

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES
DIVISION

CHAPTER 656.1

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

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Historical Note: This chapter is based substantially upon Chapter 17-656. [Eff 3/19/93; am 3/14/94; am 8/1/94; am 1/30/95; am 12/15/95; am 5/18/96; am 11/22/96; am 1/25/97; R 9/26/97]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-656.1-1 Purpose. This chapter identifies the eligibility requirements applicants and recipients shall meet to receive Temporary Assistance for Needy Families (TANF), formerly known as aid to families with dependent children (AFDC), in accordance with the Personal Responsibilities and Work Opportunity Reconciliation Act of 1996. [Eff 9/26/97; comp 1/20/05; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601 through 619; HRS §346-14)

§17-656.1-2 Definitions. For the purpose of this chapter:

"Adult" means a person age eighteen or over who is not a dependent child, or if under age eighteen is a minor head-of-household living with the TANF child.

"Aid to families with dependent children" or "AFDC" means the financial assistance and non-assistance programs administered by the DHS-BESSD under 42 U.S.C. §§601-619, and section 346-14, Hawaii Revised Statutes prior to 1997.

"Assistance unit" means persons whose needs, income, and assets are considered in determining eligibility for financial assistance and the amount of assistance.

"Benefit, Employment and Support Services Division" or "BESSD" means the benefit, employment and support services division of the department.

"Caretaker relative" means the designated relative who provides care and supervision to dependent children.

"Current medical report" means the department's medical form completed by a licensed physician or a licensed psychologist not more than three months prior to the department's request.

"Department" or "DHS" means the department of human services, State of Hawaii.

"Domestic violence advocate" means an individual, organization, or agency who is currently working with individuals, or has worked with individuals in the past, regarding an individual's domestic violence situation.

"Domestic violence agency" means an agency, organization, or individual who routinely assists victims of domestic violence.

"Domestic violence victim" means an individual who has been battered or otherwise subjected to extreme cruelty. Acts which constitute domestic violence include but are not limited to the following:

- (1) Physical acts that resulted in, or threatened to result in, physical injury;
- (2) Sexual abuse;
- (3) Sexual activity involving a dependent child;
- (4) Nonconsensual sexual acts;
- (5) Threats of, attempts at, physical or sexual abuse;
- (6) Mental or emotional abuse;
- (7) Medical care deprivation or neglect; or
- (8) Stalking.

"Equivalent level of vocational or technical training" means enrollment in a vocational or technical training program which is equivalent to the level of secondary school and is approved by the state department of education.

"Family member" means a member of the assistance unit, to include members who have been excluded due to receipt of Supplemental Security Income, and any person residing in the home for whom the parent caretaker would meet the definition of specified relative regardless of the age of the person receiving care.

"First-to-Work" or "FTW" means the education, training, employment, and support services programs administered by the department.

"Full-time employment" means gainful employment of thirty hours or more per week.

"Full-time student" means an individual enrolled in a public or private elementary or secondary school or in a program of an equivalent level of vocational or technical training.

"Gainful employment" means employment available at the time an individual wants to become employed and pays at least minimum wage.

"Hanai" means a child who is taken permanently to be reared, educated, and loved by someone other than the child's natural parents at the time of the child's birth or in early childhood. The child is given outright, and the natural parents renounce all claims to the child.

"Household" means all members of the assistance unit and excluded standard filing unit members as defined in sections 17-647-12, 17-656.1-15, 17-656.1-16, and 17-656.1-17.

"Independent minor parent" means the specified relative of a child, who is under eighteen years of age and who has applied or is receiving assistance as a head of household or as a spouse or common-law spouse of the head of household.

"Individual" means applicant for or recipient of assistance.

"Legal parent" means a person who can establish a parent and child relationship by providing proof of:

- (1) Having given birth to a child;
- (2) Marriage to the natural mother when the child was born or within three hundred days after the marriage was terminated;
- (3) Adoption;
- (4) Adjudication; or

- (5) Self-declaration as specified in section 17-656.1-8.

"Licensed physician" means a doctor of medicine authorized to practice medicine and surgery under chapter 453, Hawaii Revised Statutes.

"Licensed psychologist" means a person who engages in the practice of psychology and is licensed under chapter 465, Hawaii Revised Statutes.

"Medical board" means a panel of licensed physicians or licensed psychologists who are appointed by the director and paid by the department to make determinations, certify physical or mental impairments, and specify treatment plans.

