

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES
DIVISION

CHAPTER 659

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Historical Note: This chapter is based substantially upon chapter 17-637 [Eff 7/19/82; am 10/20/82; am 2/15/83; am 5/23/83; am 6/30/83; am 11/12/83; am 12/24/84; am 4/20/85; am 12/1/85; am 7/14/86; am 10/23/87; am 1/28/88; am 7/28/88; am 12/16/88; am 7/20/89; am 9/1/90; am 6/29/91; R 3/19/93] 17-742-2 [Eff 7/19/82; am 12/17/82; am 10/14/83; am 12/21/84; am 1/21/85; am 3/15/85; am 9/7/85; am 6/23/86; am 6/18/87; am 10/23/87; am 2/22/88; am 1/1/89; am 3/28/89; am 6/6/89; am 1/1/90; am 6/12/90; am 5/13/91; am 8/30/91; R 3/19/93]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-659-1 Purpose. The purpose of this chapter is to establish the eligibility requirements applicants and recipients shall meet to receive general assistance (GA).

[Eff 3/19/93; am 8/1/94; comp 3/27/09] (Auth: HRS §§346-53, 346-14) (Imp: HRS §§346-53, 346-14)

§17-659-2 Definitions. As used in this chapter:

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

"Current medical report" means the department's medical form completed by the department's designated licensed physician, licensed psychologist, or licensed physician whose specialty is in psychiatry that is not more than three months before the date of the department's request.

"Dependent adult" means the legally married spouse of an individual eligible for the general assistance program who does not qualify for financial assistance in his or her own right.

"Disabled" means an individual is unable to engage in any substantial gainful employment of at least thirty hours per week, for a period of more than sixty days from the onset of the disability, because of a physical impairment, mental impairment, or a combination of a physical or mental impairment.

"Full-time employment" means employment of a minimum of one hundred thirty hours a month or the employer considers the individual a full-time employee, or if self-employed, the individual earns an amount equal to one-hundred thirty hours at the state minimum wage after business expenses have been subtracted from gross income.

"Grandfathered person" means a person who is approved for continuation of GA effective May 24, 1978 as the person would otherwise be excluded from receiving assistance under section 346-71, Hawaii Revised Statutes.

"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.

"Misconduct" means a breach of duty owed by the applicant or recipient to the employer under a contract of employment. The contract need not be in writing. The act of misconduct shall have been a willful disregard of the employer's interest, which shall be injurious or tend to be injurious to the employer's interest.

"Temporary labor force (TLF) program" means the department of human services, benefit employment and support services division's program established to provide public service employment on public work projects to persons receiving financial assistance under the general assistance program. [Eff 3/19/93; am 8/01/94; am 11/25/94; am 7/24/95; am 9/26/97; am 7/16/99; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §§346-31, 346-53, 346-71, 346-101)

§17-659-3 Eligibility conditions. (a) Applicants and recipients of the general assistance program must be categorically ineligible for AFDC. For purposes of this chapter, an applicant or recipient who has exhausted the sixty month time limit specified in §17-656.1-3 but meets all other requirements of the AFDC program is not considered categorically ineligible for AFDC.

(b) An individual who is unable to engage in any substantially gainful activity because of a medically determinable physical impairment, mental impairment, or a combination of a physical and a mental impairment which may be expected to result in death or which has lasted or may be expected to last for a continuous period of not less than twelve months, or an individual who is sixty-five years of age or older, shall apply for the federal supplemental security income program (SSI) administered by the Social Security Administration.

- (1) An individual who has been determined ineligible for SSI because of the individual's own failure to respond or to submit evidence to establish the individual's SSI eligibility shall be ineligible for GA.
- (2) An individual who has been determined ineligible for SSI through no fault on the part of the individual such as, being determined over-income

by SSI standards, or not being sufficiently disabled to meet SSI requirements, may be eligible for GA when the individual fails to qualify for state supplementary assistance to the aged, blind, and disabled, as specified in chapter 17-658.

- (3) An individual who is sixty-five years of age or older shall be categorized under the state funded AABD program and shall meet the requirements of chapter 17-658 pending the final determination of the SSI program.

(c) An individual shall meet the applicable conditions and requirements of the department's financial assistance programs, including but not limited to, residency, citizenship, income, and assets requirements.

(d) The director shall determine the allowance for general assistance based upon the total amount appropriated for general assistance and the costs for administering the general assistance program.

