

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

# DCF

## Department for Children and Families

**BULLETIN NO.:** 08-02F

**FROM:** Joseph Patrissi, Deputy Commissioner  
Economic Services Division

**DATE:** February 20, 2008

**SUBJECT:** Act 30 Changes to Reach Up, Postsecondary Education,  
Separate State Program and Solely State Funded Program Rules  
and Creation of Reach First Program Rules

**CHANGES ADOPTED EFFECTIVE** 4/1/2008

### INSTRUCTIONS

**Maintain Manual - See instructions below.**  
 **Proposed Regulation - Retain bulletin  
and attachments until you receive  
Manual Maintenance Bulletin:**  
 **Information or Instructions - Retain  
until \_\_\_\_\_**

**MANUAL REFERENCE(S):**

2180 - 2184	2200 - 2273	2400 - 2417
2190 - 2199	2300 - 2399	

This bulletin proposes changes in Reach Up income, resource, and work activity rules required by Act 30 enacted by the Vermont General Assembly in May 2007.

Act 30, An Act Relating to Moving Families out of Poverty, establishes the Reach First Program, changes the Postsecondary Education Program by replacing the fixed annual stipend with monthly fluctuating financial assistance calculated using Reach Up financial assistance rules, changes Separate State Programs to Solely State-Funded Programs, increases Reach Up earned income disregard and resource limits, and makes other changes to the Reach Up financial assistance and services component of rules.

### *Solely State-Funded Programs*

This bulletin proposes to change separate state funded programs to solely state-funded programs as part of strategies to meet federal Temporary Assistance to Needy Families Block Grant (TANF) requirements.

### ***Reach First Program***

This bulletin proposes to create the Reach First Program to stabilize families in crisis, assess their strengths and needs, orient them to the available programs and services, and provide short-term financial support or refer them to the appropriate Reach Up program. Families determined to be eligible for Reach First by meeting Reach Up financial assistance criteria may receive up to the equivalent of four months of financial assistance to avert a crisis.

### ***Reach Up Changes Related to Income***

This bulletin proposes to remove the Reach Up gross and net income tests, increase the earned income disregard from \$150 plus 25 percent of the remainder to \$200 plus 25 percent of the remainder, revise the rule excluding earned income of eligible children to apply regardless of whether the child works full or part-time, and add a provision that Reach First payments attributed to months of a family's requested assistance through Reach Up shall count as unearned income.

### ***Changes Related to Resources***

This bulletin proposes to increase the Reach Up resource combined resource limitation from \$1000 to \$2000.

### ***Other Reach Up Financial Assistance Changes***

This bulletin proposes to add provisions for direct payment of shelter and other basic need expenses at the request of the family. It also proposes to add a provision that parents shall assign support rights and apply for services from the Office of Child Support when they receive Reach Up assistance through a solely state-funded program.

### ***Changes Related to Work Activities***

This bulletin proposes to update Reach Up definitions and add Reach First definitions, clarify that case management services may be provided in the family's home, add a provision for incentive payments to all families meeting Family Development Plan goals, add a provision for establishing a Reach Up incentive matrix, and add a provision for assigning the same case manager for Reach Up as for Reach First whenever possible. This bulletin also proposes changes and clarifications to the work-ready and employment participation phases, family development plan, work requirements, job search work activity, and deferments and modifications.

### ***Postsecondary Education Program***

This bulletin proposes to change the Postsecondary Education Program by replacing the fixed stipend calculated once a year with financial assistance calculated according to Reach Up rules that fluctuates as the family's circumstances change.

***Specific Changes to Rules Sections***

TOC 2135-2185	Modifies All Programs Table of Contents to reflect changes in 2180 – 2184.  <i>Since the filing of the final proposed rule, the TOC has been modified to show the added section 2185.</i>
2180	Adds solely state-funded programs (SSFP) to title and introduces the concept of SSFP. Changes mandatory separate state programs to SSFP.
2181	Changes separate state programs to SSFP.
2181.2	Adds participation noncompliance to follow practice and intent.
2181.3	Changes Reach Up Special Needs Component from a separate state program to a SSFP.
2181.4	Creates SSFP at discretion of Commissioner for participants with SSI applications pending. Adds reimbursement process consistent with state’s contract with Social Security Administration used for general assistance payment reimbursement.
2181.5	Eliminates segregated funds component.
2182	Changes bullets to letter designations. Removes segregated funds section.
2183	Changes assignment from separate state programs to SSFPs. Changes assignment timing to prior to month instead of by the 15 <sup>th</sup> of the month.
2183.1	Changes order of assignment to SSFP instead of separate state programs. Removes alien group due to its obsolescence. Adds SSI applicants as SSFP group discretionary to the commissioner.
2184	Creates separate state funded component to replace segregated funded component.
2185	<i>Since the filing of the final proposed rule, section 2185 has been added to clarify that child support distribution for families in solely state-funded and separate state programs shall follow federal distribution plan when administratively feasible, but if there is a variance it will be to the family’s advantage.</i>
TOC 2190-2199	Table of Contents for Reach First Rules.  <i>Since the proposed filing, the references to “mandatory participants” in 2194.5 and 2194.6 have been changed to “mandatory applicants.”</i>  <i>Since the filing of the final proposed rule, 2194 “Non-Financial Eligibility” has been changed to “Personal Interview.”</i>

2190 Introduces new Reach First program.

2191 Creates definitions section by reference to changed Reach Up definitions.

2192 Explains eligibility for Reach First.

*Since the proposed filing, the reference to “mandatory participants” has been changed to “mandatory applicants.”*

*Since the filing of the final proposed rule, the reporting requirement for mandatory applicants has been moved from section 2194 and inserted at 2192.*

2193 Sets out Reach First financial eligibility criteria to primarily track Reach Up.

2194 Establishes the non-financial eligibility criteria for Reach First.

*Since the proposed filing, the reference to “mandatory participants” in 2194 B(6) has been changed to “mandatory applicants.”*

*Since the filing of the final proposed rule, section 2194 has been renamed “Personal Interview” and the subsections have been modified for parallel construction and given letter designations, with the exception of number 5 which was moved to section 2192.*

2194.1 Creates the orientation to the program and other related financial assistance programs.

2194.2 Creates the initial financial and self-sufficiency screening to determine eligibility.

*Since the proposed filing, the reference to “mandatory participants” in 2194.2 B(6) has been changed to “mandatory applicants.”*

2194.3 Specifies criteria for families ineligible for Reach First in first instance.

2194.4 Specifies criteria for families inappropriate for Reach First referral.

2194.5 Specifies criteria for Reach First mandatory participants.

*Since the proposed filing, the references to “mandatory participants” in 2194.5 and 2194.5A have been changed to “mandatory applicants.”*

2194.6 Specifies criteria for Reach First families with no mandatory participants.

*Since the proposed filing, the references to “mandatory participants” in 2194.6, 2194.6A and 2194.6B have been changed to “mandatory applicants.”*

2195 Generally outlines Reach First payment parameters.

2195.1 Explains the payment calculation method.

2195.2 Explains the payment disbursement process.

- 2196 Introduces Reach First Services Component.
- 2196.1 Moves Assessment from Reach Up.
- 2196.2 Copies Reach Up Case Management section with slight modifications.
- 2196.3 Copies Reach Up Family Development Plans section, with slight modifications.
- 2196.4 Explains Support Services and incorporates Reach Up support services by reference.
- 2197 Explains Reach First Participant Responsibilities.
- Since the proposed filing, the reference to “participant” at 2197 (B) has been changed to “applicant.”*
- 2197.1 Establishes the consequences of Noncompliance with Reach First requirements.
- Since the proposed filing, the reference to “participants” at 2197.1 (A) has been changed to “applicants.”*
- 2197.2 Sets out noncompliance and good cause criteria by essentially copying Reach Up Good Cause with minor non-substantive modifications.
- 2197.3 Copies Reach Up conciliation section with slight non-substantive modifications.
- Since the proposed filing, the department has removed 2197.3 D. 9 and renumbered D. 10 as D. 9.*
- 2198 Specifies when cases are referred and transitioned to other programs.
- 2199 Incorporates notice and appeal provision from Reach Up rules with modification that Reach First payments do not continue during appeal.
- 2200-2238  
TOC P.1 Removes 2200.1, Terminology from Act 147, on TOC P.1.
- TOC. P.2 Removes 2240.1, Initial Eligibility Computation, and 2240.2, Continuing Eligibility Computation, on TOC P.2.
- Replaces “Initial Eligibility Earned Income Computation” at 2253.11 with “Earned Income Computation Sequences” and removes 2253.12, Continuing Eligibility Earned Income Computation on TOC P. 3.
- Replaces “Day Care” with “Child Care” at 2253.21 on TOC P.4.
- 2200 Removes obsolete references to Act 147. Revises purpose of the Reach Up Program for consistency with Act 30.

- 2235 Adds the provision for direct payment of housing, utilities or other basic needs when the family requests direct payment and meets the requirements at 2235.4 (D).
- 2235.4 Adds criteria at 2235.4 (D) for direct payment of housing or other basic needs when requested by the family.
- 2239 Removes reference to obsolete categories of eligibility.
- 2240 Removes A, comparison of gross income to 185 percent of the need standard, and B, comparison of monthly requirements to net income. Inserts comparison of net income to the payment standard at A. Moves revised C, comparison of the assistance group's available assets to the resource limitation, to B.
- 2240.1 Replaces "Initial Eligibility Computation" with "Eligibility Computation." Removes Steps I and II of eligibility computation (gross and net income tests). Inserts eligibility process consisting of comparison of net income with the payment standard, which applies to new applications, reapplications, and changes in an assistance group's circumstances.
- 2240.2 Removes Continuing Eligibility Computation subsection.
- 2252 Adds provision at 2252 G. that Reach First payments attributed to the months for which the family applies for Reach Up assistance are included as unearned income.
- 2253 Removes reference to state funding of the Vermont Earned Income Tax Credit. Moves text from 2253 P. 2 to 2253.
- 2253.1 Replaces "net earned monthly income" with "gross monthly earned income."
- 2253.11 Removes Initial Eligibility Earned Income Computation subsection.
- 2253.12 Renames Continuing Eligibility Earned Income Computation subsection as "Earned Income Computation Sequences" and renumbers as 2253.11. Removes reference to comparison of gross income to 185 percent of the need standard.
- 2253.2 Replaces "Social and Rehabilitation Services" with "Family Services Division of the Department for Children and Families." Replaces "Department of Developmental and Mental Health Services (DDMHS)" with "State of Vermont" and DDMHS with "the state."
- 2253.21 Replaces "day care" with "child care" and adds clarification that the business expense applies to income from providing child care in the assistance group's home. Removes obsolete reference to ANFC.
- 2253.3 Updates rule citation.
- 2253.31 Removes reference to second step of initial eligibility.
- 2253.33 Changes earned income disregard to \$200 from \$150.

- 2255.1 Changes excluded income in #15 to apply to earned income of an eligible child who is a part- or full-time student, regardless of whether employment is part- or full-time.
- Removes reference to the 185 percent income test in #30.
- 2260 Replaces “ANFC” with “Reach Up financial assistance.” Replaces “recipient” with “participant” and “receipt of benefits” with “participation.” Corrects reference to Potential Income and/or Resource rule. Clarifies wording and makes grammatical changes.
- 2261 Replaces \$1000 resources limitation with \$2000.
- 2273.4 Adds provision regarding parents’ assignment of child support rights and application for services from the Office of Child Support when parents receive assistance through a Solely State-Funded Program.
- Since the proposed filing, the department has made the language in this section gender neutral, replacing “paternity” with “parentage;” clarified that OCS pursues support based on the facts of the case; and clarified that the department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.*
- 2340-2399 TOC P.1 Replaces “Parenting Education Incentive” with “Payment of Incentives” at 2353.1 and removes 2253.2, Teen Parent Incentive, on TOC P.1.
- 2330 Adds provision regarding parents’ assignment of child support rights and application for services from the Office of Child Support when parents receive assistance through a Solely State-Funded Program.
- Since the proposed filing, the department has added clarifying language that the department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.*
- 2341 Revises definition section to apply to the Reach First program as well as to Reach Up. Adds “child well-being” to definition of assessment in (4). Updates definitions of (8) “commissioner” and (9) “department.” Adds definitions for “dependent child” at (10), “eligible family” at (12), “family” at (13), “living with a relative or caretaker” at (16), “parent” at (17), “Reach First payment” at (22), “Reach First services” at (23), “relative” at (25), “resources” at (26), “Secretary” at (27), “support services” at (28), and “work-eligible adult” at (31). Renumbers and moves definitions in the section.
- 2350 Clarifies that case management services may be provided in the family’s home. Adds provision that Reach Up case manager shall be the same case manager the family was assigned in Reach First when it is administratively feasible and appropriate.
- 2351.3 Adds #9, services for teen parents, to Types of Support Services. Clarifies medical assistance to include dental assistance as a support service. Renumbers “any other services...” as (10).

- 2351.41 *Since the proposed filing, the department has replaced “SRS” with “Child Development Division.”*
- 2351.42 Clarifies that dental services are included in the medical services for which the department shall not provide TANF funds.
- 2351.5 *Since the proposed filing, the department has replaced “Department of Social and Rehabilitation Services (SRS)” with “Department for Children and Families’ Child Development Division (CDD)” and has replaced “PATH” with “ESD.”*
- 2353 Adds provision that incentive payments shall be provided to all participating families.
- 2353.1 Replaces subsection 2353.1 Parenting Education Incentive with Payment of Incentives and adds provision for a Reach Up incentive matrix. Provisions for parenting education incentives will be included in the matrix.
- 2353.2 Removes Teen Parent Education Incentive subsection. Provisions for teen parent education incentives will be included in the Reach Up incentive matrix.
- 2360.24 Adds provision that the employment phase begins when participants have received 24 months of assistance or sooner.
- 2361 Adds provision at (F) that the Family Development Plan (FDP) shall include definition of activity or task goals and their corresponding incentive payments. Changes bullets to letters.
- 2361.1 Changes “a” to “an.”
- 2361.3 Adds provision that the FDP shall be reviewed at least 30 days before the parent has received 12-cumulative months of financial assistance and is deemed work-ready. Changes bullets to letters.
- 2363 Clarifies that the participant may be required to participate in one or more work activities.
- 2363.14 Replaces “family services director” with “commissioner or the commissioner’s designee.” Changes bullets to letters.
- 2363.31 Removes provisions at 2363.31 (A) (2) specifying timeframes during which parents must adjust their shared work requirement. Clarifies that combined hours shall equal or exceed 40 hours per week. Replaces “DET” with “Vermont Department of Labor (VDOL).”
- 2363.35 Removes subsection 2363.35 (B) containing provision that participants with postsecondary education or recently completed vocational training are not required to accept a job unrelated to their degree or training for a three month period. Reformats former 2363.35 (A).
- 2364.6 Removes housing search from job search activities. Removes references to job search hours above the federal limit as countable for compliance with the FDP.

- 2365.3 Adds clarification at 2365.3 P.3 that, in granting a deferment, the department shall consider the needs of the disabled or ill person, community resources, and the participant's preference for hours of participation.
- 2365.31 Moves subsection 2365.31 Domestic Violence Deferment or Modification to next page. Moves text on subsequent pages in subsection 2365.31 and renumbers pages. Changes bullets to letters.

*Since the proposed filing, the department has replaced "SRS" with "Family Services Division."*

- 2365.32 Adds clarification at 2365.32 P.3 that the medical review team shall consider the participant's estimate of how many hours she or he is able to work. Changes bullets to letters, moves text, and renumbers pages in subsection 2365.32.

TOC Changes Table of Contents to reflect changes in rule sections.  
2400-2417

- 2400 Changes program from separate state program to solely state-funded program. Replaces "living expense stipends" with "financial assistance." Removes concept of and reference to contracting agency.

- 2401 Generally modifies, updates, and removes specified definitions. Replaces term "Commissioner" with "Deputy Commissioner." Removes term "Contracting Agency." Replaces term "Vermont Department of Employment and Training" with "Vermont Department of Labor." Replaces term "living expense stipends" with "financial assistance." Removes term "Special Status Applicants." Removes term "Transition Student." Adds definition "dependent child."

*Since the filing of the final proposed rule, the definitions of "family" and "parent" have been modified to include parents who have full-time or no less than 50 percent physical custody of the child. This change is in recognition of the increase of families with shared custody orders.*

- 2402.1 Modifies PSE initial eligibility income test at Financial Eligibility in 2402.1 A. 4. a. and b. with provision that the family's gross income in the calendar year preceding the date of application, minus the participating parent's earnings, shall not exceed 150 percent of the federal poverty level for the appropriate family size instead of a family of four or five. Changes gross income determination to rely on Reach Up rules.

Moves provision at 2402.1 B. 8. that the PSE applicant agrees to limit employment to no more than 20 hours per week when school is in session.

Moves and modifies provision at 2402.1 B. 9 that participating families agree to accept the PSE living expense stipend in lieu of a Reach Up financial assistance grant.

Modifies subsection B to use Reach Up rules to determine eligibility for financial assistance.

Creates subsection C, financial eligibility for Case Management Services.

Moves former subsection B (Non-Financial Eligibility) to subsection D and modifies subsection to add exceptions to the 20-hour limitation on work, eliminates obsolete references, and clarifies that participating parent must have physical custody of minor child.

*Since the filing of the final proposed rule, section 2402.1 D. 3 has been modified to extend the limitation for only one parent to participate at a time to parents living apart and sharing equal physical custody of their child(ren).*

- 2402.2 Replaces “contracting agency” with “Department for Children and Families” and “stipend” with “financial assistance.” Changes continuing eligibility for financial assistance in subsection A to follow Reach Up financial assistance rules instead of annual review for stipend. Creates subsection B, financial eligibility for case management services. Re-designates former subsection B as C and eliminates former obsolete subsection C. “Amount of Living Expense Stipend.”
- 2403.1 Clarifies that documentation of application must be received within 30 days of close of application period.
- 2403.2 Removes the first two obsolete exceptions to the application periods and clarifies target number of applications accepted.
- 2403.4 Replaces “living expense stipend” with “financial assistance” in 2403.4 F.
- 2403.5 Replaces “CCV” with “Commissioner.”
- 2403.6 Eliminates provision making participant ineligible if other parent is temporarily disabled and not eligible for VR services because he or she will be able to return to former employment.
- 2403.8 Changes citation reference.
- 2403.9 Modifies provision at 2403.9 A. that employment by the participating parent be limited to 20 hours per week when school is in session by adding exceptions.
- Replaces “living expense stipend” with “financial assistance” in 2403.9 B, C, and D and adds requirement in subsection B to apply for services from the Office of Child support, if not already receiving such services, and cooperate with OCS efforts to collect support.
- Adds in subsection C the ability to continue vendor payments for a family that has vendor payments for money mismanagement in Reach Up.
- Eliminates provision in former subsection E limiting participation in Reach Up for PSE completers and re-letters provision F.

*Since the proposed filing, the department has added clarifying language that the department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.*

- 2403.10 Changes “living stipend” to “financial assistance.” Clarifies treatment of applications kept on file at applicants’ request.
- 2404 Revises provisions for prioritizing admission to the PSE program to align with changes in state law.
- 2405 Removes obsolete Transition Students section 2405 and creates new section “Transition for Participants receiving a stipend on April 1, 2007” that establishes the options for those participants to choose to continue a stipend instead of financial assistance.
- 2406 Eliminates obsolete Special Status Applicants section 2406 and re-designates PSE Plan Requirements as 2406. Removes “contracting agency” and changes “Department of Employment and Training” to “Department of Labor.”
- 2407 Re-designates section 2408 as 2407 and changes name to “Financial Assistance” from “Living Expense Stipend.” Changes “stipend” to “financial assistance” throughout section and changes methodology for determination of monetary assistance payments from stipend to financial assistance equal to Reach Up financial assistance, using Reach Up rules incorporated by reference.
- 2408 Replaces obsolete “Living Expense Stipend” section 2408 with former 2409, “Support Services.” Replaces “Vermont Department of Social and Rehabilitation Services” with the “Child Development Division of the Vermont Department for Children and Families.”
- 2409 Re-designates former 2410, “Pre-Participation Services” as 2409. Replaces “living expense stipend” with “financial assistance” and “PATH” with “DCF.”
- 2410 Reserves section.
- 2411 Modifies subsection 2411.B to give flexibility to participant to meet with case manager using whatever means are appropriate. Changes “stipend” to “financial assistance” and removes reference to “contracting agency” throughout section. Replaces “PATH” with “Department for Children and Families.”
- 2412 Replaces “living expense stipend” with “financial assistance” throughout the section. Replaces “Vermont Department of Employment and Training” with “Vermont Department of Labor” at subsection F. Adds requirement of child support assignment, applying for OCS services, and cooperating with OCS efforts. Eliminates subsection E consistent with change in law and re-designates former F as E. Clarifies financial assistance changes are made as soon as administratively possible.

*Since the proposed filing, the department has added clarifying language that the department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.*

- 2413.1 Adds approval of commissioner for approved interruption in program. Adds “PSE financial assistance” in 2413.1 C.
- 2413.3 Removes reference to receipt of the PSE program stipend in subsection 2413.3 A.
- 2414 Removes obsolete “Completion of Postsecondary Program/Reach Up Requirements” section consistent with change in law. Re-designates former 2415 “Time Limits for Participation in PSE Program” as 2414 and adds references to financial assistance.
- 2415 Corrects references to changed sections. Adds sanctions for non-cooperation with child support requirements. Adds subsection B.8 that clarifies failure to have physical custody of a dependent child is grounds for termination.
- 2416 Re-designates former 2417, “Right to Written Notice and Appeal” as 2416. Removes obsolete term “transition students” and changes “stipend” to “financial assistance.” Replaces the references to “contracting agency” with the term “commissioner.”

*Since the filing of the final proposed rule, subsection E has been modified and subsection F added to extend to participants the ability to maintain their financial assistance at the same level during an appeal that is related to income and financial resources.*

- 2417 Re-designates former 2418 “Americans with Disabilities Act” as 2417.

### ***Comment Period***

A public hearing was held on January 3, 2008 at 1:00 p.m., in the Economic Services Divisions’ Large Conference Room, DCF, State Office Complex, Waterbury, Vermont. The department did not receive any comments at the hearing.

The comment period on this bulletin closed on January 10, 2008. The Department for Children and Families received written comments from six commenters. Commenters include a private individual and representatives from Vermont Legal Aid, the Office of Child Support, and Economic Services staff who provide direct service to Reach Up participants.

### ***General Comments***

Vermont Legal Aid posed general comments about Bulletin 08-02. The department responds to these comments before addressing comments on specific sections. General responses that are directed to specific sections are not addressed again by section.

***General Comments and Responses***

*Comment:* The commenter characterizes the legislative intent for Reach First as to maximize the work participation rate by providing all families TANF “non-assistance” when they first enter the system and thereby improve the state’s work participation rate. The commenter takes issue with the regulations designing Reach First as a “crisis program” saying it appears to be designed to simply keep people off the Reach Up rolls. The commenter questions how this approach will actually satisfy the legislative intent of using Reach First to increase the work participation rate while providing eligible families with assistance.

*Response:* The commenter categorizes Reach First as a program designed solely to keep people off Reach Up and improve Vermont’s TANF work participation rate. While it is true that the legislative intent in creating Reach First was, in part, to improve the work participation rate, it was also the intent that Reach First would be a program that would conform to federal law and conserve public financial resources. The rule is crafted to fulfill the full intent of the law. To do this it is necessary to determine which families are not likely to need ongoing assistance because they are experiencing a short-term financial or other type of crisis and to help them in Reach First, a diversion program. In Reach First appropriate families receive TANF non-assistance, assessment, and referral. It is not the purpose of Reach First to serve all applicants. Using Reach First to provide non-assistance to all families including those who have a need for ongoing assistance would put the state at risk of federal penalties for improper use of TANF funds and be contrary to the legislative intent.