"Medical professional" means an individual, such as a physician, nurse midwife, pediatric nurse practitioner, or a family nurse practitioner, who is authorized by state law to make pregnancy determinations with an estimated date of delivery.

"Non-needy" means a person who receives assistance as a caretaker relative for a dependent child, but that person does not request to be included in the assistance unit, nor is that person required to be included in the assistance unit as specified in section 17-647-12.

"Non-recipient parent" means a standard filing unit adult as defined in section 17-647-12, who is excluded under section 17-656.1-17.

"Non-work eligible household" means a household in which all the adult members are non-work eligible individuals.

"Non-work eligible individual" or "NWEI" means an adult receiving assistance under TANF, or a non-recipient parent, who is:

- (1) A parent of a household member who also provides care for a disabled family member living in the home, provided that the need for such care is supported by medical documentation. Only one parent in a household may claim this status;
- (2) A single custodial parent personally providing care for the parent's child under six months of age for a lifetime limit of twelve months, if the parent caring for the child wishes to claim NWEI status;

- (3) A non-needy caretaker; or
- (4) A recipient of Supplemental Security Income or Social Security Disability Insurance as defined in 42 U.S.C. §§1381-1383.

"Other work eligible household" means a household in which there is no work eligible individual and at least one adult member is an other work eligible individual.

"Other work eligible individual" or "OWEI" means an adult receiving assistance under TANF, or a non-recipient parent, who is:

- (1) Unable to engage in full-time employment as defined by the work participation requirements of the Social Security Act, 42 U.S.C. §607, at a job for which he or she is equipped by education, training, or experience, for a period of more than thirty days from the onset of an illness, incapacity, or disability due to a physical or mental impairment or substance abuse, as determined by a licensed physician or psychologist;
- (2) A domestic violence victim who meets the criteria established in subsection 17-656.1-20(a) and (b);
- (3) Any other adult in an assistance unit that contains a domestic violence victim who meets the criteria established in section 17-656.1-20(a) and (b); or
- (4) An adult sixty-five years of age or older.

"Primary adult" means the adult with the greatest number of time eligible months.

"Primary residence" means the single residence designated as the child's home.

"Temporarily absent" means the child or caretaker relative is not present in the home for a period not to exceed sixty days, or for a household receiving supportive services through a plan approved by the department, not to exceed one hundred and eighty days, provided that from the date of departure there was a planned date of return.

"Temporary Assistance for Needy Families" or "TANF" means the financial assistance and non-assistance programs administered by the DHS-BESSD under

42 U.S.C. §§601-619 and section 346-14, Hawaii Revised Statutes.

"Time eligible month" means a month a work eligible household received TANF benefits.

"Up-front universal engagement" or "UFUE" means compliance with participation requirements as specified in chapter 17-794.1 as a condition of eligibility for TANF.

"Work eligible household" means a household in which at least one member is a work eligible individual.

"Work eligible individual" or "WEI" means an adult receiving assistance under TANF, or a non-recipient parent, who is not an NWEI or an OWEI. [Eff 9/26/97; am 12/12/98; am 10/18/01; am and comp 1/20/05; am 01/17/08; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§602, 608, 615; HRS §§346-14, 346-29, 346-53)

§17-656.1-3 Time limited benefits. (a) Receipt of cash assistance shall be limited to sixty months for all assistance units; provided that the time limitation may not apply if:

- (1) The assistance unit meets the definition of an other work eligible household or a non-work eligible household, as specified in section 17-656.1-2, and is paid benefits using state funds; or
- (2) An extension is permitted by federal law.

(b) A time eligible month will be credited to each adult in a work eligible household for each month assistance is received.

(c) The determination of the number of months of assistance received by an assistance unit will be based on the primary adult.

(d) Countable months of assistance begin with the first month the assistance unit receives assistance on or after December 1, 1996.

(e) The department will count months of assistance for independent minor parents, but will not count months of assistance received as a dependent child. [Eff 9/26/97; am 10/18/01; am and comp

1/20/05; am 1/17/08; comp 6/26/09] (Auth: HRS §346-14)
(Imp: 42 U.S.C. §§603, 608, 615; HRS §§346-14, 346-29,
346-53)

§17-656.1-4 REPEALED. [R 1/20/05]

§17-656.1-5 REPEALED. [R 1/20/05]

§17-656.1-6 Age requirement. (a) A needy child who is under eighteen years of age and who meets all other requirements of eligibility shall be eligible for assistance.

