budgetary computations.
 - 3. Eligibility decisions.
 - 4. Payment authorizations.
- C. Copies of all correspondence with and concerning applicant(s), including, but not limited to, notices of case decisions.

Case information may contribute in statistical or other general terms to material needed for planning, research, and overall administration of department programs. Individual case data shall, however, be held in confidence under department regulations limiting disclosure of such information identifying a specific applicant/recipient.

Retention of records shall be subject to federal and state requirements for audit and/or review.

Authorized Representative

2014 Authorized Representative (10/01/2008, 08-20)

An authorized representative may under specific conditions act on behalf of an applicant (individual, family group or household group) to carry out specific activities related to establishing eligibility for, obtaining and using aid or benefits made available through department programs. A judicially appointed legal guardian or legal representative automatically meets the criteria for an authorized representative.

A relative, friend, or other knowledgeable interested party with authority to act for the individuals, may act on behalf of an applicant unable to act for himself due to physical or mental incapacity. An applicant may, in an emergency precluding the presence of the applicant at a required interview, designate a representative to act on his behalf by addressing a letter, naming the individual designated and bearing the applicant's signature, to the local office.

Fraud

2015 Fraud (07/01/1967, 76-169)

Fraud is defined by statute (33 VSA § 141) as:

- A. Use of a willfully false statement, representation, impersonation, or other fraudulent device to obtain, attempt to obtain or aid and abet any person to obtain assistance or benefits to which he is not lawfully entitled or a larger amount than that to which he is lawfully entitled; or
- B. Disposition of or knowingly aiding or abetting in disposition of property to obtain assistance to which a person is not entitled or a larger amount than that to which he is entitled.

2015.1 Suspected Fraud (07/01/1967, 76-169)

The following criteria will be used to evaluate cases of suspected fraud to determine whether they should be referred to a law enforcement agency.

- A. Does the act committed appear to be a deliberately fraudulent one?
- B. May the act be an incorrect omission or representation on the part of the recipient due to error, lack of understanding of eligibility requirements or of his responsibility for providing information to the department?
- C. May the act be a result of department omission, neglect or error in securing or recording information?
- D. Is the act a repetition of the same or similar acts which have been committed previously with subsequent explanation and clarification of the department?

Examples of instances where fraud might be suspected and referral considered are as follows:

- A. The recipient accepts and continues paid employment without notifying the department after he has been clearly informed of the necessity of such notification.
- B. The applicant for or recipient of assistance or benefits fails to acknowledge or report income from pensions, social security, or relatives when it is reasonably clear that there was a willful attempt to conceal such income.
- C. The applicant for or recipient of assistance or benefits disposes of property (either real or personal) and attempts to conceal such disposal.

The above examples are intended as a guideline; each case will be evaluated individually.

2015.2 Methods of Investigation (07/01/1967, 76-169)

Any investigation of a case of suspected fraud shall be pursued with the same regard for confidentiality and protection of the legal and other rights of the individual as investigation and reinvestigation of eligibility to receive assistance.

Procedures are established for review and documentation in the case record at all supervisory levels.

Fraud

2015.3 Referral to Law Enforcement (07/01/1967, 76-169)

Intent to defraud must be proven beyond a reasonable doubt to convict under the law; the final decision regarding referral to a law enforcement agency shall be the responsibility of the commissioner.

2015.4 Records and Reports (07/01/1967, 76-169)

The department will maintain such records and submit such reports as deemed necessary by appropriate federal agencies.

Application Procedures

2020 Application Procedures (04/01/1999, 98-11F)

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

Separate and apart from an individual's submission to the department of a completed and signed application for aid or benefits, an individual may have contact with the department in several ways; for example, in person, by telephone, by mail, or by referral from another agency. The subject matter of these contacts shall be considered inquiries until such time as the department is in receipt of a signed application form. When the subject matter of an inquiry can be reasonably assumed to indicate the individual's desire to apply for aid or benefits, including a request for Medicaid coverage of an item or service not routinely covered, the department shall provide the individual making the inquiry with an appropriate application form for use in requesting the aid or benefits (including items or services related to medical conditions).

Any individual, previously found ineligible for aid or benefits, who believes his circumstances to have changed or who desires to have eligibility reconsidered, may reapply by submitting an up-to-date signed application form to the district office serving the areas in which he currently resides.

The formal application gives the individual the means to furnish information necessary for a decision, protects him from being ruled ineligible without formal application, informs him of his rights and responsibilities, and provides a basis for appeal if he is dissatisfied with any action of or lack of action by the department.

Application forms and informational materials may be obtained from any district office. Appropriate return address and return envelope shall be included with forms sent in response to a mail or telephone request.

Supplies of informational materials and application forms shall be made available, on request, to medical providers, referring agencies, town service officers, town officials, and other locations serving the general public.

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

If an applicant has difficulty in completing an application/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. Once an applicant's statement is signed, a department employee may not alter or add to it. Department forms provide separate space for recording additions, clarifications, or verifications obtained during the interview.

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 aid 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.

Americans With Disabilities Act (ADA)

2030 Americans With Disabilities Act (ADA) (04/15/1998, 98-6F)

As required by the Americans with Disabilities Act, the department shall make reasonable modifications to its policies, practices, or procedures when modifications are necessary, as determined by the commissioner or his or her designee, to avoid discrimination on the basis of disability. An applicant or recipient may appeal the commissioner's determination regarding necessity to the Human Services Board, in accordance with departmental regulations governing appeals.