The commenter states that the regulations establish Reach First as a “crisis program.” The rules are consistent with 33 V.S.A. § 1002(a)(1), which lists the first purpose of Reach First as to stabilize families in crisis. In addition, the rules reflect the legislative intent to have Reach First conform to TANF law. Federal TANF regulations characterize non-assistance as a nonrecurrent, short-term benefit designed to deal with a specific crisis situation or episode of need. See 45 C.F.R §260.31(b). It would be inconsistent with federal law for the department to serve all families in Reach First. The rule makes every effort to create a system consistent with legislative intent and to serve those families who may need only a short-term benefit in Reach First, instead of Reach Up. Those families who clearly need ongoing assistance are referred to Reach Up or other program that provides ongoing assistance as soon as that need is recognized.

*Comment:* The commenter notes that in two sections (Sec. 2193A, 2199A) continuing benefits are not available on appeal in the Reach First program. The commenter points to 33 V.S.A. Sec. 1012 as specifically stating that participants may appeal decisions in accordance with section 3091 of Title 3 and that “[a]ll federal and agency of human services rules regarding conciliation, notice, hearing and appeal shall be followed.” AHS Policy, 2218.2 requires continuing benefits when an appeal is requested within 10 calendar days or prior to the effective date of the adverse action. The commenter’s position is that the statute requires continuing benefits to be available to Reach First and PSE participants or suggests that in the alternative, Reach First recipients should be transitioned to Reach Up and given their appeal rights, including continuing benefits under that program.

*Response:* The department reads 33 V.S.A § 1012 (Notice and Appeal) as listing the parts of the appeal process that must be followed: conciliation, notice, hearing and appeal. Continuation of benefits is not included in the list, giving the commissioner discretion to address the issue by rule. In addition, section 1012 must be read in connection with section 1007 (Required participation) which specifically states that payment may be withheld during conciliation and until the adult complies and that when conciliation is unsuccessful the family may be sanctioned and transferred to Reach Up. In both circumstances, the Reach First benefit does not continue. For those transferred to Reach Up, Reach Up rules will apply as the commenter suggests. For those who remain, section 1007 applies and the Reach First payment may be withheld during the conciliation process and until the adult complies.

*Comment:* The commenter states that section 2194 (Non-Financial Eligibility Criteria) is inconsistent with the statute and creates unnecessary barriers to participation. The commenter states that the only “eligibility” criteria are financial (income and resources do not exceed Reach Up limits) and residency. 33 V.S.A. Sec. 1003(a). The commenter characterizes the non-financial criteria as participation requirements not eligibility requirements.

*Response:* Section 24 of Act 30 authorizes the commissioner to adopt rules necessary to implement the provisions of the act. The eligibility criteria established in section 2194 are necessary to implement Reach First in a manner consistent with Act 30, including the provisions requiring conformity with federal TANF law and avoidance of federal fiscal penalties. As Reach First is mandatory for certain applicants, unavailable to others, and may or may not be appropriate for others, it is essential that applicants are screened for and oriented to the program options they have so they may make an informed choice and the state complies with federal law.

*Comment:* The commenter expresses concern about language requiring families in solely state-funded programs to apply for Office of Child Support services and to assign child support to the department. The first concern is whether any of these families would be charged a fee for the services.

*Response:* This comment is addressed under section 2273.4 below.

*Comment:* The commenter also is concerned about how the department will treat the assigned child support.

*Response:* Subsequent to the passage of Act 30, the federal agency regulating child support issued guidance on child support, solely state-funded programs, and the permissible involvement of states’ child support agencies in collecting and distributing this support. The federal regulators prohibited state child support agencies from using services matched with federal funds in child support collection and distribution for families in solely state-funded programs (SSFPS). The department’s Office of Child Support (OCS) and Economic Services Division, in an effort to comply with this guidance, has developed procedures designed to treat families as fairly and equally as possible while avoiding any financial harm to the families. With these considerations,

the department decided on the following distribution procedures for families in SSFPs:

- Families in SSFPs must assign their child support to the department.
- To ensure these families have the benefit of the OCS services they are required to apply for free IV-D services, if they are not already receiving them. (See comments at section 2273.4.)
- The department acts as the family's agent in receiving the collected child support from OCS and distributes it as follows when the family is in an SSFP:
  - Current support, after disregard of the first \$50, is passed to the family and reduces the family's grant dollar for dollar (parent's share).
  - Pre-assistance arrears will be passed to the family as income (as pre-assistance arrears will be treated for TANF-funded cases in the future).
  - Arrears accumulated and paid during the time the family is in an SSFP will be kept by the state only up to the amount that the state would have used to reduce the grant had it been timely paid (without consideration of the disregard) with the remainder passed to the family.
  - Arrears accumulated while in an SSFP, but not collected until the family is no longer in the SSFP will go directly to the family, unless federal distribution law requires a different disbursement.

The department has no intent to retain child support to reimburse TANF funds paid as non-assistance or any funds, other funds used on behalf of families other than in support of financial assistance.

### **Comments by Section**

#### **2181.4 Reach Up SSI/AABD Applicant Component**

*Comment:* One commenter seeks clarification about 2181.4(b) and whether this SSFP is for Reach Up applicants or Vocational Rehabilitation participants.

*Response:* Provided the commissioner decides there are sufficient funds to run this SSFP, eligible participants are Reach Up participants who qualify for and choose to participate. As with all SSFPs, other than PSE, the participant must be in Reach Up. To qualify for this SSFP, the participant must be working with and have the support of Vocational Rehabilitation on their SSI application.

*Comment:* One commenter recommends that the department should give itself the flexibility to include families who are working with Vocational Rehabilitation to apply for SSI, but may not have an application pending yet. The commenter suggests there could be a significant period of time when these families may be preparing, but not yet filed their application and the current language limits the department's ability to exclude these families from the work rate through a solely funded state program during this time period.

*Response:* The department appreciates this comment, but chooses to leave the rule as written as it ensures that this program will be limited to those who have an application pending. In addition, the department does not need the flexibility the commenter suggests as the department already has the ability to move other families to another SSFP when they are not meeting their work requirement. See 2181.3(b).

*Comment:* One commenter suggests that 2181.4(c) should include an exception for individuals who are exempt from family development plan and work requirements to ensure that the department has the flexibility to include exempt individuals in this group.

*Response:* Again, the department appreciates the commenter's concern for flexibility, but this already exists in the rules in section 2181.3(b). This section gives the department the discretion to move families who are not meeting their work requirement to a solely state-funded program when necessary.

## **2182 Hardship Exemption**

*Comment:* One commenter characterizes the rationale for the hardship structure is to maximize the state's work participation rate by taking families who are not participating out of the calculation and suggests another approach to give the state more flexibility.

*Response:* The commenter misunderstands the purpose and function of this section of the rule and the effects of 2181.3(b). This bulletin has not changed the substance of this section except to change the funding source of the grants of families who do not qualify for the hardship from separate state program (MOE program) funds to solely state-funded program funds. The purpose and rationale for this structure are directly related to federal TANF law prohibitions on funding grants of families with an adult who has received 60 months of TANF-funded assistance with TANF *unless* the family qualifies for a hardship as defined by the state. Families who are complying with program requirements, regardless of whether they are meeting federal work participation hours are viewed as having a hardship. Under the rules as drafted, these hardship cases may remain in the TANF-funded caseload or be moved to a solely state-funded program in accordance with section 2181.3(b) if appropriate. Those who do not qualify for the hardship must have their grants funded with state funds due to the prohibition on using TANF funds. The state has maximum flexibility under the rules as drafted.

## **2194 Non-financial Eligibility**

*Comment:* One commenter claims that the non-financial eligibility criteria are not eligibility requirements, but rather services available to participants who otherwise financially qualify and who live in the state. The requirements that participants attend an orientation, and provide financial information will be a hardship for some participants due to lost work time, lack of transportation or other family crises. The department should offer these services to eligible participants in the least intrusive way possible (on line, other written materials, telephone, in-home visit, etc.). Creation of these additional hurdles will discourage participation.

*Response:* As the addressed above in the general comments, these criteria are necessary to ensure Reach First is operated consistent with legislative intent and conformity with federal TANF law. To determine eligibility, the needs of the family, the structure and amount of Reach First payments, and for the family to receive sufficient information to make an informed choice about participation in the programs, it is essential that they participate in these activities. The department plans to make these requirements as convenient as possible related to the family's circumstances.

*Comment:* One commenter felt it was unfair for families to be deemed inappropriate for Reach First Referral in 2194.4. Specifically, the commenter felt that it was unfair to suggest that single parents who qualify for and want a deferment to stay home to care for a child under age 2 are not appropriate for Reach First and should be referred to another program. The commenter has a similar concern about the families who are meeting their work requirement, but need ongoing assistance. The commenter also wonders why the child care deferment is singled out.

*Response:* The commenter appears to misunderstand the purpose of this section and the Reach First program. The program provides the same benefits as Reach Up, so there is no benefit to the family to be in Reach First if they are more appropriate to another program and need ongoing assistance. In fact, it would be contrary to TANF law to serve families who need ongoing assistance in Reach First. Both of the groups the commenter refers to are only inappropriate for Reach First if they will need ongoing assistance beyond the four-month Reach First period. If they know they will have a change in the next four months that will eliminate their need or eligibility for assistance, they can choose to be in Reach First. The child care deferment is singled out in that it is an easily recognizable need without in-depth evaluation and these families do not count in the rate as they are either removed under TANF law or would be in a solely state-funded program. When it is readily apparent what the family needs, they may choose to remain in Reach First, until or unless it is determined that they need ongoing assistance or can be better served in another program.

## **2195 Reach First Payments**

*Comment:* One commenter takes issue with the basic structure of Reach First. The commenter claims the rules are contrary to legislative intent because the "regulations cherry pick out those families who will be able to avoid entering the Reach Up program with some limited amount of assistance." The commenter believes that Reach First was to provide non-assistance for the first four months following any family's application to help families who are likely to continue on Reach Up to meet work requirements not just to keep people off the rolls completely.

*Response:* As stated in the general comments, the legislative intent in creating Reach First was to improve the work participation rate, but it was also that Reach First would be a program that would conform to federal law and avoid putting the state at risk of federal fiscal penalties. The rule is crafted to fulfill the full intent of the law. Reach First is designed and intended to be a diversion program, that is a program to provide TANF non-assistance and divert families away from ongoing assistance. These non-financial eligibility criteria are used to determine which families are least likely to need ongoing

assistance and are experiencing a short-term financial or other type of crisis that can be addressed with TANF non-assistance, assessment, and referral. It is not the purpose of Reach First to serve all applicants, including those who clearly have a need for ongoing assistance. To do as the commenter suggests would put the state at risk of federal penalties for improper use of TANF funds.

## **2196 Reach First Services Component**

*Comment:* One commenter claims that the rules do not specifically list the required services for Reach First participants that are set out in 33 V.S.A. § 1005.

*Response:* Section 2196 is the general section that introduces the services component. The list of specific services support services is in Reach Up rule 2351 and its subsections, which are all incorporated by reference in 2196.4.

## **2197.1 Consequences of Noncompliance**

*Comment:* One commenter asks if the department intended to say participants or applicants in section 2197.1 and wondered for how long members of this group who are not eligible remain ineligible.

*Response:* The department agrees with the commenter that this group should be called “mandatory applicants” not “mandatory participants.” As a result of this comment, the references to “mandatory participants” has been changed to “mandatory applicants” in the following sections: TOC 2194.5 and 2194.6; 2192; 2194B(6); 2194.2B(6); 2194.5; 2194.5A; 2194.6; 2194.6A; 2194.6B; 2197B; and 2197.1A.

Members of this group must report to the department of labor before they can receive any payment or service in Reach First or Reach Up (if they are not eligible for Reach First due to the 12-month bar). These members remain ineligible for services and payment until they report as required, even if that means they need to file a new application.

*Comment:* One commenter notes that 33 V.S.A. Sec. 1007(b)(1) and (c)(3) require the department to provide participants a second opportunity to comply before proceeding to conciliation. This should be specifically referenced both with regard to general program requirements and the requirement to report to the Department of Labor for job search.

*Response:* The comment in regard to section 1007(c)(3) is unclear as the subsection does not exist. The department reads the language in section 1007(b)(1) about the second opportunity to comply as being one of the alternatives that exist for the applicant *after a successful conciliation*. That is, depending upon what is discovered in the conciliation, the applicant may either have the requirements modified and comply with the modified requirements or comply with the original requirement that was conciliated.

**2197.2 G Good Cause Criteria**

*Comment:* One commenter notes that subsections 5 and 9 in this section require a participant to notify the appropriate person “at the earliest possible moment.” The commenter asks, how is anyone going to determine what the earliest possible moment was? Second, other sections require notification “as soon as possible.”

*Response:* The Good Cause criteria in this section are the exact same as the good cause criteria that were approved for and have been in Reach Up rules for years, there are no substantive changes. The rule simply cuts and pastes the same Reach Up good cause into Reach First as authorized in 33 V.S.A. § 1007(a) [“The commissioner may use the same rules applicable to good cause as established in the Reach Up program”]. The department reads the law as being satisfied with the good cause rules as written and in existence. The standards of “earliest possible moment” and “as soon as possible” are in practice treated as the reasonable time frame for the family. The purpose of the language is to provide flexibility to the participant experiencing the situation.

**2197.3D Conciliation Process for Noncompliance**

*Comment:* One commenter suggests there is a contradiction between this section’s provision that if a fair hearing is requested before the sanction begins, sanctions are not applied while the appeal is pending and section 2195 G provision that Reach First payments do not continue while a hearing is pending.

*Response:* The two sections are referencing different situations. Sanctions are not an option in Reach First. Non-compliance results in the withholding of the Reach First payment until there is compliance, or when conciliation is not an option or the conciliation is terminated because it is unsuccessful, the case may be transferred to Reach Up for eligible families. When a case is transferred to Reach Up those rules apply and sanctions are applicable. Section 2197.3D is addressing the latter situation.

**2197.3 D. 9 Conciliation**

*Comment:* One commenter noted that #9 repeats the language in #5.

*Response:* The department agrees and has removed #9 and renumbered #10 as #9.

**2200 Purpose of the Reach Up Program**

*Comment:* One commenter noted that #6 refers to providing clothing for children and asked whether this is a new provision.

*Response:* This provision pertains to the basic needs standard in Reach Up rules at 2245. Clothing is one of the basic needs and its inclusion at 2200 #6 is not a new provision, nor is it a new benefit. The language in this section is based on 33 V.S.A. §1102 Purpose of Aid. Act 30 replaced “To protect children” in #6 with “To improve the well-being of children,” and the department made this change at 2200.

### **2240.1 Eligibility Computation**

*Comment:* One commenter commended the department for eliminating the overly complicated, out-dated financial eligibility determinations and instead applying a practical and simplified calculation method. The commenter suggests that the department should clarify the calculation of net income based on predicted child support for new applications. The commenter also suggests that child support income should not be considered “predicted” where there is no child support order in place at the time of application. In addition, if at the time of application, the non-custodial parent has a history of consistent non-payment of child support, it should not be considered income. This could be determined by reviewing the payment frequency over the past six months (or from the time of the child support order is entered, if less than six months). These payment records are easily accessible from the Office of Child Support in most circumstances.

*Response:* The language in the proposed rule at 2240.1 (1) that addresses child support “predicted or collected by the Office of Child Support” is not new. The department determines eligibility on a case by case basis following all applicable rules and interprets the rule at 2240.1 consistent with the rule at 2250, which defines income as any cash payment or equivalent “in kind” which is actually available to the applicant or recipient. The department counts child support that is regularly paid even if there is no child support order. The commenter’s suggestion that the department review support payment frequency in OCS records over the past six months is not operationally feasible.

### **2273.4 Referral to Office of Child Support**

*Comment:* One commenter questioned whether families in solely state-funded programs will be required to pay a fee for Office of Child Support services.

*Response:* The Deficit Reduction Act of 2005 (DRA) requires families that have never received TANF (non-public assistance [NPA] families) to pay a \$25 annual fee if they receive child support totaling \$500 or more per year. Families in solely state-funded programs who had never received TANF-funded financial assistance would fall under this federal provision. The OCS does not currently charge its NPA customers a fee and does not plan to charge a fee to families in solely state-funded programs as long as state funding to absorb the fee is available.

*Comment:* One commenter suggested that the department remove language referring to the OCS making recommendations to the Commissioner for decision and replace it with the clarification that OCS decides whether or not to pursue support based on the facts of the case. The commenter also suggested that the department make the language in this section gender neutral.

*Response:* The department has replaced the reference to recommendations with the suggested clarification and replaced “paternity” with “parentage.”

**2350.1 Caseload Size**

*Comment:* One commenter recommended that a maximum caseload size of 80 active cases is unrealistic and should be changed to 45.

*Response:* The department addressed this issue in Bulletin 00-22F. Based on research, the department proposed maximum caseloads of 80, and this number was approved through the rulemaking process. In practice, the department generally maintains caseloads of fewer than 60, and caseloads of fewer than 40 for families with special needs.

**2351.41 Payment for Support Services Through Other Programs**

*Comment:* Two commenters noted that this section contains an obsolete reference to a division in the Department for Children and Families.

*Response:* The department has replaced “SRS” with “Child Development Division.”

**2351.5 Criteria for Purchase of Support Services**

*Comment:* Two commenters noted that subsection 1. Child Care contains two obsolete references to divisions in the Department for Children and Families.

*Response:* The department has replaced “Department of Social and Rehabilitation Services (SRS)” with “Department for Children and Families’ Child Development Division (CDD) and replaced “PATH” with “ESD.”

**2365.3c Grounds for Deferment or Modification of Work Requirements**

*Comment:* One commenter claims that 33 V.S.A. §1114(b)(5) states that the Department shall “give deference” to a participant’s preference as to the number of hours the participant is able to work and that the rule uses a lesser standard by stating that the participant’s preference will be considered.

*Response:* The rule is consistent with the law as 33 V.S.A. § 1114(b)(5) states that the “department shall fully consider the participant’s preference” as to the number of hours the participant is able to participate in activities.

**2365.32 Medical Deferment or Modification**

*Comment:* One commenters claims that 33 V.S.A. § 1114(c) discusses giving “deference” to a participant who is able-to-work-part-time or unable-to-work in setting estimated work hours and that the language in 2365.32 does not reflect this standard.

*Response:* The rule is consistent with the law as § 1114(c) which states that the “department shall fully consider the participant’s estimation” as to the number of hours the participant is able to participate in activities.

***Post-Secondary Education***

**2401 Definitions**

*Comment:* One commenter asks if the definitions of “family” and “parent” requiring physical custody of the child are meant to exclude parents who share physical custody from the program? The commenter notes that shared physical custody is increasingly common and is encouraged under Vermont family law and by the courts.

*Response:* The reason the definition was modified was to address the issue that participating parents must have physical custody, and not merely legal custody, to be eligible for the program. It was not to exclude those who share physical custody.

**2406.2 PSE Plan Requirements and 2416 Appeals**

*Comment:* One commenter suggested that the rules should clarify that the PSE appeal rights are provided in section 2416.

*Response:* The PSE program has its own set of rules. The appeal rights related to the PSE program are and have always been in the PSE rules and listed in the PSE table of contents this bulletin does not make any substantive changes in this section. There have been no issues around this since 2001 when the program started and the department declines to make unnecessary changes.

*Comment:* One commenter recommends that section 2416 should be amended to mirror the Reach Up rules because continuing benefits were not initially provided as part of an appeal in the PSE program because of the stipend structure and because a family’s financial eligibility was only determined annually. The family was in a fundamentally different financial position than a Reach Up family. Because the law modified that structure to mirror Reach Up, the appeal rights should also mirror Reach Up and provide continuing benefits for these families now that the Reach Up financial rules apply to them.

*Response:* The department disagrees with the commenter’s characterization of the change. Essentially, the same group is eligible for and receiving the financial assistance that was eligible for the stipend. Although the payment structure of the financial assistance in the two programs is more similar now, these programs’ rules significantly differ in regard to participation and eligibility. Accordingly, the department declines to make the change at this time for the commenter’s stated reasons.

## **Financial Assistance**

*Comment:* One commenter states that PSE participants should be eligible for continuing assistance pending a fair hearing on the same basis as Reach Up families, since the financial eligibility rules are now aligned.

*Response:* While it is true that there is more alignment between Reach Up and PSE financial assistance rules, program eligibility, participation requirements linked to eligibility, and the program funding sources are not aligned. The programs' main differences remain and they serve different populations. Accordingly, the department declines to make a change at this time.

### **2412.1 Annual Review**

*Comment:* One commenter proposed there should be an outside deadline under which financial assistance changes are made, such as no later than 30 days.

*Response:* The timing and affect of financial changes on a family's financial assistance must follow Reach Up rules' time frames and notice requirements. A deadline, such as the commenter suggests, may not fit within notice and due process requirements.

### **2413 Time Limits for Participation**

*Comment:* One commenter asks why 2413 (B) and (C) include reference to a "living expense stipend" when the PSE program will no longer include a living expense stipend. The commenter adds that if the family has a stipend and is not receiving state-funded assistance, the month should not count as part of the program.

*Response:* The reference to the stipend remains to include those families who continue to receive a stipend under the grandfather clause. The PSE is a totally SSFP and any assistance, stipend, or support services received in this program are funded with state funds.

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

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

\* \* \* \* \*

Vertical lines in the left margin indicate significant changes. Dotted lines at the left indicate changes to clarify, rearrange, correct references, etc., without changing content.