(b) A child sixteen to eighteen years of age shall participate with the First-to-Work program pursuant to section 17-656.1-10 if the child:

- (1) Is not a full-time student in a secondary school or a program of an equivalent level of vocational or technical training; or
- (2) Has completed secondary school or a program of an equivalent level of vocational or technical training.

(c) The child shall be eligible for the month the child reaches eighteen years of age or completes the program specified in subsection

(d), provided the child was eligible on the first of the month.

(d) Assistance may be provided to a child aged eighteen if the child is a full-time student in a secondary school or in a program of an equivalent level of vocational or technical training. [Eff 9/26/97; am 7/16/99, am 10/18/01; am and comp 1/20/05; am 1/17/08; comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 619; HRS §§346-1, 346-14)

§17-656.1-7 Specified relative and place of residence. (a) A needy child shall be living with one of the relatives specified in subsection (b) in a primary residence maintained as the child's own home in order to be eligible. The home shall be a family

setting maintained by the relative who has assumed the responsibility for the daily care of the needy child.

- (1) A home shall exist provided the relative exercises responsibility for the care and control of the child, even though either the child or relative is temporarily absent from the home.
- (2) A child shall be considered living with specified relatives even though the child is under the jurisdiction of the court, or legal custody is held by an agency that does not have physical custody of the child.

(b) Persons considered to be specified relatives shall include:

- (1) Father, mother, hanai father, hanai mother, brother, sister, half-brother, half-sister, uncle, aunt, uncle half-blood, aunt half-blood, great uncle, great aunt, great uncle half-blood, great aunt half-blood, grandfather, grandmother, great grandfather, great grandmother, first cousin, first cousin once removed, nephew or niece, great-great grandmother, great-great grandfather, great-great-great grandmother, great-great-great grandfather, great-great aunt, great-great uncle, great-great aunt half blood, great-great uncle half blood;
- (2) Stepfather, stepmother, stepbrother, and stepsister;
- (3) The adoptive parents of a legally adopted child as well as other natural or legally adopted children and relatives of the adoptive parents; and
- (4) The legally married spouse of any of the persons specified in this subsection even after the marriage has ended in death or divorce.

(c) Where there is reason to believe the home in which the child is living is harmful to the child's health or welfare, because of neglect, abuse, or exploitation, the eligibility worker shall refer the condition to the appropriate social service unit of the department. [Eff 9/26/97; comp 1/20/05; comp

6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 619; HRS §346-14)

§17-656.1-8 Determination of a paternal relationship for purposes of establishing TANF eligibility. (a) In situations where a child born out of wedlock is living with the putative father, the paternal relationship shall be recognized for purposes of establishing TANF eligibility provided the putative father:

- (1) Declares that he is the child's father; and
- (2) Signs a voluntary acknowledgment of paternity, notarized or witnessed in accordance with State law if possible, to be filed with the department of health.

(b) If the putative father is living in the home and states he is not the father of the child and there is no documentary evidence to prove otherwise, TANF eligibility may be established for the household provided all other eligibility factors are met. In the situation where the putative father states he is not the father, the man shall be classified as an unrelated adult household member for TANF purposes until such time as paternity is legally established.

(c) If the putative father who states he is the child's father refuses to sign the voluntary acknowledgment of paternity, TANF eligibility shall be denied to all the household members required to be included as specified in section 17-647-12.

(d) In situations where the caretaker is a putative paternal relative and no documentary evidence is available, a statement shall be signed by a maternal relative or other knowledgeable person, under penalty of perjury or fraud prosecution, or both, attesting to the relationship of the caretaker to the dependent child for whom assistance is being sought. [Eff 9/26/97; comp 1/20/05; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 619; HRS §346-14)

§17-656.1-8.1 REPEALED. [R 6/26/09]

§17-656.1-8.2 REPEALED. [R 6/26/09]

§17-656.1-8.3 Single custodial parent caring for a child less than six months of age. A single custodial parent caring for a child who has not attained 6 months of age may not be subject to participation requirements as specified in chapter 17-794.1. Non-participation will:

- (1) Be for increments of one month;
- (2) Not exceed a lifetime limit of twelve months effective July 1997; and
- (3) Not be allowed when the other parent resides with the household. [Eff 6/26/09] Auth: HRS §346-14) (Imp: 42 U.S.C. §607; HRS §346-14)

§17-656.1-8.4 Up-front universal engagement. As a condition of eligibility for TANF, and before a payment for the first month may be approved, an applicant who is a WEI or an OWEI shall have complied with participation requirements within twenty-one days as specified in chapter 17-794.1.

- (1) Failure of an applicant who is a WEI or an OWEI to satisfy the conditions in chapter 17-794.1, shall result in the denial of TANF benefits.
- (2) An applicant curing a sanction for non-compliance with the requirements of chapter 17-794.1 shall be required to satisfy the requirements in section 17-794.1-42.
- (3) An applicant who is a non-work eligible individual or sixty-five years of age or older, shall not be required to satisfy the conditions in chapter 17-794.1 as a condition of eligibility. [Eff 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §607; 45 C.F.R. §206.10; HRS §346-14)

§17-656.1-9 Verification of relationship and household composition. (a) The applicant or recipient shall be the primary source of information in establishing the specified relationship to the child

and shall provide the department with documents to support the relationship to the child.

(b) When documentary sources are not available, statements of members of the individual's family shall be relied upon. The family members' relationship to the individual and the facts on which the knowledge is based shall be recorded.

(c) When an applicant or recipient reports the absence of a child's parent from the home, the applicant or recipient shall submit verification of the continued absence of the parent if the absence is questionable, unless exempt under subsection (d).

(d) The applicant or recipient shall not be required to submit verification of the continued absence of a parent under the following conditions, unless the department has information indicating the absent parent may be in the home:

- (1) The applicant or recipient lives with a legal or common-law spouse who is not the absent parent; or
- (2) The department has verification of a separate address for the absent parent from other departments, agencies, or other offices within the department.

(e) The department shall provide a form for the applicant or recipient to use in verifying the continued absence of a parent.

(f) The applicant or recipient shall designate a reliable collateral source to complete this verification form prescribed by the department. The collateral source shall be a person who:

- (1) Has knowledge of the family's circumstances;
- (2) May be expected to provide an accurate verification of the family's circumstances;
- (3) Lives in a separate residence from the applicant or recipient; and
- (4) Is not a blood relative to members of the applicant or recipient family.

Examples of a reliable collateral source include, but shall not be limited to, the absent parent's employer, a landlord, personnel from another agency, or a neighbor.

(g) When the applicant or recipient refuses or fails to provide verification from a reliable collateral source, the department shall:

- (1) Require the applicant or recipient submit verification from a different collateral source; or
- (2) Deny or terminate benefits based on questionable household composition when the applicant or recipient refuses or fails to provide verification. [Eff 9/26/97; comp 1/20/05, comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602; HRS §346-14)

§17-656.1-10 TANF work requirements. (a) A work eligible individual or other work eligible individual shall participate in the First-to-Work program as specified in chapter 17-794.1. Failure to satisfy the requirements in chapter 17-794.1 shall result in a denial of eligibility for applicants or a household sanction for recipients.

(b) An applicant or recipient shall be considered a work eligible individual unless the applicant or recipient has been determined to be an other work eligible individual or has provided verification that the applicant or recipient is a non-work eligible individual.

(c) An applicant or recipient who claims to be an other work eligible individual shall be referred for an assessment to determine whether the applicant or recipient meets the definition of an other work eligible individual. A new assessment shall be completed whenever the department becomes aware of a change in the individual's status.

(d) When there is more than one adult in the household subject to work participation requirements, each adult shall be required to participate.

(e) A child aged sixteen to eighteen shall be required to participate in any assigned First-to-Work program activity pursuant to chapter 17-794.1 if the child:

- (1) Is not a full-time student in a secondary school or a program of an equivalent level of vocational or technical training; or
- (2) Has completed secondary school or a program of an equivalent level of vocational or technical training.

(f) When a work eligible individual or other work eligible individual fails or refuses to participate without good cause, refuses to accept full-time employment without good cause, terminates full-time employment without good cause, or reduces hours of employment to less than full-time without good cause, the entire household shall be sanctioned as follows:

- (1) For the first such failure to comply, until the failure to comply ceases;
- (2) For the second such failure to comply, until the failure to comply ceases, or two months, whichever is longer; and
- (3) For any subsequent failure to comply, until the failure to comply ceases, or three months, whichever is longer.