**Manual Holders:** Please maintain manuals assigned to you as follows.

**Manual Maintenance**

**All Programs Rules**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
TOC P.2	(02-07F)	TOC P.2	(08-02)
2180	(02-07F)	2180	(08-02)
2181	(02-07F)	2181	(08-02)
2181.3	(02-07F)	2181.3	(08-02)
2182	(02-07)	2182	(08-02)
2183.1	(02-07F)	2183.1	(08-02)
Nothing		2184	(08-02)

**Reach First Rules**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
Nothing		TOC P.1 (2190)	(08-02)
Nothing		2190-2199 (18 pp.)	(08-02)

**Reach Up Rules**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
TOC P.1 (2200)	(01-06)	TOC P.1 (2200)	(08-02)
TOC P.2	(01-06)	TOC P.2	(08-02)
TOC P.3	(01-06)	TOC P.3	(08-02)
TOC P.4	(01-06F)	TOC P.4	(08-02)
2200	(01-06)	2200	(08-02)
2235	(01-06)	2235	(08-02)
2235.4	(01-06)	2235.4	(08-02)
2239	(94-12)	2239	(08-02)
2240.1	(01-06F)	2240.1	(08-02)
2240.1 P.2	(01-06F)	Nothing	
2240.2	(01-06F)	Nothing	
2252	(01-06F)	2252	(08-02)
2253	(06-24)	2253	(08-02)
2253 P.2	(01-06)	2253 P.2	(08-02)
2253.11	(01-06)	2253.11	(08-02)
2253.2	(98-1)	2253.2	(08-02)
2253.21	(88-15F)	2253.21	(08-02)
2253.3	(01-06F)	2253.3	(08-02)
2253.32 P.2	(01-06F)	2253.32 P.2	(08-02)
2255.1 P.4	(06-24)	2255.1 P.4	(08-02)
2255.1 P.6	(06-24)	2255.1 P.6	(08-02)
2260	(90-35)	2260	(08-02)
2273.4	(01-06)	2273.4	(08-02)

**Manual Maintenance****Reach Up Rules (Continued)**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
2330	(01-06F)	2330	(08-02)
TOC P.1 (2340)	(00-22)	TOC P.1 (2340)	(08-02)
2341	(00-22)	2341	(08-02)
2341 P.2	(00-22F)	2341 P.2	(08-02)
2341 P.3	(00-22)	2341 P.3	(08-02)
Nothing		2341 P.4	(08-02)
2350	(00-22F)	2350	(08-02)
2351.3	(00-22)	2351.3	(08-02)
2351.41	(00-22F)	2351.41	(08-02)
2353	(00-22F)	2353	(08-02)
2360.22 P.2	(00-22F)	2360.22 P.2	(08-02)
2361	(00-22F)	2361	(08-02)
2361.3	(00-22F)	2361.3	(08-02)
2363	(00-22)	2363	(08-02)
2363.14	(00-22F)	2363.14	(08-02)
2363.31 P.2	(00-22F)	2363.31 P.2	(08-02)
2363.31 P.3	(00-22F)	2363.31 P.3	(08-02)
2363.35	(00-22F)	2363.35	(08-02)
2364.6	(06-24)	2364.6	(08-02)
2365.3 P.3	(00-22F)	2365.3 P.3	(08-02)
Nothing		2365.31	(08-02)
2365.31 P.2	(00-22)	2365.31 P.2	(08-02)
2365.31 P.3	(00-22F)	Nothing	
2365.32 P.2	(00-22)	2365.32 P.2	(08-02)
2365.32 P.3	(00-22)	2365.32 P.3	(08-02)

**PSE Program Rules**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
TOC P.1 (2400)	(00-32F)	TOC P.1 (2400)	(08-02)
TOC P.2 (2400)	(00-32F)	TOC P.2 (2400)	(08-02)
2400 – 2418 (38 pp.)	(00-32F)	2400-2417 (34 pp.)	(08-02)

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2180

**2180 Solely State-Funded Programs and the Separate State Programs Component of Reach Up**

Reach Up is the name of Vermont's Temporary Assistance for Needy Families (TANF) program, funded with federal TANF block grant funds and state TANF maintenance-of-effort (TANF-MOE) funds. States may create financial assistance programs that are funded solely with state funds not claimed as TANF-MOE. These programs are called solely state-funded programs. Reach Up also includes solely state-funded programs that are not part of Vermont's TANF program. States receiving TANF block grants must demonstrate to federal program administrators that a specified percentage of their TANF program's caseload is engaged in work activities (participation rate). Families whose Reach Up financial assistance is paid, in part or in full, with federal TANF or TANF-MOE funds are included in the calculation of Vermont's TANF participation rate. Assistance paid, in part or in full, with federal TANF funds counts toward the 60-month limit on federal TANF assistance. Under federal rules, states may assign some families to separate state programs and some to segregated funds components of their TANF programs. Separate state programs and segregated funds components are funded with state TANF-MOE.

The Vermont legislature has directed the commissioner to create certain solely state-funded and separate state programs as components of Reach Up. Families receiving assistance from a solely state-funded program are not included in the calculation of Vermont's TANF participation rate, while those in the separate state programs component of Reach Up are included. Reach Up law requires the commissioner to establish specified solely state-funded programs and gives the commissioner the discretion to create others by rule.

The mandated solely state-funded programs are:

- a. the Postsecondary Education Program (PSE);
- b. the Parental Nurturing Component of the Reach Up Program;
- c. the Minor Parent Safety Net Component of the Reach Up Program; and
- d. the Special Needs Component of the Reach Up Program.

The department determines eligibility and benefits levels for PSE applicants and participants according to Reach Up rules and the rules in 2400-2418. For families in solely state-funded programs other than PSE and families in the separate state program component, the department determines eligibility and benefit levels according to the Reach Up rules in 2200-2380.

Section 2181 describes the solely state-funded programs component of Reach Up, the families that qualify for them, and limitations on program assignment

Section 2182 sets forth the rules for determining which families qualify for the hardship exemption from the 60-month limit on federal TANF assistance. If the number of qualifying families exceeds the maximum for whom federal TANF funding is allowed, some may be assigned to a component funded with TANF-MOE or a solely state-funded program.

Section 2183 specifies the rules for assigning families to solely state-funded programs.

Section 2184 specifies separate state programs and specifies the rules for assignment to those programs.

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2181

## 2181 Solely State-Funded Program Component Descriptions

The department shall establish the solely state-funded and separate state programs of Reach Up described in 2181.1-2181.4 and assign families to them, as specified in 2182-2183. Eligible families not assigned to or choosing to participate in separate state or solely state-funded programs remain in TANF-funded Reach Up.

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

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

### 2181.1 Reach Up Parental Nurturing Component

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

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

Assignment to this component is mandatory for qualifying families.

### 2181.2 Reach Up Minor Parents' Safety Net Component

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

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

Assignment to this component is mandatory for qualifying families.

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2181.3

### 2181.3 Reach Up Special Needs Component

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

Families assigned to this component:

- a. include at least one member who is ineligible for federal TANF assistance due to receipt of 60 or more months of such assistance as an adult and have not been selected for a hardship exemption (2182) from the limit on receipt of federal TANF assistance; or
- b. are not meeting their federal TANF work requirement.

Assignment to this component is mandatory for families qualifying because they have not been selected for a hardship exemption. Assignment of families to this component because they are not meeting their federal TANF work requirement is limited by the number of families whose assignment is required to meet federal TANF participation rate targets plus 1 percent (2183.1).

### 2181.4 Reach Up Supplemental Security Income and Social Security Disability Insurance (SSI/AABD) Applicant Component

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

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

Regardless of the amount of the initial SSI/AABD payment, the deduction shall be made for Reach Up assistance issued during the period from the first day of eligibility for SSI/AABD, or the day the Recovery of Reach Up assistance agreement is signed, if later to the date the initial SSI/AABD payment is received by the department. When the SSI/AABD grant does not include all members of the Reach Up household, the deduction shall be for a prorated portion of the Reach Up granted while in this solely state-funded program, to reflect only those included in the SSI/AABD grant. The department shall send any remainder due to the SSI/AABD recipient within 10 days. An exception to this provision applies to individual whose SSI/AABD is based on drug addiction or alcoholism. After SSI/AABD is granted and SSA has reimbursed Vermont for Reach Up assistance received, SSA will pay the remainder of the initial SSI/AABD payment to the recipient's representative payee.

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**2182      Hardship Exemption from 60-Month Limit on Federal TANF Assistance**

Under federal law, families in which at least one member has received 60 or more months of federal TANF assistance as an adult are ineligible for such assistance. Federal law also allows states to exempt up to 20 percent of their TANF caseloads from this limit due to hardship.

The maximum number of families the department may exempt from the 60-month limit due to hardship, called the hardship exemption maximum, is 20 percent of the average monthly number of families receiving Reach Up financial assistance during the previous federal fiscal year.

Reach Up families may qualify for a hardship exemption if they meet these criteria:

- a. at least one member has received 60 or more months of federal TANF assistance as an adult; and
- b. the family is fully complying with Reach Up requirements, whether or not those requirements are deferred.

If the number of families meeting the hardship exemption criteria does not exceed the hardship exemption maximum, all families meeting the criteria qualify for a hardship exemption.

If the number of families meeting the hardship exemption criteria exceeds the hardship exemption maximum, the department selects families qualifying for the exemption according to the rules in 2183.1.

**2183      Assignment to the Solely State-Funded Programs Components**

The department shall assign families to the separate state and solely state-funded programs components of Reach Up in a fair and equitable manner that fulfills the intent and purpose of the law authorizing the establishment of these components. Section 2183.1 sets forth the rules for such assignment. The department shall assign cases as early as possible and before the month of actual placement when operationally feasible.

For the purposes of this section, the term grant means the total monthly financial assistance benefits issued to or on behalf of the family during the month for which the assignment is made, not including child support paid directly to the family or recoupment amounts.

When, because of limitations specified in the assignment rules, the department is able to assign some but not all families at a given grant or hours level, the department shall select the required number of families for assignment randomly.

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**2183.1 Rules Governing Assignment and the Order of Assignment**

Within the limitations specified in 2181-2182, the department shall assign families according to the following rules and in the following order:

1. The department shall assign families meeting assignment criteria for the parental nurturing component (2181.1) and the minor parents' safety net component (2181.2) to those components.
2. If they do not meet the criteria for the hardship exemption, the department shall assign families with an adult who has received 60 or more months of TANF assistance to the special needs component (2181.4).
3. If the number of families meeting the hardship exemption criteria exceeds the hardship exemption maximum (2182), the department shall assign families qualifying for the special needs component or the separate state funds component to that component one-by-one until the number of remaining families meeting the hardship exemption criteria is equal to or less than the hardship exemption maximum, assigning families with the smallest grants first. Families qualifying for both components shall be assigned to the separate state funds component.
4. If Vermont's average two-parent family participation rate for the current federal fiscal year to-date, including the month for which assignments are being made, is less than the federal target rate plus 1 percent, the department shall assign families with two able-to-work parents who are not meeting their federal TANF work requirements for either rate to the special needs component one-by-one until the target rate plus 1 percent is met, assigning families in order of their grant size with the smallest grants first.
5. If Vermont's average all-families participation rate for the current federal fiscal year to-date, including the month for which assignments are being made, is less than the federal target rate plus 1 percent, the department shall assign families not meeting their federal TANF work requirements to the special needs component one-by-one until the target rate plus 1 percent is met, assigning families in order of their grant size with the smallest grants first.
6. At the discretion of the commissioner and when there are sufficient general funds, the department may assign families meeting the criteria for the SSI applicant component (2181.4) to this component.
7. If, after the department has adequately funded its solely state-funded programs, funds claimed for the TANF-MOE remain available for the separate state programs, other than programs with their own specified appropriation, the department shall assign qualifying families to that separate state program component one-by-one until TANF-MOE funds are exhausted or there are no more qualifying families, assigning families with the smallest grants first.

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2184      Reach Up Separate State Funds Programs Component

In establishing the separate state funds component of Reach Up, the department seeks to provide work supports and financial assistance funded by TANF-MOE for working families while preserving their eligibility for federal TANF assistance.

Parents in families assigned to this component must be meeting their federal TANF work requirement solely through hours of unsubsidized employment.

Assignment of families to this component is limited by availability of TANF-MOE funds.

2185      Child Support Distribution for Families in Solely State-Funded and Separate State Programs

Participating parents who receive financial assistance in a solely state-funded or separate state program shall assign all child support rights to the DCF. The participating parent shall apply for services from the Vermont Office of Child Support (OCS), if not already receiving such services, and cooperate fully with the OCS in their efforts to collect the assigned support. The department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.

The department will distribute the child support collected for and assigned to it by families in solely state-funded and separate state programs as it does for families in its TANF program whenever administratively feasible and in accordance with established procedures. Any variation from the federal child support distribution plan for TANF families in the solely state-funded or separate state programs' distribution plan shall be to the advantage of the family.

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## 2190 Introduction to Reach First

The purpose of the Reach First program is to stabilize families experiencing a short-term crisis, assess their strengths and needs, and orient them to available programs, services, assistance, and participants' responsibilities. The goal is to improve family self-sufficiency, economic independence, and ensure the well-being of children. Reach First helps to stabilize the family by providing monetary payments and support services of limited duration while the family regains its independence and stability, or is assessed and transitions to an appropriate alternative program.

A family that meets eligibility criteria for Reach Up financial assistance and has needs that can be fully addressed by Reach First payments and support services may be eligible for Reach First. Financially eligible families not appropriate or qualified for Reach First shall be referred to other programs available to assist the family in obtaining the opportunities and skills necessary to gain self-sufficiency and economic independence.

## 2191 Definitions

The definitions applicable to Reach First rules are the definitions at Reach Up rule 2341 and are incorporated into Reach First rules by this reference.

## 2192 Eligibility

To qualify for Reach First, the applicant family must qualify for Reach Up using Reach Up financial eligibility rules. In addition to qualifying for Reach Up financial assistance, the applicant family must meet the Reach First eligibility criteria and, if it has no members who are mandatory applicants (2194.5), must choose to participate in Reach First. Mandatory applicants must report to the Vermont Department of Labor within two working days of filing an application for assistance to be eligible for Reach First.

Families who qualify for and participate in Reach First are initially certified as eligible for a four-month period (certification period) that commences with the first day of the first calendar month in which the family receives a Reach First payment or support service. The certification period may be shortened if changes in the family's circumstances make them no longer eligible.

## 2193 Financial Eligibility

Financial eligibility for Reach First is evaluated and determined using Reach Up financial assistance rules 2200 through 2235 which are incorporated into Reach First rules by this reference except for the following sections:

- A. Continued Assistance Pending Fair Hearing 2218.2
- B. Money Payment 2226.1.

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2194 Personal Interview

A personal interview shall be conducted in accordance with Reach Up rule 2211.2. At the personal interview, or sooner, the department shall provide the following to all applicants(s):

- A. Orientation to Reach First and other program alternatives;
- B. Financial and self-sufficiency screening;
- C. Determination of Reach First eligibility related to past receipt of Reach First payment and to the need for ongoing assistance;
- D. Determination of appropriateness for Reach First referral and;
- E. Determination of whether the family chooses to participate in Reach First, if it is a family with no Reach First mandatory applicants.

2194.1 Orientation

- A. The department shall provide, and work-eligible adults in a Reach First applicant family must attend, an orientation to Reach First and other program alternatives.
- B. The orientation shall provide the family with information about all programs administered by the department, services and referrals available to the family, program requirements, participant responsibilities, consequences of failure to meet responsibilities, and incentives for participation and obtaining employment.
- C. The orientation shall include sufficient information about programs, benefits and participant responsibilities to enable participants to make informed decisions about program participation.

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2194.2 Financial and Self-Sufficiency Screening

- A. All applicant families who have satisfied financial eligibility criteria for Reach First or financial assistance must complete a financial and self-sufficiency screening before determination of eligibility for Reach First, unless it is clear the family is ineligible for Reach First (2194.3).
- B. The financial and self-sufficiency screening determines whether the family's circumstances qualify them for Reach First. The screening includes determination of:
  - 1. the extent of the family's financial need;
  - 2. the likelihood that Reach First can address the family's needs within the program's time limits;
  - 3. the family's prospects for and likelihood of self-sufficiency within the next four months;
  - 4. the family's need for further assessment to determine how to best meet the family's needs and whether Reach First is an appropriate referral;
  - 5. the work-eligible adults' interest and desire to participate in Reach First; and
  - 6. whether any family member is a mandatory Reach First applicants (2194.5).

2194.3 Families Ineligible for Reach First

- A. The following families are ineligible for Reach First:
  - 1. families with a work-eligible adult who has received a Reach First payment attributed to any month within the 12 months preceding the month of application; and
  - 2. families who need on-going assistance beyond the four-month Reach First period.

2194.4 Families Inappropriate for Reach First Referral

- A. Some families who are not appropriate for Reach First may be recognized before assessment in Reach First.
- B. The following families, unless they can provide verification that their need for ongoing assistance will end within the four-month Reach First period commencing with the calendar month of their application, are not appropriate for Reach First and should be referred to and receive their assessment while in another appropriate program:
  - 1. a single parent who qualifies for and wants a deferment to stay home to care for their child under the age of 2;
  - 2. families with work-eligible participants meeting their Reach Up work requirement, but needing ongoing assistance and assessment to determine the best course for gaining self-sufficiency.

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2194.5 Families with Reach First Mandatory Applicants

- A. Families who meet the following criteria are mandatory Reach First Applicants:
1. at least one member of the family is a work-eligible individual;
  2. work-eligible individuals in the family are neither disregarded from nor meeting their Reach Up work requirement;
  3. none of the work-eligible adults in the family have received a Reach First payment attributed to any month in the twelve months preceding the month of application; and
  4. at least one of the work-eligible adults in the family is:
    - a. a single-parent or caretaker who has no barriers to obtaining and maintaining a job and a recent and stable work history, including receiving wages for his or her most recent job that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the family;
    - b. an able-to-work adult (in a two-parent family when the other parent is able-to-work-part-time or unable-to-work) who has no barriers to obtaining and maintaining a job and a recent and stable work history, including receiving wages for his or her most recent job that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the family;
    - c. an adult (in a two-parent family when both parents are able-to-work) who is not the primary caretaker of the children; or
    - d. an adult who has no barriers to obtaining and maintaining a job and possesses a marketable postsecondary education degree or vocational education certification.
- B. Mandatory Reach First participants must report to the Vermont Department of Labor for immediate job search within two working days of having filed an application and before their families can receive any Reach First payment.

2194.6 Families with No Reach First Mandatory Applicants

- A. Families with no Reach First mandatory applicants who qualify for participation in Reach First may choose whether to participate in Reach First.
- B. An otherwise eligible family that does not include any mandatory Reach First applicants must meet the following criteria to be referred to and participate in Reach First:
1. at least one member of the family is a work-eligible individual;
  2. work-eligible individuals in the family are neither disregarded from nor meeting their Reach Up work requirement;
  3. none of the work-eligible adults in the family have received a Reach First payment attributed to any month in the twelve months preceding the month of application; and
  4. after attending Reach First orientation and initial screening, all work-eligible adults in the family choose to participate in Reach First.

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2195 Reach First Payments

- A. Reach First payments must be linked to financial need directly related to the family's immediate financial crisis. The payment must be necessary either to assist the family to avoid the need for Reach Up assistance or to sustain the family while they are assessed and referred to appropriate programs.
- B. Qualifying families may receive Reach First payments and Reach First support services for one certification period in a 12-month period.
- C. Total Reach First payments are limited to no more than the cumulative equivalent of four months of financial assistance for which the family would have qualified in Reach Up.
- D. Reach First payments may be made to the family in monthly installments or, under exceptional situations (2195.2. C), in payment(s) in excess of the equivalent of the family's monthly Reach Up payment. Reach First payments are only available if needed to avert a crisis as determined in the initial assessment and during the period in which the family seeks immediate employment or participates in assessment and the creation of their family development plan.
- E. Reach First payments may be made to the family by direct deposit, electronic benefit transfer or, if the family requests, by direct payment to the person or other entity providing the lodging, utilities, or other service to the family and as established in Reach Up rule 2238.
- F. If a Reach First participant fails, without good cause, to fulfill participant responsibilities, the Reach First payment may be withheld during the conciliation process and until the adult complies.
- G. Reach First payments do not continue while a fair hearing appeal is pending.
- H. Any Reach First payment received by the family for a specific month shall be counted as income in that month for purposes of calculating the amount of financial assistance in Reach Up or a solely state-funded program for the same month.

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2195 Reach First Payments2195.1 Payment Calculation

## A. Monthly Reach First Payments

The department shall calculate the Reach First monthly payment amounts using Reach Up rules, provided that the cumulative total of payments received during the four-month certification period does not exceed the Reach First payment maximum (2195.1B).

## B. Reach First Payment Maximum

1. The Reach First payment maximum is the amount used to establish the maximum limit on the cumulative amount of Reach First payments available to the family during the four-month certification period regardless of their frequency of disbursement.
2. The payment maximum shall be determined using Reach Up payment rules with the following additional steps:
  - a. Project and add the amounts of Reach First payments expected for each month of presumptive eligibility relying on the most accurate information regarding the family's circumstances expected for those months and without prorating for partial months.
  - b. Reduce the total sum dollar for dollar for any Emergency or General Assistance (EA/GA) payment, other than back rent or mortgage arrearage assistance, received as a result of the current application.
  - c. Reduce the total sum dollar for dollar of any child support received or anticipated, other than the first \$50 of current support expected in the current and in each month of presumptive eligibility during the certification period.
3. As soon as the family notifies the department of changes in circumstances that affect the amount of payments not yet distributed or the number of months in the certification period, the department shall recalculate the amount remaining in an effort to avoid over- or underpayments.

## C. Exceptions Limit on the Maximum Payment

When approved by the commissioner, a Reach First family may receive a payment in excess of the payment limitation if:

1. the payment does not exceed the amount of earned income the family received in their first month of Reach First and receipt of the payment is necessary and relatively certain to divert the family from the Reach Up program; or
2. an unexpected event creates a less than 30-day delay of employment or income that will render the family ineligible for Reach Up and an additional payment in an amount not to exceed the maximum grant size for the family is relatively certain to divert the family from the Reach Up program.

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2195 Reach First Payments

2195.1 Payment Calculation (Continued)

D. Payment Adjustments

When department or applicant errors result in an underpayment or overpayment, payment adjustments shall be made in accordance with Reach Up rule 2234.

2195.2 Payment Disbursement

A. Monthly Disbursement

All Reach First payments, other than the first payment, shall be disbursed on the first of the month.

B. Disbursements Related to Need

Payments should be disbursed in an amount that addresses specified and documented needs that are either a result of the family's crisis or necessary to stabilize the family while it regains its independence and stability, or is assessed to determine an appropriate program referral.

C. Frequency of Payments

Reach First payments may be disbursed to the family or the designated vendor as follows:

1. Monthly Disbursements

Monthly disbursements in an amount equal to or less than the amount for which the family has been determined eligible for in a month shall be the preferred frequency of disbursement.

2. Disbursements in Excess of Monthly Amount

Disbursements of the maximum payment in a lump sum or in one or more payments greater than the monthly amount shall be made only in exceptional circumstances.

D. Limits on Monthly Disbursements

1. Disbursements in monthly amounts shall be limited to the amount of the Reach Up grant for which the family would be eligible.
2. Reach First families needing assessment beyond initial financial and stability screening to determine appropriate referral and needs shall qualify only for monthly disbursements until assessment is complete.

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2195 Reach First Payments2195.2 Payment Disbursement (Continued)

3. Families eligible for and receiving monthly disbursements must be cooperating with all Reach First services component requirements.

E. Limits on One-Time and Disbursements in Excess of Monthly Amounts

Disbursement of payments in excess of the monthly amount equivalent to a Reach Up payment shall be made only to a family meeting all of the following criteria:

1. The family's initial screening and assessment indicate the family qualifies for Reach First and does not require further in-depth assessment;
2. The payment addresses the family's current need in full;
3. It is clear the Reach First payment will end the family's need for any Reach First or Reach Up assistance for the foreseeable future; and
4. The adults in the family understand and agree that should they need to apply for Reach Up in the months attributed to the Reach First payments, that the payment will reduce dollar for dollar any Reach Up financial assistance in the months covered by the payment.

2196 Reach First Services Component

- A. The Reach First Services Component consists of assessment, case management, referrals, and services. Reach First participating families must fulfill their initial and ongoing Reach First responsibilities within the services component to continue to receive Reach First payments and services.
- B. If needed to determine appropriate referral to improve the family's prospects for job placement and job retention, the commissioner shall provide participating families in-depth assessments of the full range of services needed by each family, intensive case management or case consultation services, referral to any agencies or programs that provide the services needed by participating families, and transition to other department programs.

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2196.1

2196.1 Assessment

- A. All participants who are referred for assessment shall cooperate in an initial assessment and, if appropriate or necessary, reassessments. The assessment may include tests, other standardized evaluations, and referrals to professionals for evaluation or diagnosis.
- B. The assessment shall include, but is not limited to, the following:
  - 1. identification of the individual's strengths, skills, aptitudes, interests, and life and work experience;
  - 2. determination of whether the individual has limitations and barriers and, if there are barriers or limitations, a determination of how these factors relate to the individual's current or potential participation in the labor force and to the individual's family responsibilities;
  - 3. literacy evaluation;
  - 4. determination of the individual's ability to work, including the ability to participate in the various work activities;
  - 5. the development and well-being of children in the family; and
  - 6. determination of the services needed to achieve the employment goal.

2196.2 Case Management

- A. Case management shall be available to any eligible family needing or requesting in-depth assessment or ongoing services.
- B. The case manager, with the full involvement of the family, shall recommend, and the commissioner shall establish and modify as necessary, a family development plan for each participating family in need of ongoing services, with a right of appeal as provided by Reach Up rule 2380.
- C. A case manager shall be assigned to a participating family as soon as the family is determined to be eligible for Reach First and in need of services.
- D. Caseload size shall be limited consistent with limits in the Reach Up program (2350.1).
- E. If after assessment and establishment of the family development plan, it is determined that the family is not appropriate for Reach First, the case manager shall review other program alternatives with the family and, if requested by the family, attempt to transfer the family to a more appropriate program alternative.