(g) In order to determine the appropriate sanction period in subsection (f), the individual's entire sanction history under TANF shall be taken into consideration.

(h) Prior to imposing a sanction under subsection (f), the department shall determine whether the individual had good cause for failing or refusing to participate in the First-to-Work program as specified in section 17-794.1-40. [Eff 9/26/97; am 7/16/99; am 10/18/01; am and comp 1/20/05; am 01/17/08; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 607; 45 C.F.R. §§261.10 through 261.16; HRS §346-14)

§17-656.1-10.1 Participation requirements for individuals with a disability. (a) An individual who claims a disability due to a physical or mental impairment, which prevents the individual from complying with the work requirements, shall provide the department with a current medical report to substantiate the claim.

(b) The department shall not be held liable for the cost of obtaining a current medical report, except when the individual is a current recipient of medical assistance through the department.

(c) When a current medical report is submitted to the department to substantiate a claim made pursuant to subsection (a), the report shall be reviewed by a board of licensed physicians, or a board of licensed psychologists and physicians whose specialty is in psychiatry, for a determination and certification of physical or mental impairment.

- (1) A determination and certification of physical impairment shall only be made by a board of licensed physicians.
- (2) A determination and certification of mental impairment shall only be made by a board of licensed psychologists or licensed physicians whose specialty is in psychiatry.
- (3) The director shall appoint licensed physicians or licensed psychologists to serve as members of the medical or psychiatric board. The department shall provide appointed board members a contract to pay for board services for the period of the appointment, unless otherwise specified.
- (4) A minimum of three members of each board must participate in the review of a disability.
- (5) A minimum of two board members must agree on each determination and certification of physical or mental impairment.

(d) When the medical board determines and certifies that an individual has a physical or mental impairment, the medical board shall also determine the appropriate treatment services, vocational rehabilitation activities or employment activities that the individual can be reasonably expected to engage in. If employment is recommended, the board shall specify the type of employment and the maximum number of hours that the individual can be expected to work per week.

(e) When a disabled individual refuses or fails to participate in treatment services, vocational rehabilitation activities, or employment activities

specified by the medical board, without good cause, the entire household shall be sanctioned as follows:

- (1) For the first such failure to comply, until the failure to comply ceases;
- (2) For the second such failure to comply, until the failure to comply ceases, or two months, whichever is longer; and
- (3) For any subsequent failure to comply, until the failure to comply ceases, or three months, whichever is longer.

(f) In order to determine the appropriate sanction period, the individual's entire sanction history under the TANF program shall be taken into consideration.

(g) Prior to imposing a sanction under subsection (e), the department shall determine whether the individual had good cause as specified in section 17-794.1-40; provided that an individual's mental or physical impairment for which a determination of disability is being granted shall not be the basis to claim good cause, unless the individual can substantiate with medical documentation that the individual was receiving medical treatment for an acute problem related to his or her mental or physical impairment or for an unrelated mental or physical illness.

(h) For the purpose of determining that an individual's failure to comply has ceased, the individual shall:

- (1) Participate in the treatment service, vocational rehabilitation activity, or employment activity that was previously not complied with for a two week period; or
- (2) Accept full-time employment and actually work for a minimum of two weeks. [Eff 10/18/01; am and comp 1/20/05; am 1/17/08; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 607; 45 C.F.R. §§261.10 through 261.16; HRS §346-14)

§17-656.1-11 Child support and medical support requirements. All applicants and recipients shall meet

the assignment and cooperation requirements of chapter 17-653. [Eff 9/26/97; comp 1/20/05; comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§602, 608; 42 C.F.R. §§433.138, 433.145, 433.146, 433.147; 45 C.F.R. §264.30; HRS §§346-14, 346.37.1)

§17-656.1-12 Voluntary quit for applicants. (a) An applicant household, except as specified in subsection (b), shall be ineligible for assistance if within sixty days prior to the date of application a work eligible individual household member voluntarily quit his or her last full-time employment without good cause.

(b) An applicant household shall not be subject to the voluntary quit provisions of this section if the household is currently serving a sanction period for a noncompliance with FTW or job termination. In this situation, the applicant household shall be subject to the sanction provisions specified in section 17-794.1-42.

(c) If a work eligible individual quits his or her job without good cause after the date of application, but prior to the date a disposition is rendered on the application, the household shall be treated as if it were a recipient household and section 17-794.1-42 shall apply.

(d) Good cause for a voluntary quit shall be as specified in section 17-794.1-40. [Eff 7/16/99; comp 1/20/05; am 1/17/08; am and comp 6/26/09] (Auth: HRS §346-14) (Imp. 42 U.S.C. §§602, 607; HRS §346-14)

§§17-656.1-13 to 17-656.1-14 (Reserved).

SUBCHAPTER 2

ELIGIBLE PERSONS

§17-656.1-15 Persons who may be included. (a) Eligible children living in the same home, under the care of the same relative eligible to receive

assistance for the children shall be considered one family even if the children are not brothers and sisters.

(b) A pregnant child who is less than eighteen years of age, who is living with a needy specified relative, shall be considered part of the relative's family provided the child is determined to be an eligible child in the relative's care.

(c) The needs of the following individuals shall be included provided the individual is needy and otherwise eligible to be included:

- (1) A specified relative defined in section 17-656.1-7;
- (2) The spouse of the specified relative; and
- (3) The needs and income of hanai parents must be included in assistance units which include a hanai child.

(d) The needy adult relative who is the only other eligible person in a family which includes a child who is ineligible because the child is a supplemental security income (SSI) beneficiary or a foster care beneficiary, shall be eligible:

- (1) The presence of the SSI child or the foster child shall merely qualify the specified relative provided all other eligibility requirements are met; and
- (2) The actual needs, income, and assets of the eligible non-SSI, non-foster care individual only shall be considered in determining eligibility and the amount of assistance.

(e) A needy pregnant woman without other eligible children shall be eligible for TANF from the first of the month in which the woman begins her ninth month of pregnancy provided:

- (1) There is a written statement from a medical professional to verify the pregnancy and give an estimated date of delivery; and
- (2) The pregnant woman and the unborn child together shall be considered as one person for the purposes of the TANF payment.

(f) The needs of an essential person who meets the requirements of section 17-656.1-16 shall be included.

(g) When an individual who is required to be included in the assistance unit as specified in section 17-647-12, is also required to be included in another assistance unit, those assistance units shall be consolidated, and treated as one assistance unit for purposes of determining eligibility and the amount of payment. [Eff 9/26/97; am and comp 1/20/05; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 608; 619; 45 C.F.R. §§260.20, 260.30; HRS §346-14)

§17-656.1-16 Essential person. (a) An essential person means a needy person who is:

- (1) Living in the same home with a child eligible for TANF;
- (2) Ineligible in the person's own right for TANF;
- (3) Designated by the individual eligible for TANF as being essential to the individual's well-being; and
- (4) Performing a service that would not otherwise be performed or that would have to be purchased if the eligible individual was living alone.

(b) The income and resources of the essential person shall be considered in determining eligibility and the amount of assistance. The eligible persons shall be responsible for reporting the income and resources of the essential persons.

(c) Essential persons who are determined to be work eligible individuals or other work eligible individuals shall be required to participate in the First-to-Work program. [Eff 9/26/97: am and comp 1/20/05; am 1/17/08; am and comp 6/26/09] (Auth: HRS §346-14 (Imp: 42 U.S.C. §§601, 602, 607; 45 C.F.R. §§260.20, 260.30; HRS §346-14)

§17-656.1-17 Persons to be excluded. (a) A person who receives supplemental security income benefits shall be excluded from the TANF program. All income and resources received by the person receiving SSI benefits shall not be considered in determining the

amount of the financial assistance payment for the remainder of the family members.

(b) A needy person who fails to comply with the requirement to furnish a social security number shall be excluded from the program. When failure to furnish a social security number is on behalf of a child, the child shall be the person excluded from the program.

(c) The child who is temporarily absent from the home and whose total monthly needs are met by others shall be excluded.

(d) The needs of an unborn child shall be excluded from the TANF financial assistance payment.

(e) The needs of the father of an unborn child without other eligible children shall be excluded from the TANF financial assistance payment.

(f) A child receiving federal or state foster care maintenance assistance shall be excluded from the TANF financial assistance payment.