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2196.3 Family Development Plans

- A. The family development plan shall include:
1. each parent or caretaker's employment goal;
  2. an assessment of each parent or caretaker's strengths and barriers;
  3. a literacy evaluation followed by a referral to an appropriate resource or program;
  4. an identification of the services, supports, and accommodations needed to overcome any barriers, enable the family to achieve self-sufficiency, and fulfill each parent or caretaker's personal and family responsibilities; and
  5. an assignment of responsibilities, family development plan requirements, and activities among the case manager and family members, together with a time schedule for such responsibilities, requirements, and activities.
- B. The initial family development plan shall include all referrals and assessment responsibilities and shall be completed within 30 days of the first meeting with the case manager.
- C. The case manager shall establish a schedule for periodic review of the family development plan that shall remain in place if the family transfers to another program in which such review is appropriate.

2196.4 Support Services

- A. Support services are services needed by the family to improve the participant's prospects for job placement and retention.
- B. Reach First families are eligible for and subject to the same conditions for receiving Reach Up services governed by Reach Up rule 2351 and its subsections.

2197 Reach First Participant Responsibilities

- A. Each participating adult who is being assessed in Reach First or for whom a family development plan is needed shall participate in the development of his or her family development plan.
- B. Each participating adult who is not referred to the Vermont Department of Labor as a mandatory Reach First applicant and whose case manager refers for assessment and evaluation activities shall report as directed by the department for such activities.
- C. Each participating adult shall begin to comply with his or her family development plan requirements as soon as possible, and no later than 10 days following identification of initial requirements at the initial family development plan meeting.
- D. Each participating adult shall continue to comply with such family development plan requirements until such time as the family is ineligible or transferred to Reach Up or other program.

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2197 Reach First Participant Responsibilities (Continued)

- E. If a family is transferred to another program, the rules of that program apply.

2197.1 Consequences of Noncompliance

- A. Mandatory Reach First applicants who fail or refuse to report as instructed to the Vermont Department of Labor without good cause are not eligible for Reach First or Reach Up.
- B. Reach First participants who fail or refuse to comply with Reach First participants responsibilities without good cause shall not receive Reach First payments until the participant comes into compliance.

2197.2 Noncompliance and Good Cause

- A. Reach First participants must comply with all participant requirements unless good cause exists for noncompliance.
- B. Noncompliance may be the result of a de facto refusal, which is implied by the participant's failure to comply with a requirement, or an overt refusal. The department will excuse noncompliance supported by good cause.
- C. Examples of Noncompliance

Instances of noncompliance include, but are not limited to, the participant's failure or refusal to:

1. appear for assessment after being directed to attend;
2. cooperate in the development of the FDP;
3. attend and participate fully in FDP activities;
4. refrain from behavior that is disruptive to a program activity or the orderly administration of the program;
5. refrain from behavior that constitutes a threat or hazard to fellow participants;
6. accept appropriate child care (2370.33) or other services that would allow participation in FDP activities;
7. follow through on treatment or rehabilitation services plans;
8. appear for a referral to or interview for a job consistent with the FDP; and
9. apply for or comply with the requirements of unemployment compensation, if otherwise eligible.

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2197.2 Noncompliance and Good Cause (Continued)

D. De Facto Refusal

De facto refusal occurs when noncompliance is implied by an individual's failure to meet one or more Reach First requirements without good cause. The case manager shall prepare a written record of the circumstances associated with and the substance of the individual's noncompliance. If the case manager determines that the participant had good cause for noncompliance, the noncompliance process ends. Otherwise, the case manager initiates the conciliation process or, for individuals no longer eligible for conciliation, the case manager shall apply the Reach Up sanctions and transfer the family to Reach Up.

E. Overt Refusal

Overt refusal occurs when, without good cause, an individual declares, orally or in writing, an unwillingness to comply with participant requirements. The case manager will ask the individual to put oral refusals in writing. If the individual will not put the refusal in writing, the case manager shall prepare a written record of the circumstances associated with and the substance of the individual's noncompliance. The case manager shall begin the sanctions process immediately and transfer the family to Reach Up.

F. Determination of Good Cause

The case manager shall make a good-faith effort to contact the individual to discuss the act or pattern of noncompliance with the individual. The individual will provide sufficient documentation to substantiate a claim of good cause. On the basis of this discussion and documentation, if any, the case manager will determine whether there was a good cause basis for the individual's noncompliance. If the individual does not respond to or fully cooperate with the case manager's attempt to establish good cause, the case manager will determine that there was no good cause basis for the noncompliance. The case manager shall complete the good cause determination within 10 days of becoming aware of the individual's noncompliance.

G. Good Cause Criteria

Circumstances beyond the control of the participant may constitute good cause for an individual's noncompliance. The following constitute good cause for failing to comply with Reach First FDP and participation requirements.

1. The participant, after making a good-faith effort, was unable to arrange transportation to or from the place of employment or FDP activity or child care essential for employment or participation in the activity, and the participant informed the employer or appropriate person as soon as possible.

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2197.2 Noncompliance and Good Cause (Continued)

2. Inclement weather prevented the person from traveling to work or participating in an FDP activity, and the participant contacted the employer or appropriate person as early as possible on the day of the inclement weather to explain the situation.
3. The person's participation in a drug or alcohol treatment program precluded participation in the FDP activity.
4. The person was required to appear in court or was incarcerated, and the participant contacted the appropriate person in advance or, if it could not have been anticipated, as soon as possible following the incident.
5. A family emergency requiring the participant's immediate attention, such as the death, illness, or injury of a family member, or the participant's own illness prevented the participant from complying with a requirement, and the participant notified the appropriate person of the situation at the earliest possible moment.
6. Failure to comply with a requirement was due to the effects of domestic violence. The participant must have had reason to anticipate that compliance would have resulted in serious physical or emotional harm to the participant or the child in participant's care and that such harm would have significantly impaired the participant's capacity either to fulfill program requirements or to care for the child adequately. The department may request documentation from the participant to determine whether the effects of domestic violence constitute a good cause basis, using the same standards relied on for a Reach Up deferment due to domestic violence.
7. The participant had to be absent from the Reach First activity to go to a medical appointment, and the participant requested and received approval from the case manager or the person conducting the activity for time off to attend the appointment in advance.
8. The participant had to be absent from an FDP activity to go to an interview for an unsubsidized job, and the participant requested and received supervisory approval for time off to attend the interview in advance.
9. The participant, after making a good-faith effort, was unable to make necessary child care arrangements (Reach Up rule 2370.33), and the participant notified the case manager or appropriate person of the situation at the earliest possible moment.
10. The participant was absent from the FDP activity or Reach First required activity due to an unforeseeable emergency such as fire, flood, or accident.

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2197.2 Noncompliance and Good Cause (Continued)

11. The participant asserts that the noncompliance was the direct result of a previously unacknowledged medical condition, provided that the following conditions are met:
  - a. the medical condition is expected to last at least 90 days;
  - b. the participant appears eligible for and is referred to vocational rehabilitation services; and
  - c. the participant is eligible for and demonstrates compliance with the vocational rehabilitation services provider.
12. The participant was called away from the FDP or required Reach First activity to attend to a school emergency involving the participant's child, the participant's foster child (placed by the Department for Children and Families or other licensed child placement agency), or another child in the care and physical custody of the participant, and the participant informed appropriate person of this situation before leaving the activity site or, when this was not possible, as soon as possible thereafter.

2197.3 Conciliation

- A. Conciliation is the process by which disputes related to an individual's failure or refusal to comply with Reach First participant responsibilities are resolved.
- B. The case manager shall initiate conciliation to determine the reason for non-compliance when an adult participant fails or refuses without good cause to comply with Reach First participant requirements applicable to the individual without good cause.
- C. The case manager shall initiate conciliation under the following circumstances:
  1. The case manager shall initiate conciliation for a participating adult who without good cause fails or refuses to participate in the development of his or her family development plan as directed.
  2. The case manager shall initiate conciliation for a participating adult who fails or refuses to report as directed by the department for assessment and evaluation activities without good cause.
  3. The case manager shall initiate conciliation for a participating adult with a family development plan who without good cause fails or refuses to comply with his or her family development plan requirements as soon as possible, and no later than 10 days following identification of initial requirements at the initial family development plan meeting.
  4. The case manager shall initiate conciliation for a participating adult with a family development plan who without good cause fails or refuses to comply with such family development plan requirements.

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2197.3 Conciliation

## D. Conciliation Process for Noncompliance (Continued)

1. When the conditions for conciliation for noncompliance (2370) are met, the case manager shall mail a notice scheduling a conciliation conference to the individual within 10 days of the date the case manager became aware of the noncompliance. The case manager should schedule the conference as soon as administratively possible, but no sooner than the fourth workday after the date the notice is mailed.
2. The notice of the conciliation conference must include the following:
  - a. the reason for the determination of noncompliance without good cause;
  - b. the steps in the conciliation resolution;
  - c. the right to have a representative present at the conciliation conference; and
  - d. the consequences if conciliation is unsuccessful.
3. Participants may conciliate cumulative Reach Up and Reach First disputes only two times in a 60-month period. Each 60-month period begins with the calendar month in which the initial conciliation conference is scheduled to take place and continues without interruption, even if the individual is not in Reach First or does not continue to receive Reach Up financial assistance. Any subsequent noncompliance without good cause within this 60-month period will result in the immediate initiation of the sanctions process, if applicable, without an opportunity for conciliation.
4. Any time an individual makes a claim of good cause and the case manager determines that documentation of such good cause is necessary, the individual will have 10 days from the date the claim was communicated to the case manager to provide documentation. When the individual is unable to obtain required documentation and requests the case manager's help to obtain it, the case manager shall provide that help, if possible.
5. When it is determined, at any time during a conciliation process that the individual had good cause for noncompliance, conciliation will end. Under these circumstances, there will be no conciliation resolution plan, and the conciliation will not be counted toward the limit of two conciliations in a 60-month period, as defined above.
6. The conciliation resolution period begins on the date of the first scheduled conciliation conference and lasts for no more than 15 consecutive calendar days.

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2197.3 Conciliation

## D. Conciliation Process for Noncompliance (Continued)

7. The conciliation resolution period is the time frame during which the case manager and the individual meet and explore, through the processes of fact-finding and problem-solving, ways in which the individual may satisfy the Reach First requirements. They will review and, if possible, resolve any circumstances hindering compliance. This review shall also include a review of all applicable good cause criteria.
8. The product of the conciliation conference is a conciliation resolution plan. This plan describes what the individual must do to achieve satisfactory participation and the time frames involved. The case manager and participant will revise the FDP in accordance with the conciliation resolution plan.
9. The case manager shall advise the individual of the right to terminate the conciliation process at any time. Such termination of conciliation will result in a determination of unsuccessful resolution and immediate initiation of the sanctions process and transfer to Reach Up, if applicable.

## E. Successful Resolution

Conciliation is considered successfully resolved when the individual demonstrates compliance with the activities outlined in the conciliation resolution plan and the revised FDP.

## F. Unsuccessful Resolution

The conciliation process shall be determined unsuccessful when the individual:

1. fails without good cause to respond to one written notice of a scheduled conciliation conference;
2. exhibits a pattern of behavior from which refusal to participate can be reasonably inferred;
3. fails without good cause to participate satisfactorily in activities outlined in the conciliation resolution plan and included in the revised FDP for the required time period; or
4. voluntarily terminates the conciliation process before a successful resolution has been reached.

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2197.3 Conciliation

## D. Conciliation Process for Noncompliance (Continued)

When the case manager determines that the resolution of a second conciliation within a 60-month period has been unsuccessful, the case manager's supervisor shall review the second conciliation process and the basis for the case manager's determination, prior to initiation of the sanction process.

When conciliation is not an option or resolution of the conciliation is unsuccessful, the case manager begins the process necessary to apply the appropriate sanctions and transfers the family to Reach Up. The sanctions process begins with a written notice to the individual at least 10 days before the sanctions are scheduled to begin. This notice explains the action being taken, the reason for the action, and the individual's right to appeal the decision. The individual then has 90 days in which to appeal. If a fair hearing is requested and the basis for the decision being appealed did not involve an exploration of good cause with the individual, the case manager will attempt again to contact the individual to determine whether there was good cause for noncompliance. If the individual requests a fair hearing before the sanctions begin, the sanctions are not applied while the appeal is pending.

2198 Referral and Transition to Other Programs

- A. The department shall transfer the family to another appropriate program if, after four months of receiving support in Reach First or sooner at the department's discretion, a family needs additional time and services, unless the family chooses not to participate.
- B. If a family finds unsubsidized employment meeting or exceeding the work requirements for Reach Up for the family's size and composition, but is financially eligible for Reach Up, the department shall transfer the family to Reach Up, unless the family chooses not to participate. A family transferring from Reach First to Reach Up shall be treated as a recipient for the purposes of income calculation.
- C. If a family finds unsubsidized employment meeting or exceeding the work requirements for Reach Up for the family's size and composition, is not financially eligible for Reach Up, but would have been eligible for services or programs available to Reach Up leavers who are meeting the work requirement, the family shall qualify for the programs or services as though it was a Reach Up leaver family, unless the family chooses not to participate. For the purposes of income calculation the family shall be treated as recipients.
- D. A family transferring to another program under subsections (a) through (c) of this section shall not be required to complete a new application. Verification of income or other documentation related to changes in circumstances may be required as provided for by rule.
- E. Transitional medical assistance of up to 36 months shall be provided to families with a working adult who leaves Reach First and is not eligible for Reach Up, unless family income exceeds 185 percent of the federal poverty level, provided that federal financial participation is available for such transitional medical assistance.

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2199 Notice and appeal

- A. A participant may appeal decisions in accordance with Reach Up section 2380 except that Reach First payments do not continue while an appeal is pending.
- B. The commissioner shall provide notice to each participant of the standards and procedures applicable to such appeals. All federal and agency of human services rules regarding conciliation, notice, hearing, and appeal shall be followed in connection with such appeals.

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2200 Purpose of the Reach Up Program

The purpose of the Reach Up program is to:

- (1) assist families, recognizing individual and unique characteristics, to obtain the opportunities and skills necessary for self-sufficiency;
- (2) encourage economic independence by removing barriers and disincentives to work and providing positive incentives to work;
- (3) support parental nurturing;
- (4) support parental responsibility and positive parental role models, both custodial and noncustodial;
- (5) measure the success of the system by what is best for children;
- (6) improve the well-being of children by providing for their immediate basic needs, including food, housing and clothing;
- (7) respect the dignity of individuals and families receiving assistance by providing employment, education, and other services through social service delivery systems available to all Vermont citizens and by encouraging the private sector to integrate families receiving assistance into the mainstream of the employment market;
- (8) recognize the challenges facing many families receiving assistance by minimizing structural financial disincentives to increased earnings and the abrupt termination of assistance before parents are fully integrated into the employment market;
- (9) conserve state public financial resources by operating the system of aid in a manner that is efficient and avoids federal fiscal sanctions; and
- (10) conform to the federal TANF law.

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2235      Protective Payments

Protective payments are management of assistance by a third party outside of the assistance group to meet the needs of a dependent child and the adults with whom the child is living. This is necessary when payment of assistance to an adult living with the child would be contrary to the welfare of the child, or when such payments are required as a sanction as indicated below. Management of assistance through controlled vendor payments is optional when the family requests direct payment for housing, utilities, or other basic needs and meets the requirements at 2235.4 (D).

Protective payments are used as follows:

1. Protective payments are used as a temporary measure when difficulty in money management jeopardizes the welfare of the child and when an adult living with the child has the capacity to learn to manage the family's funds in a way to assure proper care of the child. This capacity can be presumed unless there is evidence to the contrary.

The benefit is paid to a protective payee who is interested in, or concerned with, the welfare of the family. If an acceptable protective payee cannot be found, a substitute form of protective payment known as Controlled Vendor Payments (CVP) is used (see 2235.4 and Procedures Manual, Protective Payments).

Families with money management problems as determined by the department, should be referred to money management counseling, if available in the community.

When mental or physical limitations preclude capacity to improve management of funds, legal alternatives shall be pursued. There must be documentation of inadequate physical capability or of mental incapacity that precludes self-care and concern for family welfare. Petition for appointment of a legal guardian or legal representative for an adult living with the child may be initiated by the department.

2. Protective payments for housing are made in cases where an adult living with the child fails to meet services component requirements, according to criteria in 2372.

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2235 Protective Payments2235.4 Controlled Vendor Payment System (CVP)

The eligibility worker manages the grant through the controlled vendor payment system (CVP) by authorizing payments or vendor authorizations to pay bills and obtain basic needs. The department places families on CVP when:

- A. a determination of money mismanagement (2235.1) precludes payment of benefits directly to the family and
- B. no protective payee has been appointed; or
- C. a parent is sanctioned for noncooperation with services component requirements (2372), and housing costs must be vendored; or.
- D. a parent or caretaker requests direct payment and
  - 1. the financial assistance grant amount is sufficient to make the requested payments in full,
  - 2. the provider of housing or other services agrees to accept payment on the same schedule as Reach Up payments are made, and
  - 3. the provider agrees to the condition that direct payment may cease without notice from the department to the provider.

The worker cannot spend more than the authorized grant amount, but can spend less and carry an unspent balance forward to a future month as necessary to budget for one-time expenses such as property taxes, mortgage insurance, and one-time resolution of a landlord-tenant dispute.

In making payments on behalf of the family, the worker shall first pay actual current shelter expenses before other disbursements are made.

Sixty percent of the benefits are available on the first of the month, and forty percent on the 16th. At the discretion of the worker and taking into consideration the portion of benefits available at a given time of the month, a schedule of rent payments will be established to insure that rent payments are kept current.

Any balance remaining in the account when the protective payee is appointed is paid to the payee.

Assumption of payments on behalf of the family by the department shall not constitute a contractual arrangement between the department and any providers of service to the family.

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2239      Need Determination

Need is defined as the lack of income or other resources in sufficient quantity to provide a reasonable subsistence compatible with decency and health. Establishment of need is a basic eligibility requirement and, therefore, shall be determined at initial application or reapplication and at each subsequent review of eligibility, including changes of circumstances.

2240      Method for Determination of Need

Financial need is established through the following computations:

- A. Budgetary comparison of the assistance group's available net monthly income to the payment standard.
- B. Comparison of the assistance group's available assets to the combined resources limitation. (See 2261)

Standards for basic requirements, common to all individuals and families, have been established to simplify determination of need and to ensure equitable consideration for all individuals in similar circumstances.

Financial need, and the amount thereof, shall be established when budgetary computation shows a deficit (e.g., requirements exceed income) and resources are within the maximum allowed. If either condition is not met (e.g., budgetary computation shows surplus or resources total above maximum), the applicant/recipient shall be ineligible, due to lack of financial need.

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**2240.1 Eligibility Computation**

Financial eligibility is computed for an initial application, or a reapplication, and each time an assistance group's circumstances change.

Eligibility based on income is determined as follows:

1. Determine the amount of the assistance group's gross non-excluded earned and unearned income, including any support predicted or collected by the Office of Child Support except for the \$50 disregard. Apply appropriate deductions and disregards to determine net income. (See 2250-2255)
2. Determine the payment standard for the assistance group (total need requirements multiplied by the ratable reduction, 2245-2248).
3. Subtract 1 from 2.
  - a. If net income equals or exceeds the payment standard, the assistance group is ineligible due to lack of financial need.
  - b. If net income is less than the payment standard, the difference is the budgetary deficit (see 2241).

For families reapplying for Reach Up solely because of loss of child support see rules at 2334.

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2252      Unearned Income

Unearned income includes the following:

- A. Income from pension and benefit programs, such as social security, railroad retirement, veteran's pension or compensation, unemployment compensation, employer or individual private pension plans and annuities.
- B. Income from capital investments in which the individual is not actively engaged in managerial effort.
- C. Time payments on mortgages or notes resulting from a casual sale (i.e., a sale not related to self-employment) of real or personal property.
- D. Voluntary contributions from others.
- E. Child support in excess of \$50 per month paid directly by OCS to families. The amount of direct child support prior to recoupment of an overpayment due to client error will be deducted from the family's Reach Up entitlement for the second month following the calendar month in which the child support was paid to OCS. See 2333.
- F. \$70.00 of a Housing and Urban Development (HUD) fuel or fuel-and-utility subsidy or \$30.00 of a utility-only subsidy that has been included in HUD's calculation of the rent of a Reach Up family living in subsidized housing, thereby reducing its rental obligation by an equivalent amount. This amount is not limited to a subsidy actually paid to the Reach Up family. An applicant or participant who documents an actual subsidy amount less than the standard may have the actual amount counted as unearned income in benefit and eligibility calculations.
- G. Reach First payments attributed to the months for which the family applies for Reach Up assistance.

The full amount of available unearned income shall be applied to the payment standard, except for disregards specified under certain federal programs. See 2255.

Any nonexcluded income from student loans or grants shall also be converted to a monthly amount by averaging the total amount of the grant or loan over the period it is intended to cover.

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2253      Earned Income

Earned income shall include all wages, salary (cash or in-kind), commissions or profit from activities in which the individual is engaged as an employee or a self-employed person, including but not limited to active management of capital investments (e.g., rental property).

Earned income is defined as income prior to any deductions for taxes, if applicable, FICA, insurance, or any other deductions, voluntary or involuntary, except that in determining earned income for self-employed individuals, allowable business expenses shall be deducted first (see 2253.2).

Self-employment income will be determined by the client's most recent tax return unless the tax return is not indicative of the current situation, a tax return has not been filed, or the client has earned income not subject to taxation. In these circumstances, the department will use the client's records and other available sources to determine self-employment income. For determining monthly self-employment income, see 2211.3 and P-2210 C.

Earnings over a period of time, for which settlement is made at one given time are also included) (e.g., sale of farm crops, livestock, poultry).

Payments to individuals under the following programs shall be treated, as described below:

A.      Vermont Earned Income Tax Credits

The Vermont Earned Income Tax Credit is paid only as a lump sum following the end of the tax year. See rules at 2255.1, Excluded Income and 2264, Excluded Resources.

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2253 Earned IncomeB. Economic Opportunity Act

Payment to individuals under any of the following programs, whether as partial and temporary beneficiaries or as employees, shall be considered earned income:

Work-Training Program (Title I, Part B)  
Community Action Programs (Title II)  
Voluntary Assistance Programs for Needy Children (Title II)

C. Elementary and Secondary Educations Act

Income from employment as a teacher's aide, lunch room worker, clerical aide, etc. under a Title I project funded by the Elementary and Secondary Education Act shall be considered earned income.

D. Workforce Investment Act of 1998 (WIA)

Workforce Investment Act (WIA) programs prepare youth and adults to participate in the labor force by providing job training and other services expected to increase employment, earnings, and educational and occupational skills.

Some WIA programs pay participants wages, treated as unsubsidized earned income for adults.

2253.1 Computation Method

Computation of net earned income takes into consideration applicable business expenses (self-employment only), the standard employment expense deduction, any applicable earned income disregard, and any allowable dependent care deduction.

For initial eligibility determinations, gross monthly earned income must be verified based on a one-month period. The month used is the whole calendar month ending with the last day of the month prior to that in which the family applies. However, if the earnings received in this calendar month are not representative of current or future circumstances, then a best estimate must be made based on information and documentation obtained during the initial eligibility determination. In such cases this alternative monthly figure will be used to estimate earnings.

All income figures are converted to monthly figures, using a multiplier of 4.3 weeks equal to one month. A multiplier of 2.15 weeks per month is used for income received biweekly.