(g) A child of a child receiving federal foster care maintenance assistance shall be excluded from the TANF financial assistance payment;

(h) A child receiving federal or state adoption assistance shall be excluded from the TANF financial assistance payment if including the child would result in a reduction of the TANF financial assistance payment amount. In making this determination, the department shall:

- (1) Consider the adoption assistance as unearned income when the child is included in the financial assistance payment;
- (2) Consider the difference between the financial assistance payment which includes the needs and income of the child and the financial assistance payment which excludes the needs and income of the child.

(i) A child eligible for but not receiving federal or state foster care maintenance assistance, may be excluded from the TANF financial assistance payment.

(j) The adult natural, adoptive or hanai parent of a child for whom the state has obtained legal custody and has placed under the care and supervision of another individual, shall be excluded from the program when the adult natural, adoptive or hanai

parent is living in the same household as the child and the individual providing care and supervision. The exclusion shall also include any natural, adoptive or hanai children, or stepchildren living with the adult natural, adoptive or hanai parent for whom the state has not obtained legal custody.

(k) An individual who has been disqualified for an intentional program violation (IPV) in a financial assistance program as specified in chapter 17-604.1, shall be excluded from the program for the period of the IPV disqualification.

(l) An individual who fails to meet the citizenship requirements specified in section 17-655-41, shall be excluded from the program.

(m) An individual found guilty of fraudulently misrepresenting residence to obtain assistance in two or more states shall be excluded from the program. The penalty period shall be ten years from the date of conviction.

(n) A fugitive felon shall be excluded from the program.

(o) An individual who is in violation of a condition of probation or parole shall be excluded from the program.

(p) An individual convicted after August 22, 1996 of a felony offense for possession, use, or distribution of drugs that has refused treatment or has failed to comply with a treatment program as required by the court shall be excluded from the program. [Eff 9/26/97; am 7/16/99; am 10/18/01: am and comp 1/20/05; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 608; HRS §§346-29; 346-53.3)

SUBCHAPTER 3

DOMESTIC VIOLENCE

§17-656.1-18 Notification. The department shall notify all applicants and recipients of the department's domestic violence policy. The notification shall be both in writing and verbal, and shall include the following:

- (1) A definition of domestic violence, including examples of acts and circumstances which may constitute domestic violence;
- (2) An explanation of how to claim domestic violence victim status; and
- (3) An explanation of how to appeal a denial of domestic violence victim status. [Eff 12/12/98; comp 1/20/05; am 1/17/08; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602; 45 C.F.R. §§260.50 through 260.55; HRS §346-14)

§17-656.1-19 Identification. (a) The department shall identify applicants and recipients with a history of domestic violence while maintaining the confidentiality of such individuals.

(b) Individuals identified as having a history of domestic violence shall be referred to a domestic violence agency or domestic violence advocate for the following services:

- (1) A determination of domestic violence victim status, using the criteria set forth in section 17-656.1-20; and
- (2) An assessment and development of an individualized service plan. [Eff 12/12/98; am 10/18/01; comp 1/20/05; am 1/17/08; comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602; 45 C.F.R. §§260.50 through 260.55; HRS §346-14)

§17-656.1-20 Participation requirements for domestic violence victims. (a) An applicant or recipient shall be determined a domestic violence victim for up to a six-month period, if the individual:

- (1) Has requested a determination of domestic violence victim status;
- (2) Is currently not employed, or if employed is employed less than twenty hours per week;
- (3) Is currently not attending an institution of post-secondary education, or if attending a school of post-secondary education is not

- taking more than six credit hours of instruction per week;
- (4) Claims that participation in a work activity of twenty or more hours per week or post-secondary educational activities of more than six credit hours per week would place the individual in jeopardy of further domestic violence or would jeopardize the individual's recovery from domestic violence;
 - (5) Has or has had a relationship to the alleged perpetrator of the violence as a spouse, reciprocal beneficiary, former spouse, former reciprocal beneficiary, person with whom the individual has a child in common, parent, child, person related by blood, person jointly residing or formerly residing in the same dwelling unit, or person with whom the individual has or has had a dating relationship regardless of whether they lived together at any time; and
 - (6) Has had to take one or more of the following actions as protection or as a result of the domestic violence inflicted by the alleged perpetrator:
 - (A) Has a current court order protecting the individual or other household members from the alleged perpetrator;
 - (B) Is a party to a pending divorce or custody action which involves issues of current or past domestic violence;
 - (C) Within the past twelve months, has stayed in a domestic abuse shelter;
 - (D) Within the past twelve months, has stayed with a friend or relative after having fled the home to escape or avoid domestic violence, as supported by a sworn statement from that friend or relative. If the friend or relative is not available, another person who has personal knowledge of the domestic violence situation may provide a sworn statement;
 - (E) Within the past twelve months, has been a victim of an incident of domestic

violence which resulted in the arrest, arraignment or conviction of the alleged perpetrator of the violence;