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2253 Earned Income2253.1 Computation Method (Continued)2253.11 Earned Income Computation Sequences

Items are deducted from the gross earned income of each member of the assistance group, whose total earned income is not otherwise excluded, in the sequences listed below. Whenever the sum of these deductions exceeds the gross earned income of the individual, the maximum allowable deduction is the amount of the gross earned income. Child care provided under Support Services to Participating Families does not constitute dependent care expenses and is not an allowable deduction.

A. Unsubsidized Earned Income Deduction Sequence

1. business expenses (deducted from total self-employment business receipts to establish adjusted gross earned income)
2. earned income disregard (2253.33)
3. dependent care expenses allowed as a deduction from earned income

B. Subsidized Earned Income Deduction Sequence

1. standard employment expense (2253.31)
2. dependent care expenses allowed as a deduction from earned income

C. Subsidized Plus Unsubsidized Earned Income Deduction Sequence

If an individual has earnings from both subsidized and unsubsidized employment, the computation follows the sequence in A above. Only the earned income disregard is allowed. If less than \$90 is deducted from unsubsidized earnings, however, the remainder of the \$90 (\$90 minus the amount deducted from unsubsidized earnings) will be deducted from any subsidized earnings.

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2253 Earned Income2253.2 Business Expense

Business expenses, which are deducted from gross receipts to determine adjusted gross earned income, are limited to operating costs necessary to produce cash receipts, such as:

1. office or shop rental;
2. taxes on farm or business property;
3. hired help;
4. interest on business loans;
5. cost of materials, stock, inventory, or livestock for resale required for the production of this income.

Items such as depreciation, personal business and entertainment expense, personal transportation, purchase of capital equipment and payment on the principal of loans for capital assets or durable goods, are not business expenses.

Tax returns and business records are considered appropriate sources of accurate figures for farm and business receipts and expenses.

The income of a household owning or operating a commercial boarding house shall be treated as any other business income. A commercial boarding house is defined as an establishment licensed as a commercial enterprise offering meals and lodging for compensation. In areas without licensing requirements, a commercial boarding house shall be defined as a commercial establishment offering meals and lodging with the intention of making a profit.

Exception: No computation is required for providing foster care to children in custody of and placed by the Family Services Division of the Department for Children and Families. The rate of payment is established to cover expenses only, with no allowance for profit; therefore, no earned income is considered available from this source.

The room-and-board portion of income received by developmental home providers furnishing qualified foster care to individuals placed by the State of Vermont or by a developmental or mental health services agency under contract with the state is established to cover expenses only, with no allowance for profit. Therefore, no earned income is available from this portion of the income. Compensation received in addition to that intended to cover room and board, considered difficulty-of-care payments, is earned self-employment income. Payment for respite care services from this source of income is an allowable business expense.

For a household that is not a commercial boarding house, the business expense of furnishing room and board, alone or as part of custodial care, shall be allowed, provided that the amount shall not exceed the payment the household receives from the roomer/boarder for lodging/meals. (See procedures for Business Expenses - Providing Room and Board.) If the assistance group can document that actual expenses for providing room and board are greater than the standard business expenses allowed, the actual expenses may be allowed as a business expense.

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2253.2 Business Expenses (Continued)

2253.21 Providing Child Care

A standard business expense deduction is provided for the expenses associated with providing meals to children receiving child care in the assistance group's home. To receive this deduction the assistance group must report the number of children receiving meals; the number of days on which meals were provided; and the type of meals provided. The standard business expense deduction for child care meals shall be used unless the assistance group requests a higher business expense deduction for child care meals and fully documents expenses which substantiate costs which exceed the standard deduction.

Assistance groups which include providers of child care are also entitled to a business expense deduction for non-meal-related expenses incurred in the course of providing child care as a form of self-employment. All non-meal-related expenses must be determined on a case-by-case basis and must be fully documented by the assistance group. These non-meal-related expenses may include, but are not limited to, a portion of rent, interest on mortgage, non-cooking-related utility expenses, cost of toys, and purchase of non-meal-related supplies.

Assistance groups may receive the standard business expense deduction for meals and an individually determined deduction for non-meal-related business expenses; individually determined business expense deductions for both meal-related expenses and non-meal-related expenses; only a deduction for meals (no other expenses are claimed and documented); or only a deduction for non-meal-related expenses (no meal-related expenses are claimed). See the Procedures Manual under procedures for Business Expenses - Providing Day Care.

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### 2253.3 Earned Income Deductions and Disregard

The department shall allow certain deductions from an individual's earned income to cover employment expenses (2253.31 – 2253.32) or provide an incentive disregard for employed participants (2253.33). For income not reported timely without good cause, however, no disregards are allowed (2253.34).

Total deductions and disregards shall not exceed the amount of earned income to which they are applied.

#### 2253.31 Standard Employment Expense Deduction

The standard employment expense deduction of \$90 is used in lieu of the amount of actual expenses for taxes, insurance, retirement, union dues, fees, and other reasonable employment expenses. Only one deduction is allowed per individual with earned income.

The deduction shall be applied to:

- subsidized earned income in determining continuing eligibility;
- earned income of an individual ineligible for the earned income disregard, as specified in 2253.34; and
- earned income of an individual whose needs are not included but whose income and resources are counted.

The department shall not apply both the standard employment expense deduction and the earned income disregard to the earned income of any individual at the same time.

#### 2253.32 Deduction from Earned Income for Dependent Care Expenses

A deduction from the earned income of an assistance group member is allowed to cover the cost of care for an assistance group member who is an incapacitated adult, when all the following conditions are met:

- a. The care is necessary to enable the caretaker to accept or retain employment or self-employment, and the hours of care are reasonably related to the caretaker's hours of employment or self-employment.
- b. A member of the same assistance group or the incapacitated adult's spouse does not provide the care.
- c. The incapacitated adult's spouse is unavailable or unable to provide the necessary care.

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2253.3 Earned Income Deductions and Disregard2253.32 Deduction from Earned Income for Dependent Care Expenses (Continued)

- d. The provider of care is at least 16 years old.
- e. The assistance group member claiming the deduction has provided a statement signed by the provider of care about the hours and cost of care.

Paid expenses converted to a monthly amount shall be deducted up to a maximum of \$175 per month. If a participant's dependent care expenses are below the maximum, transportation to and from the dependent care facility may be deducted as part of the expense.

The cost of employment-related child care needed by assistance groups is provided either:

- as a support service reimbursement subject to the conditions and limitations described in 2352; or
- as an exclusion from gross earned income, if the child is not a member of the assistance group, as described in 2255.1.

2253.33 Earned Income Disregard

The department shall disregard the first \$ 200 of the total unsubsidized earned income of each eligible assistance group member plus 25 percent of the balance remaining. The disregard includes a standard allowance used in lieu of the amount of actual expenses for taxes, insurance, retirement, union dues, fees, and other reasonable employment expenses.

2253.34 Disallowance of Earned Income Disregard

No disregard is allowed for any new or increased earned income the participant fails without good cause to report by the end of the calendar month following the month in which the new or increased income was first received. Circumstances considered good cause for failure to report timely are limited to the following:

1. natural disasters, such as fires or floods;
2. illness of such severity that the participant is unable to direct personal affairs;
3. refusal of an employer to provide earned income verification or the unavailability of an employer to provide verification before the deadline;
4. lost or stolen mail confirmed by the Postal Service;

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2255 Excluded Income2255.1 Other Excluded Income (Continued)

The provider of care must be 16 years of age or older and submit a completed and signed form 218 P. The child must meet the age requirements in 2352.1.

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

12. The value of food stamp benefits under the Food Stamp Act of 1977.
13. The value of the U. S. Department of Agriculture donated foods (surplus commodities).
14. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
15. Earned income of an eligible child if the child is a full- or part-time student. A student is a person who is enrolled in a school, college, university, or a course of vocational or technical training designed to fit him or her for gainful employment. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break.
16. Court ordered cash contributions for medical support paid by a noncustodial parent.

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2255 Excluded Income2255.1 Other Excluded Income (Continued)

27. Any income received from an emergency fuel supplement or energy allowance to assist with the cost of heating.
28. The first \$50 in child support payments made by an absent parent on behalf of an assistance group member within each calendar month. When more than one absent parent makes child support payments on behalf of a single Reach Up assistance group in the same calendar month, the maximum amount of child support to be disregarded in determining the assistance group's eligibility is \$50.
29. Payments to persons of Japanese or Aleut ancestry as restitution for injustices suffered during the Second World War.
30. Vermont and Federal Earned Income Tax Credits (EITC), whether received with each paycheck or as a refund (lump sum), shall not be counted as income.
31. Payments made from the Agent Orange Settlement Fund or any other fund established because of the Agent Orange product liability litigation are excluded as income in determining eligibility for or the benefit amount in Reach Up financial assistance. This provision is retroactive to January 1, 1989 according to P.L. 101-201 enacted December 6, 1989 and P.L. 101-239 enacted December 19, 1989.
32. Payments made pursuant to the Radiation Exposure Compensation Act (Public Law 101-426).
33. Payments made under Indian Trust Funds Acts (Public Laws 97-458 and 98-64) and initial purchases made with such funds by the original recipient of the funds.
34. Interest held in a trust or in restricted lands pursuant to section 8 of Public Law 93-134 and up to \$2,000 annual income received from the lease or other uses of the individually-owned trust or restricted lands.
35. Distributions made under Public Law 100-241 which amended the Alaska Native Claims Settlement Act as follows:
  - a. cash, including cash dividends on stock received from a Native Corporation, to the extent that it does not, in the aggregate, exceed \$2000 per individual per calendar year; or
  - b. stock including stock issued or distributed by a Native Corporation as a dividend or distribution on stock; or
  - c. a partnership interest; or

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2260-2269 Resources

Resources are defined as any assets, other than income, that a Reach Up applicant or member of an assistance group has available to meet need. Such assets generally take the form of real or personal property the applicant or participant owns individually or jointly with other persons.

The Department shall evaluate the total equity value of all resources, except items specifically excluded, to establish their combined value for comparison with the resource limitation below. When a member of the assistance group and one or more persons who are not members of the same assistance group own resources jointly, the department shall consider at least a pro rata share of the resources available to the assistance group unless the assistance group can demonstrate that such resources are inaccessible to the assistance group. When the assistance group can demonstrate that it has access to only a portion of the resource, the value of that portion shall count toward the assistance group's resource limitation. The resource shall be considered totally inaccessible to the assistance group if the resource cannot practically be subdivided and the assistance group's access to the value of the resource is dependent upon the agreement of the joint owner.

When a member of an assistance group receives any liquid asset during a period of Reach Up participation (including periods of participation with zero benefits) and the asset is not otherwise excluded from consideration as income or resources in the determination of eligibility for Reach Up the department shall treat the asset as Lump Sum Income subject to the regulations under that heading. This includes liquid assets obtained as a result of the sale of a non-excluded or excluded resource unless the participant acquired the resource while not participating in Reach Up.

The department shall disregard from the combined resource limitation any portion of a bank account, cash on hand, or other liquid asset, that an applicant or participant has set aside for currently incurred expenses, such as property taxes or fire insurance premiums, included in the family's Reach Up basic needs and housing allowance for which payment is not yet due. The department shall disregard from the combined resource limitation an amount equal to the applicant or participant family's monthly income if it is established that this income constitutes cash on hand or money in a checking account to be used to meet current monthly expenses.

Future or potential resources shall be identified and developed, when feasible, (see Potential Income and/or Resources). Assistance needed, based on currently available resources, shall, however, continue until such resources become, in fact, available.

2261 Combined Resources Limitation

The maximum allowable resources, including both liquid and non-liquid assets, of all members of the household shall not exceed \$2000 for the household.

The total equity value of all real and personal property, except excluded items, may not exceed the above amount.

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2273 Relative Support2273.4 Referral to Office of Child Support

The Office of Child Support is responsible for pursuit of support from legally liable parents. Referral by completing specified forms shall be required when Reach Up has been granted or continues to a family in which a parent is absent from the home for any reason other than death.

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

The OCS reviews information concerning alleged parentage as furnished by the custodial parent of an out-of-wedlock child, evaluates the legal and social factors involved, and pursues support as appropriate based on the facts of the case. A representative of the OCS contacts the alleged noncustodial parent when OCS concludes that action to establish parentage is in the best interests of the child.

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**2330-2339**    Child Support Obligations and Payments

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

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

A debt shall not be incurred by any noncustodial parents while they receive public assistance or SSI/AABD for the benefit of their dependent children. Debts previously incurred by any responsible parents shall not be collected from said responsible parents while they receive public assistance for the benefit of their dependent children or assistance under the SSI/AABD Program.

**2331**    Assignment of Support Rights

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

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

- rights to support in their own behalf or on behalf of any members of the Reach Up assistance group; and
- rights to support that have accrued at the time such assignment is executed.

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

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2341 Definitions

The following definitions apply to the terms used in the rules for the Reach Up services component and the Reach First program.

- (1) “Able-to-work” means to be free of any physical, emotional, or mental condition that would prevent the individual from engaging in any allowable and countable combination of the work activities for at least 35 hours per week.
- (2) “Able-to-work-part-time” means having a physical, emotional, or mental condition that would allow the individual to engage in any combination of the work activities for at least 10 hours per week but would prevent the individual from engaging in such activities for 35 or more hours per week.
- (3) “Adult” means an individual age 18 or older who is not a dependent child; or an individual under age 18 who is either pregnant or the parent of a dependent child.
- (4) “Assessment” means the information-gathering process, carried out by the department’s established protocol in Reach First, that identifies an individual’s skills, aptitudes, interests, life and work experience, and barriers; and the determination of how these factors relate to the individual’s family responsibilities, including child well-being, and current or potential participation in the labor force.
- (5) “Barrier” means any physical, emotional, or mental condition; any lack of an educational, vocational, or other skill or ability; any lack of transportation, child care, housing, medical assistance, or other services or resources; domestic violence circumstances; caretaker responsibilities; or other conditions or circumstances that prevent an individual from engaging in employment or other work activity.
- (6) “Caretaker” means an individual, other than a parent, age 18 or older who is fulfilling a parental role in caring for a dependent child by providing physical care, guidance, and decision-making related to the child’s health, school, medical care, and discipline.
- (7) “Case management” means the services provided by or through the department to participating families, including assessment, information, referrals, and assistance in the preparation and implementation of a family development plan.
- (8) “Commissioner” means the commissioner of the Vermont Department for Children and Families, or the commissioner’s designee.
- (9) “Department” means the Vermont Department for Children and Families (DCF).

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2341 Definitions (Continued)

(10) “Dependent child” means a child who is a resident of this state and:

(A) is under the age of 18 years; or

(B) is 18 years of age or older who is a full-time student in a secondary school, or attending an equivalent level of vocational or technical training, and is reasonably expected to complete the educational program before reaching the age of 19 or is not expected to complete the educational program before reaching age 19 solely due to a documented disability.

(11) “Domestic violence” means any of the following acts, if committed by a family or household member:

- physical acts that resulted in, or threatened to result in, physical injury to the individual;
- sexual abuse;
- sexual activity involving a dependent child;
- being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
- threats of, or attempts at, physical or sexual abuse;
- mental or emotional abuse; or
- neglect or deprivation of medical care.

For the purposes of this definition, household members are persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. Dating means a social relationship of a romantic nature.

(12) “Eligible family” means a family that is determined to be financially eligible for the programs authorized by 33 V.S.A. Chapters 10 and 11.

(13) “Family” means:

(A) one or more dependent children living with one or both parents or a relative, or a caretaker of such children; or

(B) a pregnant individual.

(14) “Family development plan” (FDP) means the written plan, developed by the case manager with the involvement of the participating family, that charts the family’s participation in the services component of Reach Up and Reach First.

(15) “Homeless” means lacking a fixed and regular nighttime residence or living in one of the following as a primary nighttime residence:

- a supervised shelter designed to provide temporary accommodations, such as a welfare hotel or congregate shelter;
- a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

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2341 Definitions (Continued)

- a temporary accommodation, for not more than 90 days, in the residence of another individual; or
  - a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings, such as a hallway, bus station, lobby, or similar place.
- (16) “Living with a relative or caretaker” means living with a caretaker or relative in a residence maintained by the caretaker or one or more relatives at his or her or their home.
- (17) “Parent” means a biological parent, stepparent, adoptive parent, or pregnant individual.
- (18) “Participant” or “participating adult” means an adult or out-of-school youth who is a member of a participating family.
- (19) “Participating family” means an eligible family that participates in the Reach Up program.
- (20) “Primary caretaker parent” means the parent in a two-parent family with two able-to-work parents whose primary role is to care for the children.
- (21) “Principal-earner parent” means the parent in a two-parent family with two able-bodied parents whose primary role is breadwinner.
- (22) “Reach First payment” means one or more cash payments to assist a family to gain self-sufficiency and avert the need for Reach Up financial assistance.
- (23) “Reach First services” means the services component of the Reach First program consisting of assessment, case management services, support services, and referrals provided to eligible families to assist them in becoming self-sufficient.
- (24) “Reach Up services” means the services including assessment in Reach First, case management services, support services, and referrals provided to participating families to help them become self-sufficient.
- (25) “Relative” means a person related to a dependent child, as defined in Reach Up eligibility rules at 2302.11.
- (26) “Resources” means any income and property available from whatever source and as specifically defined in Reach Up eligibility rules at 2260-2269.
- (27) “Secretary” means the secretary of the Agency of Human Services or his or her designee.
- (28) “Support services” means the services and referrals listed in and provided to eligible families according to Reach Up and Reach First rules.

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2341 Definitions (Continued)

- (29) “Temporary Assistance to Needy Families” (TANF) means the block grant provided to this state and established in accordance with Part A of Title IV of the federal Social Security Act, as amended, and the regulations promulgated pursuant thereto by the United States Secretary of Health and Human Services.
- (30) “Unable-to-work” means not able-to-work and not able-to-work-part-time.
- (31) “Work-eligible adult” means an adult in the applicant household who would have a work requirement if the family were receiving TANF-funded financial assistance.
- (32) “Work activities” means the activities described at 2364.
- (33) “Work-ready” means an adult is not subject to a barrier and is capable of participating in a single work activity or combination of work activities for the number of hours needed to meet the work requirement.

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## 2350 Case Management

The commissioner shall provide Reach Up services to participating families through a case management model informed by knowledge of the family's home, community, employment, and available resources. Using case management, the department will provide participating families with services, including assessment, information, referrals, and assistance in the preparation and implementation of a family development plan (FDP), with the goal of helping the family achieve self-sufficiency. Services may be delivered in the district office, the family's home, or community. A case manager shall be assigned to each participating family as soon as the family begins to receive financial assistance. If administratively feasible and appropriate, the case manager shall be the same case manager the family was assigned in Reach First.

### 2350.1 Caseload Size

To ensure quality of service, the department shall limit case managers' caseload size in a manner that is consistent with research on best practices. A full-time Reach Up Program case manager whose duties do not include financial eligibility and benefit determination shall not, at any time, be responsible for more than 80 active cases. The maximum caseload for a case manager whose duties include financial eligibility and benefit determination shall be modified consistent with the mix of financial eligibility and benefit determination and case management responsibilities assigned. These caseload maximums apply to caseloads in which the families assigned to an individual case manager have varying needs for case management support—some high, some moderate, and some low.

### 2350.2 Notification

At the time of application for financial assistance and at the time of any redetermination of eligibility, the commissioner will provide each Reach Up participating family with information about the requirement that adults participate in the services component of Reach Up. During the time a family is participating in the financial assistance component, the department shall keep adults informed of factors that affect their required participation in the services component.

The actual services component requirements adults must fulfill depend upon their participation status in the services component. The participation status is determined by the family composition, the capabilities and needs of the participant, and the participation phase to which the adult is assigned (2360.2). The department shall notify all applicants and participants, in writing, of the following:

- the individual's participation status;
- a change in participation status;
- the rights and responsibilities associated with the participation status;
- the availability of deferments and modifications to the work requirement;
- the potential sanction for noncooperation;
- the right to request conciliation; and
- the right to a fair hearing for participants who do not agree with the status determination.

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2351 Support Services to Participating Families2351.3 Types of Support Services

Subject to fiscal limitations, the department shall provide or shall refer individuals to other providers for the following types of services, when needed by the participant to achieve the goals of the FDP.

1. appropriate child care, available at times that will enable employment or participation in activities included in the participating family's FDP;
2. transportation that will enable employment or participation in activities included in the participating family's FDP;
3. career counseling, education, training, and job search assistance, consistent with the purposes of the Reach Up Program;
4. vocational rehabilitation;
5. medical and dental assistance;
6. homelessness prevention and housing assistance;
7. family planning education and counseling;
8. assistance with obtaining documentation of an apparent or claimed physical, emotional, or mental condition that reasonably can be presumed to limit or eliminate the individual's capacity to engage in employment or other work activity;
9. services for teen parents through the teen parent education program established in cooperation with the Department of Education; and
10. any other services identified in the FDP and determined by the commissioner to be necessary and appropriate to achieve the purposes of the Reach Up Program.

2351.4 Payment for Support Services

The department's payment for an authorized support service depends upon whether the service is available to the participant through another program and, if the other program does not provide the service at no cost, whether payment for the service is allowed by the department as established by the Reach Up Program's support services matrix. The matrix represents established annual maximum spending limits for specified support services items. Limitations on payments for support services expressed in this section of policy are in reference to the department's support services matrix. Before the department will pay for the services, participants must pursue the services or funding for the services from other programs that offer access to the service.

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**2351.41 Payment for Support Services Through Other Programs**

The department will not pay for or supplement the payment for a service or expense available through other Agency of Human Services (AHS) programs unless otherwise stated in this policy. A Reach Up participant eligible for a needed support service available through another program must first seek the service through that other program.

Participants covered by Medicaid, the Vermont Health Access Plan (VHAP), health insurance, or health care assistance through any other providers shall obtain medical assistance through these programs. Most child care assistance shall be provided through the Child Development Division child care subsidy program (2352).

**2351.42 Payment for Support Services by the Department**

Subject to maximum amounts established per participant, the department may pay for support services that the family needs but cannot access through any other program. When the department pays for the support service, it may issue the payment to the participant or to the provider of the service. The Reach Up case manager will determine the appropriate method of payment. Reach Up participants shall be required to provide written documentation of their receipt of a support service and its cost. Authorization for payment of the service shall be contingent on the department's receipt of the documentation.

The department shall not provide Reach Up participants with medical services, including dental services, using TANF funds.

**2351.5 Criteria for Purchase of Support Services**

The department's funding for the purchase of support services is limited by the type of service and the circumstances related to the need for the service. Within the limits established in the support service matrix, the department may pay for specific services, subject to the following conditions.

**1. Child Care**

Child care assistance is generally provided by the child care subsidy program of the Vermont Department for Children and Families' Child Development Division (CDD) (2352), but ESD may pay for child care in the situations specified in section 2352.3.

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2353      Incentive Payments

The department shall provide incentive payments to participating families for successfully completing activities or tasks required by their FDPs. These activities and tasks must be linked to the achievement of a goal in the parent's family development plan.

Successful completion will be defined by the case manager or the agency or organization sponsoring the activity with approval by the case manager.

2353.1      Payment of Incentives

Subject to maximum amounts established per participant, the department shall provide incentive payments as established by the Reach Up Program's incentive payment matrix. Incentives may vary depending on the length of time involved and the level of difficulty the completed activity represents for the participant. The specific amount of the incentive shall be at the discretion of the case manager based on the definition of the goal in the FDP.

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2360 Participation in the Services Component2360.2 Participation Phases2360.22 Pre-Work-Ready Phase (Continued)

The participant who has increased participation in countable work activities during the pre-work-ready phase to the extent that the work requirement is met shall move to the work-ready phase immediately. Unless granted an extension (2363.14), any adult participant who has not advanced to the work-ready phase after having received 12 cumulative calendar months of financial assistance (2360.25) shall be work-ready on the first day of the 13th cumulative month they receive assistance. At that time the participant must move to the work-ready phase.