- (F) Within the past twelve months, has been in inpatient or outpatient treatment for psychological, physical or emotional abuse resulting from domestic violence;
- (G) Within the past twelve months, has been hospitalized, been in community placement or received emergency room treatment for medical or psychological injuries resulting from domestic violence; or
- (H) Within the past twelve months, has been subject to threats of death or grievous bodily injury to self or family and loved ones by the alleged perpetrator.

(b) The domestic violence victim shall comply with the work requirements in chapter 17-794.1.

(c) Any other adult in a household with a domestic violence victim shall not be required to comply with the work requirements in chapter 17-794.1.

(d) For the purpose of the domestic violence participation requirements, the six-month period referred to in subsection (a) shall be six consecutive calendar months beginning with the first month the determination of domestic violence victim status is granted and applied toward household eligibility. Once the domestic violence victim status determination is made, the six consecutive calendar months shall continue to run whether or not the assistance unit is eligible for financial assistance.

(e) The domestic violence victim status may be revoked at any time during the six-month period defined in subsection (d) if the domestic violence victim:

- (1) Fails to accept or participate without good cause in activities developed in a service plan by a domestic violence agency or domestic violence advocate;
- (2) Becomes employed twenty hours or more per week;
- (3) Enrolls in post-secondary education courses of more than six credit hours per week; or
- (4) Is determined by the domestic violence agency

to no longer need domestic violence advocacy services.

(f) When a domestic violence victim refuses or fails to participate in assessment or treatment services, without good cause, the entire household shall be sanctioned as follows:

- (1) For the first such failure to comply, until the failure to comply ceases;
- (2) For the second such failure to comply, until the failure to comply ceases, or two months, whichever is longer; and
- (3) For any subsequent failure to comply, until the failure to comply ceases, or three months, whichever is longer.

(g) In order to determine the appropriate sanction period in subsection (f), the individual's entire sanction history under the TANF program shall be taken into consideration.

(h) Prior to imposing a sanction under subsection (f), the department shall determine whether the individual had good cause as specified in chapter 17-794.1.

(i) For the purpose of determining that an individual's failure to comply has ceased, the individual shall:

- (1) Participate in the treatment service or employment activity that was previously not complied with for a two week period; or
- (2) Accept full-time employment and actually work for a minimum of two weeks. [Eff 12/12/98; am 10/18/01; am and comp 1/20/05; am 1/17/08; am and comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602; 45 C.F.R. §§260.50 through 260.55; HRS §346-14)

§17-656.1-21 Extending the domestic violence victim status. (a) The domestic violence victim status shall be extended for an additional period of up to six months immediately following the first six month period if the following apply:

- (1) The domestic violence victim has maintained active participation with a domestic violence

agency or domestic violence advocate during the initial six-month period; and

- (2) The domestic violence agency or domestic violence advocate recommends the extension.

(b) The domestic violence victim status shall not be extended past the initial six-month period if the perpetrator of the domestic violence is residing in the same home as the domestic violence victim.

(c) The domestic violence victim status shall be revoked at any time during the extension period if the domestic violence victim:

- (1) Fails to accept or participate without good cause in activities developed in a service plan by a domestic violence agency or domestic violence advocate;
- (2) Becomes employed twenty hours or more per week;
- (3) Enrolls in more than six credit hours per week of post-secondary education courses; or
- (4) Is determined by the domestic violence agency to no longer need domestic violence advocacy services. [Eff 12/12/98; am 10/18/01; comp 1/20/05; am 1/17/08; comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602; 45 C.F.R. §§260.50 through 260.55; HRS §346-14)

§17-656.1-22 REPEALED. [R 1/17/08]

§17-656.1-23 Confidentiality. All information that an applicant or recipient provides concerning domestic violence shall remain confidential to the extent permitted by law. [Eff 12/12/98; comp 1/20/05; comp 6/26/09] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602; 45 C.F.R. §§260.50 through 260.55; HRS §346-14)