2360.23 Work-Ready Phase

Adult participants in the work-ready phase must meet their full work requirement in countable work activities unless they have been granted a modification of or deferment from the work requirement. During this phase, all participants engage in the activities that provide the most expeditious route to attainment of their employment goal. Under no circumstances may participants spend more than 12 full cumulative calendar months in this phase (2360.25).

After completing the activities leading to the employment goal or reaching the 12-month limit for the work-ready phase, participants move to the employment phase, in which they must seek and obtain unsubsidized employment (2363.33).

2360.24 Employment Phase

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

Participants in the employment phase must accept any unsubsidized job offered unless they qualify for one of the limited exceptions in section 2363.34.

After the required period of intensive job search (2364.2), the case manager shall place those unable to obtain unsubsidized employment in subsidized work or a community service placement that, in combination with any unsubsidized work, meets the work requirement. All participants not meeting their work requirement solely with unsubsidized employment shall be expected to continue to seek unsubsidized employment while in a community service placement or subsidized employment.

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## 2361 Family Development Plans

Every participating family must have a family development plan (FDP). The FDP charts and documents each family's participation in the Reach Up services component (2360). The FDP sets forth each adult participant's employment goal (2361.1), the plan and schedule of activities the participant must engage in to attain the goal, and the specific FDP requirements the participant must fulfill to avoid sanctions. Development of the FDP begins when a family applies for Reach Up financial assistance. At that time, the adult members must agree to comply with the FDP requirements of meeting with the case manager, cooperating in assessment, and setting an employment goal, provided they are found eligible for financial assistance. Within 30 days of the first meeting between the participant and the case manager, the family's FDP shall include the following:

- A. employment goal of each adult participant;
- B. an assessment (2350.3) of each adult participant's strengths and whether the participant has any limitations or barriers to employment, including a literacy evaluation followed by referral to an appropriate resource or program, if needed;
- C. an evaluation of the participant's current ability to participate in work activities;
- D. an identification of the services, supports, and accommodations needed to overcome any limitations or barriers and move the family toward self-sufficiency and to enable each adult participant to fulfill personal and family responsibilities, consistent with the goals of the Reach Up program;
- E. assignment of responsibilities among the case manager and family members with respect to the activities the participant must engage in that constitute the FDP (2362) and work requirements (2363), together with a time schedule for fulfillment of these responsibilities and requirements; and
- F. definition of goals for successful completion of required activities or tasks relative to incentive payments (2353).

### 2361.1 Employment Goal

Every participant must establish an employment goal. The employment goal is an essential element of the FDP. All FDP requirements, the individual's plan, and the individual's schedule of activities must be related to this goal. At first, the employment goal may be nothing more than obtaining an unsubsidized job in the participant's geographic area. Later, the participant, with the assistance of the case manager, may refine the employment goal to specify a particular occupational field with current job openings in the geographic areas where the participant is willing to work. In refining the employment goal, the participant and the case manager must consider the participant's assessment, work experience, education, strengths and abilities, limitations and barriers, interests, and any other factors affecting attainment of the employment goal.

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2361 Family Development Plans (Continued)2361.3 Reviews and Modifications of the FDP

The case manager shall establish a schedule for review of the FDP. The case manager shall have a personal contact with the participant at least once per month to review the FDP and, if necessary, to modify the plan.

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

- A. Services required by the FDP are unavailable.
- B. The participant is nearing the end of the pre-work-ready phase. The case manager shall review the FDP at least 30 days before the parent or caretaker becomes work-ready or is otherwise deemed work-ready based on receipt of financial assistance for 12 cumulative months.
- C. A deferment or modification of the work requirement has been requested.
- D. A deferment or modification is scheduled to end within 60 days. The case manager shall review the FDP no fewer than 30 days before the deferment or modification expires.
- E. The participant has started an unsubsidized or subsidized job. The case manager shall review the FDP within 30 days of the date the participant started the job.
- F. The participant has lost unsubsidized or subsidized employment.
- G. The participant is nearing the date set for attaining the employment goal. The case manager shall review the FDP at least 30 days prior to that date.
- H. Changes to the FDP are needed to protect the well-being of the children.
- I. The participant is not making satisfactory progress in achieving the goals of the plan, or it becomes apparent that the participant cannot achieve them in the time allowed.
- J. A family member has failed to comply with an FDP requirement or a work requirement.

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

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

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**2363**      Work Requirements

All participating adults shall be required to fulfill their work requirement, unless deferred, when they are work-ready in accordance with these rules. The number of hours the participant must work or engage in one or more work activities depends on the configuration of the family (2363.3). When participants are determined work-ready and must begin to fulfill a work requirement usually depends on their ability to engage in work activities, limited by the length of time that they have received Reach Up financial assistance.

To fulfill their work requirement, participants must engage in one or more work activities (2364) approved by their case manager. Work-ready participants must engage in work activities consistent with their highest level of capability. Participants who have completed the activities leading to attainment of their employment goal (2361.2) must fulfill their work requirement in unsubsidized work.

Work-ready participants and participants who have completed all approved FDP activities leading to their employment goal shall fulfill their work requirement, unless deferred, in accordance with the requirements of this section to avoid fiscal sanctions (2372).

**2363.1**      Work-Ready Determination

The determination that participants are work-ready occurs at different times, depending on the following rules.

**2363.11**      When Determined Eligible for Reach Up Financial Assistance

Principal-earner parents, parents sharing the work requirement, and adults assigned to the work-ready phase or employment phase at the end of a past period of participation in Reach Up must begin fulfilling their work requirement as soon as they meet with their case manager for the first time.

**2363.12**      During the First 12 Cumulative Months of Receiving Reach Up Financial Assistance

During the first 12 cumulative months of participation in Reach Up's financial assistance component, participants not already determined work-ready and not subject to any barriers are determined work-ready as soon as they are capable of participating in a single countable work activity or any combination of countable work activities sufficient to fulfill their work requirement.

**2363.13**      Upon Receipt of the 12<sup>th</sup> Cumulative Month of Reach Up Financial Assistance

A participant who has received 12 cumulative months of financial assistance in the pre-work-ready phase (2360.22) shall be deemed work-ready on the first day of the 13<sup>th</sup> month the individual receives assistance and is subject to the applicable work requirement. In rare circumstances, if a participant's case manager concludes that the participant cannot meet the applicable unmodified work requirement, the case manager shall submit a request for an extension of the work-ready date (2363.14).

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2363.14

2363 Work Requirements2363.1 Work-Ready Determination2363.14 When the Pre-Work-Ready Phase Is Extended Beyond 12 Months

The case manager shall submit a request for an extension of the participant's pre-work-ready phase in writing and specify the length of the extension, not to exceed six months. The request shall include the following:

- A. the particular reasons why the participant cannot meet the full work requirement;
- B. the date the reasons were recognized and the efforts made so far to address them;
- C. the number of hours the participant can engage in work activities;
- D. the length of the requested extension; and
- E. the remedial actions and services to be provided to the participant to enable fulfillment of the requirement.

The case manager shall submit a request for an extension to the district director and the commissioner or the commissioner's designee for approval. The district director and the commissioner or the commissioner's designee shall review the request and approve it, provided that the participant cannot meet the work requirement, the participant does not qualify for a modification of the work requirement (2365), and the information in the request is supported by the documentation in the participant's file and FDP. If the extension is approved, they shall set a new work-ready date within the next six months.

2363.15 For Participants Receiving Financial Assistance Before July 1, 2001

Before March 1, 2002, the calculation to determine a participant's work-ready date shall include all months of assistance the participant's family received during WRP. Once WRP participants are work-ready in accordance with department rules and by virtue of the number of months of assistance they received, they remain work-ready. They must fulfill their work requirement in unsubsidized employment within one year of their work-ready date, with the following exception. Principal-earner parents who have received 10 or more cumulative months of ANFC by May 1, 2001, must fulfill their work requirement in unsubsidized employment beginning July 1, 2001.

Through March 1, 2002, WRP participants' work-ready dates are determined as follows.

1. Participants who reached their end of time limits (ETL) during WRP and who are work-ready pursuant to department rules are presumed to be work-ready.
2. Principal-earner parents in two-parent families where both parents are able-to-work and the family has received 10 or more months of ANFC assistance by May 1, 2001, must fulfill their work requirement in unsubsidized work beginning July 1, 2001.

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2363 Work Requirements2363.3 Work Requirement Hours2363.31 Work Requirement Hours for Parents in Two-Parent FamiliesA. Two Able-to-Work Parents (Continued)1. Option in Which the Principal-Earner Parent Fulfills the Work Requirement

The principal-earner parent who has not secured employment during the applicant job search shall participate full time in approved work activities. After completing the activities leading to the employment goal, the parent shall work full time in unsubsidized work. Full time generally means 40 hours per week but also includes, in the case of an unsubsidized job that the employer defines as full-time, a job that requires no fewer than 35 and no more than 45 scheduled hours per week. The primary caretaker shall have no work requirement, provided that the principal-earner parent complies with and is not sanctioned for failing to meet the work requirement. In the event that the principal-earner parent is sanctioned for failing to meet the work requirement, the primary caretaker parent shall be deemed work-ready and required to fulfill the family's work requirement.

If the principal-earner parent is sanctioned, the primary caretaker parent shall report to the family's case manager, complete an assessment, modify the family's FDP, and comply with the family's work requirement by the 30<sup>th</sup> day following the effective date of the principal-earner parent's sanction.

2. Option in Which the Parents Share Responsibility for the Work Requirement

Two able-to-work parents may share the work requirement, provided that they secure employment or participate in work activities with combined hours equal to or exceeding 40 hours per week.

Parents who decide to share the work requirement must both report to the Vermont Department of Labor (VDOL), in accordance with 2362.11.

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2363 Work Requirements2363.3 Work Requirement Hours2363.31 Work Requirement Hours for Parents in Two-Parent FamiliesA. Two Able-to-Work Parents (Continued)

If the principal-earner parent or a parent sharing the work requirement becomes unemployed or reduces hours of employment without good cause, conciliation of the principal-earner parent begins immediately (2371.1). The principal-earner parent is subject to fiscal sanction if conciliation is not successfully resolved.

B. One Able-to-Work Parent

In a two-parent family with only one able-to-work parent, the able-to-work parent shall participate in approved work activities for no fewer than 30 hours per week. After completing the activities leading to the employment goal, the able-to-work parent shall accept an offer of and work in unsubsidized employment with scheduled hours of no fewer than 30 and up to 35 hours per week.

C. Two Able-to-Work-Part-Time Parents1. One Parent Can Work 30 or More Hours Per Week

In a two-parent family with two able-to-work-part-time parents, if one parent can work 30 or more hours per week, then that parent shall participate in approved work activities for no fewer than 30 hours per week. After completing the activities leading to the employment goal, the parent who can work 30 or more hours shall accept an offer of and work in unsubsidized employment with scheduled hours of no fewer than 30 and up to 34 per week as long as the number of hours does not exceed the number of hours the parent can work. The second parent does not have a work requirement.

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2363     Work Requirements2363.3    Work Requirement Hours2363.35   Exceptions to the Requirement to Accept a Suitable Unsubsidized Job

A participant who, in the three months immediately before applying for financial assistance, had annualized wages equaling or exceeding 150 percent of the federal poverty level (FPL) for the family size shall not have to accept jobs with annualized earnings of less than 150 percent FPL during a three-month grace period immediately after the family is found eligible for financial assistance, provided that the participant complies with the requirements of this subsection. The annualized wage is determined by multiplying the participant's hourly wage by 2080, the number of hours in a full year of 40-hour workweeks. An individual who meets this wage criterion shall be eligible and remain eligible for this exception during the full three-month grace period, provided that the participant:

- A. has not been disqualified within the prior six months from receiving unemployment compensation benefits for one of these reasons:
  - 1. quitting a job without good cause;
  - 2. failing, without good cause, to apply for suitable work when so directed by the employment office or the commissioner of employment and training; or
  - 3. failing, without good cause to accept suitable work when offered;
- B. is not sanctioned during the grace period;
- C. does not leave an unsubsidized job without good cause during the grace period;
- D. follows through in a satisfactory manner on all referrals to employment opportunities;
- E. is engaged in acceptable work activities sufficient to fulfill the work requirement; and
- F. agrees to accept any unsubsidized job if still unemployed after completion of the grace period.

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2364.6 Job Search

Job search is a core activity. Job search includes a variety of activities that are designed to improve the participant's employment prospects and that are supervised on a daily basis. This is an appropriate activity for any participant seeking unsubsidized employment or needing skills that will prepare the participant to seek, obtain, perform and maintain a job. For example, job search includes the following types of employment readiness activities:

- resume and application preparation;
- job interviews;
- work search and work-search training;
- life skills training; and
- substance abuse treatment, mental health treatment or rehabilitation activities for those who are otherwise employable, when determined to be necessary and certified by a qualified medical and mental health professional.

For purposes of the federal work participation rate, participants may count hours engaged in this activity up to their entire weekly hour requirement. This activity may however count for only up to six weeks during any federal fiscal year, which runs from October 1 through September 30. Of the six weeks, only four may be consecutive, and the case manager shall approve the activity in periods of no longer than two weeks. In no event shall the department require an individual to participate in job search for more than four weeks before an assessment of the participant's employability is completed. If the participant's assessment reveals reasons why job search is not an appropriate activity for the participant, the requirement to participate in job search shall be terminated.

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2365 Deferments and Modifications2365.3 Grounds for Deferment or Modification of the Work Requirement (Continued)

The department's medical review team, using documentation provided by a physician or licensed psychologist, certifies whether a participant is eligible for a deferment or modification of the work requirement based on being needed in the home as defined herein. In granting this deferment, consideration shall include:

- a. the needs of the disabled or seriously ill person,
  - b. available and appropriate community resources and supports, and
  - c. the participant's preferences as to the number of hours the participant is able to leave home to participate in work activities.
7. A participant at least 20 years old who is engaged in at least 25 hours per week of classes and related learning activities for the purpose of attaining a high school diploma or general educational development (GED) certificate. A related learning activity is a scheduled activity the participant is required to attend as part of the course of study leading to attainment of the high school diploma or GED. This deferment is available provided that:
- a. the participant is making satisfactory progress toward the attainment of such diploma or certificate;
  - b. the participant documents the satisfactory progress by providing the case manager with grades or evaluations as frequently as indicated by the duration and intensity of the program; and
  - c. the deferment or modification granted for this purpose does not exceed six months.
8. A parent or caretaker age 60 or older.
9. A participant unable to fulfill the applicable work requirement due to the effects of domestic violence, as determined in accordance with section 2365.31.
10. A participant who requests a modification or deferment of the work requirement on the basis of an unpaid leave of absence from employment to which the participant is entitled under Vermont's Parental and Family Leave statute (21 V.S.A. Subchapter 4A) and provides verification that his or her employer has approved this leave of absence.

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2365 Deferments and Modifications2365.3 Grounds for Deferment or Modification of the Work Requirement2365.31 Domestic Violence Deferment or Modification

When a participant requests a deferment or modification due to the effects of domestic violence, the department shall make an individualized assessment of the family situation and available documentation to determine whether the request shall be granted. The department shall grant a deferment or modification when, due to the effects of the domestic violence, fulfillment of the work requirement can be reasonably anticipated to result in serious physical or emotional harm to the participant that significantly impairs the participant's capacity either to fulfill the requirements or to care for a child adequately, or can be reasonably anticipated to result in serious physical or emotional harm to the child. These effects may be the result of domestic violence that occurred in the past or is occurring in the present.

Using a form provided by the department, the participant shall complete and sign a sworn affidavit providing information about the domestic violence itself and its effects. The participant shall also provide additional documentation from collateral sources unless the department determines that no additional documentation is required, based on criteria specified below. In every case, the department shall inquire whether the participant needs help completing the affidavit or obtaining additional documentation and, if so, provide that help.

In addition to the participant's sworn affidavit, the department may require one or more of the following items of documentation:

- a. medical records (for example, from a doctor, dentist, nurse, nurse practitioner, physician assistant, or public health nurse);
- b. court documents (for example, relief from abuse orders, divorce findings, criminal proceedings including charges, not just convictions);
- c. police reports;
- d. statements from victim advocates in state's attorneys' offices;
- e. statements from staff working in a domestic violence program;
- f. school personnel reports;
- g. reports from other professionals (for example, private therapists, mental health or Family Services Division staff);
- h. statements from neighbors or employers; or
- i. sworn affidavits from family and friends.

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2365 Deferments and Modifications

2365.3 Grounds for Deferment or Modification of the Work Requirement

2365.31 Domestic Violence Deferment or Modification (Continued)

In its determination of what additional documentation is required, the department shall give first consideration to documentation the participant is able and willing to provide. The department shall not require any documentation other than the participant's sworn affidavit if the following conditions are met:

- a. the participant's affidavit is sufficiently detailed and consistent;
- b. no additional documentation can be obtained without jeopardizing the safety of a family member; and
- c. there is no reasonable basis for questioning the credibility of the affidavit.

The department may grant an initial deferment or modification due to the effects of domestic violence for a period up to six months. In the case of a participant capable of working part-time, the department shall modify the work requirement to reflect the number of hours the participant can work.

The department may extend the deferment or modification for a period of up to six months at a time. There is no limit to the number of times the exemption may be extended, as long as the conditions for extending it, described below, are met.

To retain the exemption or an extension of the exemption, the participant must participate constructively in the development and, where applicable, modification of a family development plan (FDP) that addresses the effects of domestic violence. In addition, the participant must participate in FDP-approved activities and complete them satisfactorily, as determined by the case manager.

2365.32 Medical Deferment or Modification

A participant's request to be considered unable-to-work or able-to-work-part-time shall be processed according to the following rules.

If, in the case manager's judgment, the medical condition limits, but does not prevent, the participant from meeting the full work requirement, the case manager will work with the participant to develop an FDP or modify an existing FDP, taking the limitations of the condition into account. No deferment or modification shall be approved.

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2365 Deferments and Modifications2365.3 Grounds for Deferment or Modification of the Work Requirement2365.32 Medical Deferment or Modification (Continued)

Participants determined disabled for the purposes of receiving SSI/AABD, social security disability payments, or Medicaid shall be considered unable-to-work and granted a deferment. They may be referred to vocational rehabilitation services on a volunteer basis.

The department may grant a deferment or modification to other participants, not determined disabled, who claim a medical condition expected to last fewer than 90 days. Such participants shall continue to work with their case manager to develop an FDP, allowing an accommodation for the condition up to 90 days, and participate in FDP-approved activities to the extent possible. Participants requesting an extension of their deferment or modification shall be screened for referral for eligibility for vocational rehabilitation services and, if appropriate, referred to the vocational rehabilitation services provider.

Participants not determined disabled who claim a condition expected to last more than 90 days shall be screened for referral for eligibility for vocational rehabilitation services and, if appropriate, referred to the vocational rehabilitation services provider.

Participants referred for vocational rehabilitation services and found eligible for those services by the provider are considered able-to-work-part-time or unable-to-work. The department shall modify or defer their work requirement as long as they continue to comply with the vocational rehabilitation program or until they are fulfilling the work requirement.

The vocational rehabilitation services provider shall perform a review of the participant's progress no later than six months after the participant has been accepted for vocational rehabilitation services. If, at this time or at any time, the provider concludes that a participant is not making any discernable progress, the provider shall confer with the medical review team. The medical review team and the provider shall decide whether the participant should continue with the vocational rehabilitation services or undergo further evaluation of the basis for the medical deferment or modification. If the medical review team and the provider decide that the participant should continue to work with vocational rehabilitation services, they will continue to confer at least once every six months to evaluate the participant's progress.

The department reserves the rights to review the basis of a participant's medical deferment or modification at any time.

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2365 Deferments and Modifications2365.3 Grounds for Deferment or Modification of the Work Requirement2365.32 Medical Deferment or Modification (Continued)

To determine whether participants are able to do any work, the medical review team shall review their residual functional capacity, age, education, and work experience, based on information supplied by the case manager, reports obtained from the treating physician and other health care professionals who have examined the participant, and the participant's estimate of the number of hours the participant is able to work. In the case of a participant receiving medical care through a managed care program, the determination will be made on the basis of information provided by the participant's primary care provider (PCP) or by a medical professional to whom the participant was referred by the PCP.

The medical review team may obtain consultative reports if any of the following conditions exist:

- a. the treating physician's opinion is contradicted by evidence in the record;
- b. the vocational rehabilitation services provider or a similar professional familiar with the participant recommends consultation;
- c. the participant's physician has not treated the participant for the condition; or
- d. the participant has multiple conditions, all of which have not been treated by the participant's physician.

Functional capacity includes mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills.

In cases in which the participant has been terminated from vocational rehabilitation services without completing all required activities leading to the employment goal and has been determined able-to-work-part-time or unable-to-work by the medical review team, the case manager shall work with the participant to develop or modify the FDP. Appropriate medical treatments identified by the medical review team or the participant's physician shall be specified as FDP requirements. In addition, the case manager and the participant shall specify nonmedical FDP activities and requirements based on the participant's diagnosis, functional capacity, and need. Participants will be expected to undergo surgical procedures recommended as part of a treatment plan; a participant will not be required to do so, however, if less invasive methods of treatment exist or the participant objects to the procedure based on religious grounds.

Notwithstanding the rules in this section, the department reserves the right to review and deny or terminate a medical deferment or modification.

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2400 Introduction to Postsecondary Education Program

The postsecondary education (PSE) program is a solely state-funded program to assist parents in eligible low-income families to obtain two- or four-year postsecondary undergraduate degrees in fields directly related to employment. The PSE program provides financial assistance, case management, and support services. In eligible two-parent families, only one parent at a time may participate in the PSE program and the second parent must be employed if able to work. Eligibility is based on financial and non-financial criteria.

The PSE program is not an entitlement program. Participation may be denied to applicants meeting the eligibility criteria if program funds are insufficient for all eligible applicants to participate. If program funds are insufficient to serve all eligible applicants, the priorities for admission to the PSE program established by these regulations will be followed.

2401 Definitions

- A. Able-to-work: Free of any physical, emotional or mental condition that would prevent the individual from engaging in full-time employment.
- B. Able-to-work-part-time: Having a physical, emotional or mental condition that would allow the individual to engage in employment for at least 10 hours per week but would prevent the individual from engaging in employment for 35 or more hours per week.
- C. Applicant: A parent who is applying for admission to the PSE program.
- D. Approved College: Any institution of higher education that is certified by the state board of education as provided in 16 V.S.A. §§176 - 176a. or any institution of higher education that is accredited by the New England association of colleges and secondary schools, or a comparable accrediting agency, or any institution accredited by the Vermont state board of nursing as provided in 26 V.S.A. §§1573-1574 and 1581.

“Approved college” shall also include any technical school or institution that admits students who have completed the twelfth grade or its equivalent, is legally authorized to provide a program of post-secondary or technical education designed to equip individuals for useful employment in recognized occupations and is accredited by a nationally recognized accrediting agency or association or a state accrediting agency or association listed by the United States secretary of education pursuant to 20 U.S.C. §1085(c)(4) (P.L. 89-329) or by any other means of accreditation approved by the state board. It does not include regional technical centers or other institutions that do not offer two-year or four-year postsecondary education degrees.

As used in these regulations, the word "college" means "approved college."

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2401 Definitions (Continued)

An approved college shall not include a college located more than 75 miles outside of the Vermont border, except when the out-of-state college offers a program in a major in a field of study required to meet the applicant or participating parent's occupational goal and such program is:

- Not available within Vermont or the 75 mile limit; or
- Closer to the applicant/participating parent's place of residence than a program within Vermont or the 75-mile limits.

E. Case manager: As used in this rule, case manager means a person with that job title or other appropriate person designated to perform the case management function.\_

F. Commissioner: The commissioner of the Department for Children and Families or the commissioner's designee.

G. Degree-related job: Any employment related to the occupation specified in the last approved PSE plan.

H. Dependent child means a child who:

- (1) is a resident of this state; and
- (2) is under the age of 18 years; or
- (3) is 18 years of age or older and meets both of the following two criteria:
  - (a) is full-time student in a secondary school or attends an equivalent level of vocational or technical training, and
  - (b) is reasonably expected to complete the educational program before reaching the age of 19 or is not expected to complete it before age 19 solely due to a documented disability.

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2401 Definitions (Continued)

- I. Family: The parent in a single-parent family or both parents in a two-parent family and all minor dependent children residing with, cared for by, and in the physical custody of the parent or parents full time or no less than 50 percent of the time if in accordance with a court-approved shared custody agreement or order.
- J. Field directly related to employment: A field of study in which employers are most likely to seek graduates to fill positions in the occupation specified in the participating parent's PSE plan. Employers in this context refer to entities that employ individuals in this occupation at sites located in the labor market area in which the participating parent plans to seek employment.
- K. Full-time: Forty (40) hours per week or a position requiring no fewer than thirty-five (35) hours of work per week that the employer defines as full-time.
- L. Good Academic Standing: Satisfactory academic progress as determined by the academic policies of the college the participating parent is attending.
- M. Labor Market Area: The geographic area used for this purpose by the Vermont Department of Labor or the comparable agency in another state if the participating parent intends to seek employment out-of-state.
- N. Making Progress Toward a Degree: An academic record of the participating parent, during the first half of the parent's participation in the program, that demonstrates the likelihood the parent will be able to:
  - (1) Complete satisfactorily the college's general requirements for attainment of a two-year or four-year postsecondary undergraduate degree and the specific requirements for completion of the field of study specified in the PSE plan, and
  - (2) Complete these requirements within the schedule in the PSE plan for completion of the degree, taking into consideration modifications or extensions approved in accordance with 2406.

Continuation in the program during the last half of the parent's schedule of participation shall be contingent upon an academic record that clearly demonstrates the likelihood that the requirements cited above will be met.

- O. Matriculating or Matriculated Student: An applicant who is attending, has been accepted at or has applied to a two-year or four-year postsecondary undergraduate degree program. An applicant who plans to attend the Community College of Vermont (CCV) and provides documentation of completion of the CCV basic skills assessment and no requirement to take basic skills courses or, when this requirement applies, successful completion of these courses; and completion of a financial assistance application shall be considered a matriculated student.

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2401 P.4

2401 Definitions (Continued)

- P. Occupation: A specific job title or cluster of related job titles, as listed in the *Dictionary of Occupational Titles*, the *Occupational Information Network*, the *Occupational Outlook Handbook*, or other relevant employment-related services or publications.
- Q. Parent: A biological parent, stepparent, or adoptive parent, as defined by state law, who has physical custody of and resides with a dependent child full time or no less than 50 percent of the time if in accordance with a court-approved shared custody agreement or order. This term includes individuals who have entered into civil unions. This term does not include pregnant women or caretaker relatives who are not a "parent" within the definition above.
- R. Participating Parent: A parent who is receiving financial assistance and/or case management and support services through the PSE program. In a two-parent family, it is the parent who is pursuing postsecondary undergraduate degree.
- S. Participating Family: A family in which one parent is a participating parent.
- T. Postsecondary education (PSE): Courses taken at an approved college by a matriculated or matriculating student in a two-year or four-year postsecondary undergraduate degree program.
- U. Postsecondary education program (PSE program): A state-funded program of financial assistance, case management, and support services to assist parents in eligible families to obtain two-year or four-year postsecondary undergraduate degrees in fields of study directly related to employment.
- V. Unable-to-work: Not "able-to-work" and not "able-to-work-part-time."

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2402

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2402 Eligibility2402.1 Initial EligibilityA. Financial Eligibility

1. Applicants shall demonstrate financial eligibility for the calendar year preceding the date of application.
2. Gross income shall be the basis for determining financial eligibility for the PSE program.
3. Verification of income shall be provided in accordance with the Reach Up program regulations.
4. The family's gross income minus the participating parent's earnings shall not exceed 150 percent of the federal poverty level for a family of the applicant family's size.
5. Gross income shall be determined using Reach Up rules.\_

B. Financial Eligibility for PSE Financial Assistance

Applicants for financial assistance must meet the same financial eligibility qualifications as Reach Up applicants according to Reach Up financial eligibility rules.

C. Financial Eligibility for Case Management Services

1. All applicants who qualify for financial assistance automatically meet financial eligibility for case management services.
2. All applicants who qualify for financial assistance and subsequently are not eligible for financial assistance due to a change in circumstances continue to be eligible for case management during the program year in which the loss occurred and until the date of their next annual review provided they meet all the criteria at 2402.1.C.
3. Applicants who qualify for participation in the program, but do not qualify for PSE financial assistance may receive case management services

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2402.1 P.2

2402 Eligibility2402.1 Initial Eligibility (Continued)D. Non-Financial Eligibility

All financially eligible families who apply to participate in the postsecondary education program shall be considered for admission, pursuant to the following conditions:

1. The applicant has the literacy skills necessary to participate successfully in the PSE program.
2. The applicant has a PSE plan that has been approved by the PSE plan review committee.
3. Only one parent per family may participate in the PSE program at the same time. For purposes of this condition, family includes two parents who live apart, but equally share physical custody of their child(ren).
4. In a two-parent family, the non-participating parent shall:
  - a. Be employed full time, if able-to-work;
  - b. Be employed part time, if able-to-work-part-time; or
  - c. Be unable-to-work.
5. The applicant does not have a postsecondary undergraduate degree or, if the applicant already has a postsecondary undergraduate degree:
  - a. The occupations for which it prepared the applicant are obsolete, as determined by the commissioner or the commissioner's designee (see 2403.7.B);
  - b. The applicant can no longer perform the occupations for which the degree prepared him or her due to a disability, as determined by the commissioner or the commissioner's designee (see 2403.7.A); or
  - c. The preparation for occupations received by the applicant through the postsecondary undergraduate degree is outdated and not marketable in the current labor market, as determined by the commissioner or the commissioner's designee (see 2403.7.B).
6. The applicant is a matriculating or matriculated student in two-year or four-year postsecondary undergraduate degree program as specified in the applicant's PSE plan.
7. The applicant has been determined eligible for financial assistance from VSAC and can demonstrate the ability to cover tuition costs.

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2402.1 P.3

2402 Eligibility2402.1 Initial Eligibility

8. The applicant agrees to limit employment to no more than 20 hours per week when school is in session. At the parent's request, an exception to the 20-hour limitation may be granted when the case manager has determined that both of the following requirements are met:
  - a. The increase in hours will not delay the student's progress or timeframe in obtaining the degree.
  - b. The additional hours of employment are in a position that either will result in credits toward the participant's degree or enhance the student's marketability in the field or her or his course of study.
9. The 20-hour limit on hours of work per week shall be applied as follow in these special situations:
  - a. Single-parent applicants providing specialized foster care, professional parenting, or the equivalent to children in the custody of the Department for Children and Families (DCF) or not in DCF custody but placed in foster care by a licensed child placement agency and receiving additional compensation for those services shall be considered to be employed 20 hours per week. No additional employment shall be permitted when school is in session.
  - b. An applicant who is the contracted developmental home provider for an individual placed by the Department of Disabilities, Aging, and Independent Living (DAIL) or a developmental or mental health services agency under contract with DAIL shall be considered to be employed for more than 20 hours per week.
10. Participating families who are eligible for Reach Up financial assistance agree to accept PSE program financial assistance in lieu of a Reach Up financial assistance grant.
11. The applicant and the applicant's family are Vermont residents.
12. The participating parent continues to reside with and have physical custody of a dependent child.
13. If the applicant already is engaged in a two-year or four-year postsecondary undergraduate degree program at the time of application, the applicant is in good academic standing and a member in good standing.

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2402.2

2402 Eligibility2402.2 Continuing Eligibility

The Department for Children and Families shall conduct an annual review to determine continuing financial and non-financial eligibility for the PSE program-and to determine the amount of any financial assistance. The annual review shall take place within the ninety-day period prior to the beginning of each academic term that marks an anniversary of the participating parent's participation in the PSE program.

A. Financial Eligibility for Financial Assistance

Continuing financial eligibility for financial assistance is determined using Reach Up financial eligibility rules governing reported changes of circumstances when they occur and at the annual review.

B. Financial Eligibility for Case Management Services

1. Participants who qualify for continuing financial assistance automatically meet financial eligibility for continuing case management services.
2. Participants who qualify for financial assistance and subsequently are not eligible for financial assistance due to a change in circumstances continue to qualify for case management services during the program year in which the loss occurred and until the date of their next annual review provided they meet all the criteria at 2402.1.D.
3. Participants who qualify for program participation by meeting the requirements of 2402.1 using income from the calendar year preceding the date of the annual review, but do not qualify for financial assistance may receive case management services.

C. Non-Financial Eligibility

1. The participating parent's PSE plan shall be reviewed and revised, as needed.
2. In a two-parent family, the nonparticipating parent shall:
  - a. Be employed full time, if able-to-work;
  - b. Be employed part time, if able-to-work-part-time; or
  - c. Be unable-to-work
3. The participating parent remains eligible for financial assistance from VSAC, which includes maintaining satisfactory academic standing as defined by the college, and continues to demonstrate the ability to cover tuition costs.

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2402 Eligibility2402.2 Continuing Eligibility

4. The participating parent agrees to limit employment to no more than 20 hours per week when school is in session in accordance with the initial eligibility rules at 2402.1.D.8-9 governing the 20-hour limit.
5. Participating families who are eligible for Reach Up financial assistance shall agree to accept PSE program financial assistance in lieu of a Reach Up financial assistance grant.
6. The participating parent and participating family are residents of Vermont.
7. The participating parent is in good academic standing and making progress toward a degree.
8. The participating parent is a member in good standing at the college she or he attends.

2403 Application2403.1 General Requirements

- A. Applications and assistance, pursuant to 2409, in completing all parts of the application shall be available at decentralized locations statewide.
- B. Initial entry into the PSE program must begin in the fall or spring academic term, unless the applicant is a matriculated or matriculating student in an approved college that does not operate on a traditional semester basis.
- C. To be considered for admission into the PSE program, the applicant's complete financial eligibility application and necessary supporting documentation must be submitted to the commissioner within 30 days after the close of the application period.

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2403.2

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2403 Application2403.2 Application Periods

- A. The application period for admission to the PSE program shall be between March 1 and May 31 for admission to the PSE program for the fall academic term and August 1 and October 31 for admission to the PSE program for the spring academic term, with the following exception:

For applicants who are matriculated or matriculating students in an approved college that does not operate on a traditional semester basis, the application period shall open one hundred and eighty days and close ninety days prior to the beginning of the term in which the applicant plans to take postsecondary education courses.

- B. In each application period, the number of applications accepted for determination of eligibility (target number) shall be no greater than three times the anticipated number of openings in the PSE program. The target number and the anticipated number of openings for each application period shall be determined by the commissioner.

The application period shall close when the deadline for the application period or target number is reached, whichever happens first. If the target number for a given application period is not reached, the commissioner may extend the application period.

2403.3 Financial Eligibility Application

- A. In order to proceed with the complete application process, an applicant must first be determined to meet the requirements for financial eligibility for the PSE program.
- B. The applicant shall complete a financial eligibility application, including provision of documentation to support a determination of financial eligibility.
- C. Written notice of the decision on the financial eligibility application shall be given to the applicant within 20 days of the date the signed financial eligibility application was received. The notice shall include information on the applicant's appeal rights, and if the financial eligibility application is denied, the reasons for the denial.
- D. Upon determination that an applicant meets the requirements for financial eligibility for the PSE program, the applicant may proceed with the application process as detailed in 2403.4 - 2403.10.

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2403.4

2403 Application2403.4 Provision of Documentation

All applicants must provide the following documentation as part of the application process:

- A. Documentation of full-time employment of non-participating parent, or if unable-to-work or able-to-work-part-time, of compliance with the requirements of 2403.6 A. or B.
- B. Documentation that applicant is a matriculating or matriculated student in a two-year or four-year postsecondary undergraduate degree program. Applicants who have applied to but have not yet been admitted to a postsecondary undergraduate degree program shall not be eligible for the PSE program until they provide documentation of admission. For applicants who plan to attend CCV, documentation that the applicant has completed the CCV basic skills assessment and is not required to take basic skills courses or, if required to do so, has completed these courses successfully; and has completed a financial assistance application shall be considered documentation of admission.
- C. Documentation that the applicant is in good academic standing and a member in good standing if the applicant is already attending college.
- D. Documentation of eligibility for financial assistance from VSAC and ability to meet tuition costs.
- E. Documentation of Vermont residency.
- F. Documentation to support the determination of the amount of PSE financial assistance.

2403.5 Literacy Assessment

- A. As part of the application process, the commissioner shall assess the applicant's basic skills in reading, writing, and mathematics to evaluate the applicant's ability to participate successfully in the PSE program. Such assessment may be waived when, in the judgment of the commissioner, the applicant's record contains sufficient information, such as a high school transcript, rank in high school class, a GED transcript, responsibilities of jobs held, responsibilities of volunteer work performed, recommendations of teachers or employers, or scores from standardized tests (for example, SAT or ACT) to make this evaluation without the assessment.
- B. If the literacy assessment indicates that the applicant does not have the basic skills necessary to participate successfully in the PSE program, the applicant shall not be eligible for the PSE program. Applicants who do not have the basic skills necessary to participate successfully in the PSE program shall be referred, as appropriate, to Reach Up or VSAC for support for basic skill courses.

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2403.6

2403 Application2403.6 Requirements for Non-Participating Parents Unable-to-WorkA. Disability

1. All non-participating parents who state they are unable-to-work or able-to-work-part-time because of a disability shall be referred to the Vermont Division of Vocational Rehabilitation (VR) for an assessment of eligibility for VR services and, if determined eligible, shall be required to accept VR services.
2. A non-participating parent who has been determined to be ineligible for VR services and who has not been determined to be disabled by the Social Security Administration or other state or federal program approved by the commissioner or the commissioner's designee, shall be subject to the full-time employment requirement of the PSE program.
3. A non-participating parent who has been determined to be ineligible for VR services and who has been determined to be disabled by the Social Security Administration or other program approved by the commissioner or the commissioner's designee shall not be subject to an employment requirement.

B. Domestic Violence

1. When a participating family is experiencing the effects of domestic violence, the non-participating parent may apply for an exemption to or modification of the employment requirement.
2. Domestic violence shall include the following acts if committed by a family or household member as defined in 2225.1: physical acts that resulted in, or threatened to result in, physical injury; sexual abuse; sexual activity involving a dependent child; being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities; threats of, or attempts at, physical or sexual abuse; mental or emotional abuse; or neglect or deprivation of medical care.
3. The commissioner or the commissioner's designee shall make an individualized assessment of the family situation, consistent with 2344.2.B.5, to determine whether an exemption to or modification of the employment requirement shall be granted.
4. Initial exemptions to or modifications of the employment requirement may be granted for a period of up to six months and may be extended for a period of up to six months at a time.

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2403 Application2403.6 Requirements for Non-Participating Parents Unable-to-Work (Continued)

5. To retain or extend an exemption to or modification of the employment requirement, the non-participating parent must participate constructively in the development of and activities contained in a plan to address the effects of domestic violence. The plan may be developed with the commissioner or the commissioner's designee or be developed with another agency, such as VR, the Department for Children and Families' Family Services Division or other public or private service agency, and accepted by the commissioner or the commissioner's designee.
6. The non-participating parent shall be required to work part-time if the commissioner or the commissioner's designee determines that the non-participating parent is able-to-work-part-time.

2403.7 Applicants With Pre-Existing PSE Degrees - Exceptions

Applicants are not eligible for the PSE program if they already have a postsecondary undergraduate degree unless they meet one of the following exceptions, as determined by the PSE plan review committee:

- A. If the applicant states that she or he is unable to perform the occupation for which the pre-existing PSE degree prepared her or him because of a disability, the applicant shall submit medical evidence of the disability and evidence of its effect on the applicant's ability to perform the occupation. The PSE plan review committee may request the services of a vocational consultant if it is unable to make a determination based on the documentation provided by the applicant.
- B. If the applicant states that the occupation for which the pre-existing PSE degree prepared her or him is obsolete or that the preparation for the occupation for which the degree prepared her or him is outdated and not marketable in the current labor market, the PSE plan review committee shall make a determination considering, but not limited to, the following factors:
  1. Current licensing requirements for a particular occupation cannot be met by the applicant's previously obtained preparation or degree and those deficiencies cannot be remedied by taking current courses in a non-degree program;
  2. A person currently pursuing the same occupational goal would be required to complete substantially different requirements from those included in the previously obtained degree and those deficiencies cannot be remedied by taking current courses in a non-degree program.

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2403 Application2403.8 Development of PSE Plan

All applicants must develop and submit a PSE plan as set forth in 2406. A decision by the PSE plan review committee shall be made within 30 days of the date on which the applicant submits the completed initial or modified PSE plan for review by the PSE plan review committee.

2403.9 Conditions for Participation in PSE Program

Prior to a final determination regarding eligibility for the PSE program, all applicants shall agree to the following conditions:

- A. Employment by the participating parent shall be limited to 20 hours per week when school is in session, with consideration given to 2402.1.D.8-9, if applicable. This limitation on hours of employment shall not apply during vacations, periods between terms or semesters, summer sessions, periods in which the participant has been granted an exception, or any other term in which the participating parent is not taking any courses.
- B. Participating parents who receive PSE financial assistance shall assign all child support rights to the DCF. The participating parent shall apply for services from the Vermont Office of Child Support (OCS), if not already receiving such services, and cooperate fully with the OCS in their efforts to collect the assigned support. The department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.
- C. PSE financial assistance shall be accepted in lieu of Reach Up financial assistance, if the participating parent is eligible for Reach Up financial assistance. Participants currently receiving Reach Up financial assistance through vendor payments due to money mismanagement must consent to continued vendor payments until such time as the family's essential expenses are current.
- D. Financial assistance shall be determined in the same way as Reach Up financial assistance using Reach Up financial assistance rules.
- E. During the last year of the degree program, the participating parent shall seek employment using the services of the college's career placement office. If the college has no career placement office, the participating parent shall seek employment using the services of the Department of Labor's local career resource center.

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2403.10

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2403     Application2403.10   Eligibility Determination and Written Notice

- A.   A decision on the application shall be made no later than the tenth day of the month prior to the month in which the applicant would begin attending classes in the undergraduate degree program. If a decision is not made by this date through no fault of the applicant, the deadline for the decision shall be extended to permit eligible applicants to begin attending classes.
- B.   Written notice of the eligibility determination shall be provided to the applicant.
1.   If eligibility is approved, the notice shall include the date on which eligibility for the PSE program will begin, the amount of financial assistance if the applicant qualifies, and the applicant's appeal rights.
  2.   If eligibility is denied, the notice shall include the reasons for the denial and information on the applicant's appeal rights.
  3.   If the applicant meets the eligibility requirements but is denied admission under the priorities stated in 2404, the applicant shall be informed of the next admission period and that her or his application will be kept on file. Applicants who request that the application on file be considered at the next admission period may be required to update the application and will be subject to the same determination and priority criteria as an applicant submitting a new application.

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2404 Priorities

At the point where program funds are insufficient for all otherwise eligible applicants to participate, participation in the program shall be granted to applicants in the following order:

- A. Applicants without a college degree or who qualify for an exception under rule 2403.7, who have already demonstrated the ability to be successful in college by accumulating college credits that can be applied to the degree sought, and who qualify for PSE financial assistance.
- B. Applicants who have had no postsecondary education and who qualify for PSE financial assistance.
- C. Applicants without a college degree or who qualify for an exception under rule 2403.7, who have already demonstrated the ability to be successful in college by accumulating college credits that can be applied to the degree sought, and who qualify for case management services, but do not qualify for PSE financial assistance.
- D. Applicants who have no postsecondary education and qualify for case management services, but do not qualify for PSE financial assistance.
- E. If the number of eligible applicant families in the priority group under consideration exceeds the number of openings for PSE, admission to the program will be determined by random selection from that group.

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2405      Transition for Participants Receiving a Stipend on April 1, 2007

A.    Financial Assistance Calculation Option

1.    At the first annual review after April 1, 2008, PSE parents who are eligible for financial assistance and who were receiving a stipend in the PSE program on April 1, 2007, shall have their financial assistance amount calculated under PSE rules as in effect on April 1, 2007 and under current PSE rules.
2.    Eligible parents may choose between continuing to receive their PSE financial assistance in a fixed monthly stipend as calculated using the PSE rules in effect on April 1, 2007 or to receiving a monthly financial assistance payment calculated as a Reach Up financial assistance grant under current rules.

B.    Eligibility to Exercise Calculation Option

To be eligible to exercise the option in this section, the participating parent must:

1.    have been receiving a PSE stipend on April 1, 2007;
2.    continue to be financially eligible for a stipend at the annual review under rules in effect on April 1, 2007 ;
3.    continue to meet PSE non-financial eligibility criteria;
4.    not have previously exercised this option to have their financial assistance determined using current rules;
5.    not have had any unapproved absences from the PSE program since April 2007; and
6.    choose to continue to receive their PSE financial assistance in a fixed monthly stipend as calculated under PSE rules in effect on April 1, 2007.

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2406

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2406 Postsecondary Education Plan (PSE Plan)2406.1 PSE Plan Development, Modification, and Review

- A. Each applicant shall develop a PSE plan with assistance, as needed, from staff. In addition, each applicant or participating parent shall propose modifications to the PSE plan when necessary to respond to a recommendation for modification or to support a requested change as specified in 2406.4.
- B. A PSE plan review committee shall be convened to review each PSE plan and each modified PSE plan. The committee shall consist of a core team including the staff person assigned to assist in PSE plan development; the participating parent's case manager, where applicable; the supervisor of the case manager or other staff person or the supervisor's designee; a person with labor market expertise; and a person with broad knowledge of educational opportunities in Vermont colleges. The commissioner may include others on the committee, depending on the needs of each applicant or participating parent. The applicant or participating parent may participate in the review.
- C. The PSE plan review committee shall make a determination of whether the applicant can achieve entry into the proposed occupation or into a substantially similar occupation by completion of an education and/or training program whose duration is 12 or fewer months. If so, the applicant shall not be eligible for the PSE program.
- D. The PSE plan review committee shall approve or disapprove of, or make recommendations for modifications to the PSE plan. The applicant or participating parent shall receive a copy of the committee's decision or recommendation. If the PSE plan review committee recommends modification, a revised PSE plan shall be submitted to the PSE plan review committee for consideration. If, within 30 days of receiving the PSE Plan review committee's recommendation for modification, the applicant or participating parent fails to submit a modified PSE plan and fails to appeal the request for modification, the PSE plan shall be deemed disapproved.
- E. If the PSE plan review committee disapprove of or recommends modifications to the PSE plan the applicant or participating parent shall be notified of her or his appeal rights.

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2406.2

2406 Postsecondary Education Plan (PSE Plan)2406.2 PSE Plan Requirements

A. Each applicant or participating parent's PSE plan shall include the following:

1. The name and location of the college at which the applicant or participating parent is matriculating or matriculated.
2. A statement of the occupational goal that the applicant or participating parent intends to pursue after receiving the postsecondary undergraduate degree and why the applicant or participating parent wishes to pursue this occupation.
3. The labor market area in which the applicant or participating parent plans to seek employment in this occupation.
4. The "field directly related to employment" in which the participating parent or applicant proposes to complete the postsecondary degree and the following supporting information that demonstrates the necessary connection between the parent's employment goal and the field of study:
  - a. Documentation from three or more employers demonstrating the proposed field of study is these employers' preferred postsecondary field of study for the occupation the parent seeks to enter. Each employer documentation shall consist of one of the following: a Department of Labor (or comparable agency in another state) job listing, a job listing from a college placement office, a classified advertisement, information about desired qualifications for a position from an employer's web site, a letter from an employer, or comparable employer-specific documentation. When this documentation is available for at least one but fewer than three employers in the labor market area in which the parent intends to seek employment, the parent may substitute documentation from an employer in any labor market area in Vermont or in any labor market area that has boundaries contiguous with Vermont's borders.

This documentation requirement shall be waived in the case of a degree program in a field of study that is closely linked to an occupation or is "occupation-specific." Examples of such programs include a degree program in dental hygiene when the applicant seeks to become employed as a dental hygienist or a degree program in accounting when an applicant seeks to become employed as an accountant.

- b. With reference to the employers for which documentation is submitted pursuant to "a" above, the job titles for positions in the parent's chosen occupation and the entry-level wage for each position. When documentation of field of study preference in "a" above has been waived, documentation from three sources of the entry-level wage in the chosen occupation remains a requirement.

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2406.2 P.2

2406 Postsecondary Education Plan (PSE Plan)2406.2 PSE Plan Requirements (Continued)

- c. The job titles for other occupations that can be pursued with this degree and field of study.
  - d. A description of the career exploration activities the parent has completed to gather this information.
  - e. A justification for the need of a four-year degree to achieve the occupational goal if the applicant is seeking a four-year degree in a field in which a two-year degree is commonly accepted for entry into the occupation.
5. A schedule that ensures that the applicant or participating parent will complete the coursework necessary for a two-year postsecondary undergraduate degree within three years and for a four-year postsecondary undergraduate degree within five years or a shorter time period if required by paragraph 6 or 7 below. The schedule should reflect consideration of and address the individual's existing circumstances and responsibilities that may reasonably affect the applicant's ability to maintain the schedule and eligibility, such as the age of the participant's youngest child, child care and transportation.
- An initial schedule for degree completion may exceed the three- and five-year time frames only when the applicant has provided documentation, to the satisfaction of the commissioner, that additional time is necessary for completion due to the effects of the applicant's disability. Subsequent modifications to the schedule for degree completion may be made pursuant to 2406.5.
6. A schedule reflecting that, when an applicant has at least 15 credit hours of course credits that can be applied to the degree being pursued, four months for every 15 credit hours of coursework that can be applied to the degree has been deducted from the three-year time period allowed for a two-year postsecondary undergraduate degree or the five-year time period allowed for a four-year postsecondary undergraduate degree.
  7. A schedule reflecting that, when a participating parent who has already obtained a two-year postsecondary undergraduate degree through participation in the PSE program is pursuing a four-year postsecondary undergraduate degree, the time period that was used to obtain the two-year degree has been subtracted from the five-year time period allowed for a four-year degree.
  8. The estimated cost per semester or academic term, including tuition and fees that apply to all students, and the financial resources the applicant or participating parent plans to use to pay for these costs.

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2406.2 P.3

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2406 Postsecondary Education Plan (PSE Plan)2406.2 PSE Plan Requirements

9. During the last year of the degree program, the parent shall seek employment using the services of the college's career placement office. If the college has no career placement office, the parent shall seek employment using the services of the Department of Labor's local career resource center.

2406.3 Fields of Study/Majors – Requirements for Exceptions

In compelling circumstances, the PSE plan review committee may consider exceptions to the “field directly related to employment” requirement that a field of study must be one “in which employers are most likely to seek graduates to fill positions” in the stated occupational goal. In order to approve majors in other fields of study, the PSE plan review committee shall require inclusion in the PSE plan of one or more of the following activities whose purpose is to strengthen the link between the chosen field of study and the attainment of the stated occupational goal:

Paid employment, work-study position, practicum, internship, clinical placement, laboratory or field work, some other paid or unpaid work activity or experience that will substantially enhance the applicant's employability in the occupation specified in the PSE plan.

2406.4 Change in Occupation, Major, Field of Study, Degree or College

The participating parent may apply to change the occupation, major, field of study, postsecondary undergraduate degree, or college specified in the PSE plan, as long as the participating parent can demonstrate the ability to complete the degree within the three-year time limit for a two-year postsecondary undergraduate degree or the five-year time limit for a four-year postsecondary undergraduate degree. If the participating parent proposes a change in occupation, major, field of study, degree, or college, the PSE plan review committee shall be reconvened to approve the proposed change.

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2406.5

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2406 Postsecondary Education Plan (PSE Plan)2406.5 Modifications to the Schedule For Program Completion

Whenever a participating parent does not complete or receives a failing grade for a course, the case manager shall meet with the parent to determine if it is necessary to modify the current course completion schedule to enable the parent to meet the time frames in 2406.2.A.5, 6, or 7.

- A. When such modification cannot be reasonably accomplished, the applicable time frame may be extended for verified good cause reasons that are beyond the participating parent's control including but not limited to the following:
- The need to care for a family member with special needs;
  - A serious physical or mental health problem of an expected duration of greater than two weeks;
  - The learning disability of the participating parent;
  - The effects of domestic violence;
  - The death or serious illness or accident of an immediate family member or person residing in the household;
  - Some other equally disruptive set of circumstances as determined by the case manager and approved by the case manager's supervisor; or
  - The unavailability of courses essential to the major, field of study or for general requirements of the college in a particular semester.
- B. An applicant pursuing a two-year postsecondary undergraduate degree shall be granted only one additional semester for good cause beyond the applicable time limit.
- C. An applicant pursuing a four-year postsecondary undergraduate degree shall be granted only two additional semesters for good cause beyond the applicable time limit.

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2407 Financial Assistance

- A. Participating parents determined to be otherwise eligible for financial assistance under the applicable Reach Up regulations for income and resources shall receive financial assistance equivalent to the Reach Up financial assistance amount for which she or he would be eligible. The amount of PSE financial assistance shall be determined and verified by the Reach Up rules and regulations.
1. The amount of PSE financial assistance is determined in accordance with Reach Up rules and shall fluctuate as the family's circumstances change. The initial amount shall be determined at the time of admission into the PSE program.
  2. The initial financial assistance payment shall be effective on the first day of the calendar month in which the participating parent begins attending classes in the degree program, unless the participating parent falls within the exception in 2407.A.3. A family may not receive PSE financial assistance and a Reach Up financial assistance payment for the same calendar month.
  3. If the deadline for the decision on an application was extended pursuant to 2403.10.A. and there is insufficient time to terminate Reach Up financial assistance prior to the first day of the month in which the participating parent begins attending classes in the undergraduate degree program, Reach Up financial assistance shall continue for that month in lieu of PSE financial assistance. PSE financial assistance shall begin in the month following termination of Reach Up financial assistance.
  4. Subject to notice requirements, eligibility for PSE financial assistance ends with the calendar month in which the participating parent begins an interruption in PSE program participation, receives the two-year or four-year degree specified in the PSE plan, or the family becomes ineligible due to changes in family circumstances .
- B. Case managers shall explain to participants who are found eligible for PSE financial assistance that the amount of PSE financial assistance is like a Reach Up grant and it may fluctuate from month to month.
- C. All Reach Up rules generally pertaining to Eligibility and Payment in sections 2200 through 2335 apply to the PSE program and are hereby incorporated into the PSE rules with the following exceptions:
1. Deadline for Application Processing 2210
  2. Continued Assistance Pending Fair Hearing 2218.2
  3. Family Separation 2224
  4. Money Payment 2226.1

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2408      Support Services

- A. Support services, including case management and other services that are directly related to participation in the PSE program, shall be provided within the limits of funds available to all PSE program participants regardless of whether they are financially eligible to receive PSE financial assistance.
- B. The following education-related needs may be addressed by support services payments or reimbursements, as specified below:
- Books
  - Mandatory fees (excluding tuition)
  - Transportation and related costs (for example, car repairs, insurance, registration, title fees, drivers license fees, bus pass or other public transportation)
  - Education-related equipment and supplies
  - Clothing necessary for school program (for example, internships, work study)
  - Relocation costs
  - Temporary housing
- C. Although child care assistance is not considered part of “support services” it may be available to participating parents and shall be determined according to the Vermont Department for Children and Families child care program regulations. PSE program case managers shall make referrals to the community-based organization that administers the child care program authorizing the number of child care hours needed to support participation in the PSE program.
- D. Requests for support services shall be submitted to the participating parent’s case manager. If the request for a support service is denied, the participating parent shall be given written notice of the denial, including the reasons for the denial and information about the participating parent’s right to appeal.

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2409 Pre-Participation Services

Prior to the initiation of case management services pursuant to 2411.2.A, assistance shall be available for:

- A. Completion of all aspects of the financial and non-financial application;
- B. Development of the initial PSE plan;
- C. Determination of the amount of PSE financial assistance;
- D. Identification of majors or fields of study that are the most closely related to the applicant's occupational goals;
- E. Identification of colleges that offer the most appropriate programs to meet the applicant's occupational goals, taking into consideration family obligations and financial constraints;
- F. Application for financial assistance; and
- G. Coordination with DCF case managers for applicants who are recipients of Reach Up financial assistance.

2410 [Reserved]

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2411

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## 2411 Case Management

### 2411.1 General

Case management is the primary connection between participating parents and the PSE program. Case managers shall work closely with participating parents to maximize the likelihood that they will complete the PSE program successfully. Case managers will assist with eligibility determinations, revision and review of PSE plans and career planning. Case managers shall provide other assistance and support, as needed, including counseling or referrals in areas such as academic advice, financial aid, social services, and other state or federal benefit programs.

### 2411.2 Availability of Case Management

- A. Case management shall be available to all participating parents in the PSE program from one month prior to the beginning of the academic term in which they will be taking classes until the month of their completion of the postsecondary undergraduate degree specified in their last PSE plan.
- B. Case management shall be available to participating parents on-site at all colleges located in Vermont. Participating parents shall also have access to their case managers through a toll-free telephone line.
- C. Case managers shall meet at least monthly, or more often as needed, with each participating parent to review academic progress, and support services, and generally to assist with PSE program participation. Meeting may be in person by telephone, or by other means as appropriate.

### 2411.3 Case Management Services

Case management services shall include, but are not limited to:

- A. Assisting with the review and revision of PSE plans;
- B. Serving on the PSE plan review committee;
- C. Assisting participating parents to identify majors or fields of study that are the most closely related to their occupational goals when a change in occupational goal is proposed;
- D. Assisting participating parents to identify colleges that offer the most appropriate programs to meet their occupational goals, taking into consideration family obligations and financial constraints, when a change in occupational goal is proposed;
- E. Assisting with identification of appropriate resources for academic advice and counseling;
- F. Considering and authorizing requests for support services;

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2411 Case Management2411.3 Case Management Services (Continued)

- G. Scheduling annual reviews of continuing eligibility for the PSE program;
- H. Considering and determining whether there is “good cause” for interruptions in PSE program participation and whether extensions of time limits for completion of the PSE program should be granted;
- I. Assisting participating parents to obtain and maintain community-based social services;
- J. Referring participating parents to other state and federal benefit programs for which they may be eligible;
- K. Assisting participating parents to apply for financial assistance, including tuition for summer programs available through VSAC;
- L. Providing participating parents with information on and referrals to career placement services;
- M. Maintaining participant records.
- N. Attending trainings and meetings, including district meetings of the Department for Children and Families Economic Services Division to coordinate with Reach Up case managers;
- O. Providing participating parents with written notice of decisions and appeal rights; and
- P. Participating in fair hearings before the Human Services Board, as necessary.

2411.4 Other Services

Other services that may be provided include:

- A. Arranging support groups or informational workshops for participating parents, and
- B. Referring other family members for community-based social services or state and federal benefit programs for which they may be eligible.

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2411 Case Management2411.5 Case Management During Interruptions in PSE Program Participation

- A. While PSE financial assistance does not continue during any interruptions in PSE, limited case management through the PSE program shall be available for participating parents who are taking an approved leave of absence from the PSE program (see 2413). Case management shall be provided on an “as needed” basis during approved leaves of absence. Monthly case management meetings are not required during interruptions in PSE program participation. The focus of case management through the PSE program during approved leaves of absence shall be to assist the participating parent with successful re-entry to the PSE program.
- B. For participating parents who receive financial assistance through Reach Up during an interruption in PSE program participation, primary case management shall be provided by their Reach Up case manager.
- C. Case management through the PSE program shall not be available during unapproved interruptions in PSE program participation except in extraordinary circumstances, as approved by the case manager’s supervisor.

2411.6 Conflict of Interest

Case managers shall avoid conflicts of interest between the interests of the participating parent and the entity employing the case manager, particularly when assisting participating parents in identifying occupational goals, fields of study and majors most closely related to occupational goals, and colleges offering appropriate programs in those majors or fields of study.

Training provided to case managers shall include instruction on how to identify and avoid conflicts of interest.

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2412

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2412     Annual Review of Continuing Eligibility and Financial Assistance

2412.1    Scheduling Annual Review

The case manager shall schedule an annual review with each participating parent within 90 days prior to the beginning of the academic year or term in which the participating parent will be taking courses. Changes in PSE financial assistance shall be made as soon as administratively possible.

2412.2    Provision of Documentation

The participating parent shall provide the following documentation as part of the annual review process:

- A. Documentation to support determination of continuing financial eligibility for the PSE program;
- B. Documentation to support determination of PSE financial assistance amount;
- C. Documentation of the employment status of the non-participating parent;
- D. Documentation of eligibility for financial assistance from VSAC, which includes maintaining non-probationary academic standing, and ability to meet tuition costs;
- E. Documentation of Vermont residency;
- F. Documentation that the participating parent is making progress toward a degree;
- G. Documentation of good academic standing;
- H. Documentation that the parent is a member in good standing at the college she or he attends, and;
- I. Documentation, if applicable, that employment will be reduced to no more than 20 hours per week when the participating parent is taking one or more courses.

2412.3    Review of PSE Plan

The existing PSE plan shall be reviewed and revised, as needed. If a change in the occupation, major, field of study, postsecondary undergraduate degree or college is proposed, the procedures in 2406.4 shall be followed.

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2412 Annual Review of Continuing Eligibility and Financial Assistance

2412.4 Conditions for Continuing Participation in the PSE Program

The participating parent shall agree to the following conditions:

- A. Employment by the participating parent shall be limited to 20 hours per week when school is in session, with consideration given to 2402.1.D.8-9 if applicable. This limitation on hours of employment shall not apply during vacations, periods between terms or semesters, summer sessions, during periods for which the participant has been granted an exception or any other term in which the participating parent is not taking any courses.
- B. Participating parents who receive PSE financial assistance shall assign all child support rights to the DCF. The participating parent shall apply for services from the Vermont Office of Child Support (OCS), if not already receiving such services, and cooperate fully with the OCS in their efforts to collect the assigned support. The department shall deny or terminate assistance to participating parents who fail or refuse to apply for services from OCS.
- C. The PSE financial assistance shall be accepted in lieu of Reach Up financial assistance, if the participating parent is eligible for Reach Up financial assistance.
- D. The PSE financial assistance shall be determined in the same way as Reach Up financial assistance and may be adjusted because of fluctuations in family income or other changes in the family circumstances during the course of the year.
- E. During the last year of the degree program, the participating parent shall seek employment using the services of the college's career placement office. If the college has no career placement office, the participating parent shall seek employment using the services of the Department of Labor's local career resource center.

2412.5 Requirements for Non-Participating Parents Unable-to-Work

If the non-participating parent is not employed full time, initial or continued compliance with 2403.6 is required.

2412.6 Continuing Eligibility Determination and Written Notice

Written notice of the annual review decision shall be provided to the participating parent within 30 days of the annual review meeting. The notice shall inform the participating parent whether she or he continues to be eligible for the PSE program and the amount of PSE financial assistance. If the participating parent is no longer eligible for the PSE program the notice will include the reasons for these decisions and information on appeal rights.

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2413      Interruptions in Participation in PSE Program

2413.1      Approved Interruptions

- A. A participating parent may request approval to take a leave of absence for no more than one semester from the PSE program for approved good cause as defined in 2406.5.A. Approval of leaves of absence shall be made by the participating parent's case manager with the approval of the commissioner. An initial leave of absence may be extended for one additional semester. In no case shall more than two separate or consecutive leaves of absences be approved for a participating parent.
- B. A participating parent wishing to return to the PSE program following an approved leave of absence shall be readmitted for the academic semester that immediately follows the end of the leave of absence upon meeting the applicable financial and non-financial continuing eligibility requirements.
- C. Time taken for approved leaves of absence shall not count against the applicable three or five-year time limits for completion of the participating parent's PSE degree, except for any month during the approved leave of absence for which the participating parent receives PSE financial assistance, a living expense stipend or support services payments. (see 2415.B)

2413.2      Unapproved Interruptions

- A. Absences from the PSE program taken without approved good cause shall be counted against the applicable three or five year time limits for completion of the participating parent's PSE degree.
- B. In no case shall a participating parent who has more than one absence from the PSE program without approved good cause be readmitted to the PSE program.

2413.3      Financial Support During Interruptions in PSE Program Participation

- A. Families in which the parent's participation in the PSE program is interrupted are not eligible to receive PSE program financial assistance, stipend, or support services.
- B. Families in which the parent's participation in the PSE program is interrupted may receive Reach Up financial assistance if they meet the eligibility requirements for that program.

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2414 Time Limits for Participation in PSE Program

- A. Participating parents in the PSE program shall have three years to complete a two-year postsecondary undergraduate degree and five years to complete a four-year postsecondary undergraduate degree. Three years shall consist of thirty-six cumulative months. Five years shall consist of sixty cumulative months.
- B. Each month in which the participating parent receives PSE financial assistance, a living expense stipend or support services payments shall be counted as part of the three-year or five-year time limit for PSE participation, whether or not the participating parent was taking one or more courses during that month. This shall include any month during an approved interruption pursuant to 2413.1 for which the participating parent receives a living expense stipend, PSE financial assistance, or support service payments.
- C. Each month of absence from the PSE program taken without approved good cause pursuant to 2413.2 shall be counted as part of the three-year or five-year time limit to complete the postsecondary undergraduate degree, whether or not the participating parent receives PSE financial assistance, a living expense stipend or support service payments during that month.
- D. Months prior to July 1, 2001, in which a student attended and received support for postsecondary education included in the student's Reach Up FDP and directed toward the attainment of an undergraduate degree, also shall be counted as part of the three-year or five-year time limit to complete a postsecondary undergraduate degree.

2415 Termination from PSE Program

Participating parents shall receive notice of termination from the PSE program for the following reasons:

- A. Annual Review
  - 1. Failure to meet the financial or non-financial eligibility requirements of 2402.2 at the time of annual review pursuant to 2412.
  - 2. Failure, without good cause, to cooperate with a scheduled annual review pursuant to 2412.1.
  - 3. Failure, without good cause, to provide documentation for an annual review pursuant to 2412.2.
  - 4. Failure to agree to the conditions of continuing participation pursuant to 2412.4.

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2415 Termination from PSE Program (Continued)

## B. On-Going Eligibility

## 1. Failure to Comply with Residency or Limitation on Employment Requirements

- a. If at any time the case manager becomes aware that the parent no longer meets the requirements for limitation on employment pursuant to 2402.2.C.4 or for Vermont residency pursuant to 2402.2.C.6, the case manager shall notify the participating parent that the parent has thirty days to cure the non-compliance.
- b. Within 30 days of the receipt of notice from the case manager, the participating parent shall provide documentation of compliance with the requirements of 2402.2.C.4 or 2402.2.C.6. If documentation of compliance is not provided within 30 days, the participating parent shall receive notice of termination.

A participating parent may receive extensions of 30 days at a time to comply with 2402.2.C.6 if:

- the reason for change of residency was for a verified good cause reason beyond the participating parent's control, including but not limited to, loss of housing and inability to find housing in Vermont, the effects of domestic violence, or some other equally disruptive set of circumstances as determined by the case manager and approved by the case manager's supervisor, and
  - the participating parent intends to return to Vermont as evidenced by ongoing efforts to find housing in Vermont.
2. Failure to make progress toward a degree that cannot be cured by modifications to the schedule for program completion in 2406.5.
  3. Failure to maintain status as a member in good standing of the college.
  4. Failure to cooperate with program requirements (examples include failure without good cause to meet with the case manager within a 60-day period or failure to follow through on modification of the PSE plan when required under 2406.4. Failure to comply with child support assignment and cooperation requirements shall result in the sanctions as applicable to Reach Up grants in the Reach Up program.
  5. Voluntary withdrawal from the PSE program or from college, unless the participating parent plans to attend a different college and the change in college has been approved pursuant to 2406.4.

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2415     Termination from PSE ProgramB.   On-Going Eligibility (Continued)

6.   De facto withdrawal from the program (an example is a participating parent stops attending classes for at least 60 days and fails to respond to the case manager's efforts meet with him or her).
7.   A determination that an affirmative initial or annual continuing financial eligibility decision was incorrect due to inaccurate or incomplete information regarding the household's income.
8.   Failure to maintain qualifying status as a Vermont resident parent who has physical custody of and resides with a dependent child. Termination of financial assistance shall occur immediately following proper notice. Termination of case management services will occur at the end of the semester during which the parent is determined to no longer qualify for the program.

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2416 Right to Written Notice and Appeal

- A. Applicants shall be given written information of their appeal rights at the time of application. Applicants, transition students and participating parents also shall be given written information about their appeal rights each time they receive a written notice of an adverse action or decision. The written notice shall include the reasons for the adverse action or decision, where and how appeals may be initiated, where a person can obtain a copy of the Human Services Board rules, and where to obtain legal representation.
- B. Applicants and participating parents have the right to appeal decisions relating to all aspects of their eligibility for the PSE program, the amount of PSE financial assistance, support services, approval of the PSE plan, approval of good cause, and the violations of timelines for these decisions. The right to appeal includes the right to request a fair hearing before the Human Services Board.
- C. A request for fair hearing must be made within 90 days of the date the written notice of the decision being appealed was mailed.
- D. When adverse action results in a reduction in the PSE financial assistance or termination of eligibility for the PSE program the commissioner shall mail notice of the determination to the participating parent at least 15 days before the effective date of the adverse action. The participating parent shall have 5 days from the date the notice is received to submit to the case manager a written request for a review of the determination. The parent's request for review shall include any information the parent wants considered to rebut the reasons for the change given in the notice. No adverse action shall be taken while the review is pending.

The commissioner's impartial designee shall review the parent's request and issue notice of the decision within 5 days of receipt of the review request and at least 5 days before the effective date of any adverse action. If a parent does not request a review or the requested review decision remains unfavorable to the parent, the parent may appeal the decision to the human services board.

- E. When an action reducing or terminating a PSE program benefit based on non-financial eligibility criteria is appealed, the benefit shall not continue at the prior level pending the outcome of the appeal. Retroactive coverage shall be provided in any case in which the Human Services Board reverses the action that was appealed.
- F. When an action reducing or terminating PSE financial assistance is limited to and based on the family's income, resources or both, a request for a hearing, either oral or written, made within 10 days of the mailing date of a notice of decision to decrease or terminate assistance may preclude the department from implementing the proposed adverse action. Reach Up rule 2218.2 is applicable to continuing assistance, recoupment, and retroactive payments.

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2417 Americans with Disabilities Act

As required by the Americans with Disabilities Act, the Department for Children and Families shall make reasonable modifications to its policies, practices and procedures when modifications are necessary, as determined by the commissioner, or the commissioner's designee, to avoid discrimination on the basis of disability. An applicant or participating parent may appeal a determination of the commissioner or the commissioner's designee to the Human Services Board, in accordance with departmental regulations governing appeals.