(e) An individual shall meet the applicable provisions of this chapter. [Eff 3/19/93; am 8/01/94; am 7/24/95; am 12/15/95; am 11/22/96; am 9/26/97; am 7/16/99; am 5/31/02; am and comp 3/27/09; am 10/09/10] (Auth: HRS §§346-14, 346-53, 346-71) (Imp: HRS §§346-52, 346-53, 346-57, 346-71)

§17-659-4 Determination of identity. (a) Individuals shall provide sufficient verification to establish the individuals' identity.

(b) The department may consider, but shall not be limited to considering the following documents of verification to establish the individuals' identity:

- (1) Birth certificate;
- (2) Passport;
- (3) Church record of birth or baptism;
- (4) School record;
- (5) Insurance policy;
- (6) Marriage record;
- (7) Military discharge papers;
- (8) Draft card;
- (9) State identification card;

- (10) Motor vehicle operator's license;
- (11) Voter registration card;
- (12) Credit card with signature shown; or
- (13) Any other document which shows either the individual's signature or photograph.

(c) When every effort to establish an individual's identity through documentary evidence has failed, the identity of the individual may be established through a collateral contact with a private or public organization. Document in the case record the name of the collateral contact and the organization the individual represents. [Eff 3/19/93; comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §346-71)

§17-659-5 [R 3/27/09]

§§17-659-6 to 17-659-9 (Reserved)

SUBCHAPTER 2

PROGRAM REQUIREMENTS

§17-659-10 Purpose. The purpose of this subchapter is to establish the program requirements for applicants and recipients of GA. [Eff 3/19/93; am 8/01/94; comp 3/27/09] (Auth: HRS §346-14) (Imp: HRS §346-71)

§17-659-11 Program eligibility requirements. (a) An individual shall be between 18 and 65 years of age.

(b) The household shall not include the minor dependents of any eligible adult for whom the adult provides care and supervision.

(c) A dependent adult applying for assistance shall meet the requirements specified in section 17-659-14.

(d) A medical determination of physical impairment, mental impairment, or a combination of physical and mental impairment is required at the time of application and when

the medical or psychiatric board determines a re-examination is needed. An applicant who claims both a physical and a mental impairment shall be asked to designate the primary disability.

- (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) A determination and certification of a combination of physical and mental impairment shall be made by both the medical and the psychiatric boards.
 - (4) The director shall appoint licensed physicians or licensed psychologists designated and paid by the department to the medical or psychiatric board. Such members of each board shall be appointed for the period contracted with the department unless otherwise specified.
 - (5) The director shall appoint the department's medical and psychiatric consultants to the medical or psychiatric board. Such members of each board shall be appointed for the duration of their employment with the department unless otherwise specified.
 - (6) A minimum of three members of each board must participate in the review of a disability.
 - (A) The board members involved in the review of an individual's physical or mental impairment shall include the department's designated examining physician or psychologist.
 - (B) A minimum of two board members must agree on each determination and certification of physical or mental impairment.
- (e) The individual shall provide the department a current medical report.
- (f) The department shall authorize payment for the individual to obtain a medical determination of

physical impairment, mental impairment, or a combination of physical and mental impairment.

(g) Assistance shall be approved only for the period of the disability when an individual is determined disabled by the medical or psychiatric board. Assistance shall end when a determination is made by the medical or psychiatric board that the individual no longer meets the department's definition of disabled.

(h) When the medical or psychiatric board determines the applicant is not disabled, the applicant shall be provided a notice informing the applicant that additional medical evidence may be submitted within ten calendar days prior to the denial of the application. The notice shall refer the applicant to free legal services for assistance and permit the applicant to request extensions of time, as necessary.

(1) If the applicant does not respond, the application shall be denied on the eleventh calendar day or the first work day following the eleventh calendar day if the tenth calendar day fell on a weekend or a holiday.

(2) Additional medical evidence submitted within ten calendar days shall be reviewed by the appropriate medical or psychiatric board for a determination and certification of a physical impairment, mental impairment, or a combination of both physical and mental impairment.

(3) Additional medical evidence that is not submitted within ten calendar days but is submitted before a disposition of the application is made shall be reviewed by the appropriate medical or psychiatric board for a determination and certification of a physical impairment, mental impairment, or a combination of both physical and mental impairment.

(i) For applicants, a presumptive determination of disability may be made by the department for one month's eligibility provided:

(1) The disabling condition is readily observable or may be reasonably inferred from prior medical history; and

(2) Eligibility for subsequent months shall be established in accordance with this section.

(j) The disabled person shall be required to accept and pursue medical treatment as determined by the authorized examiner.

(1) The department shall provide the disabled person with a legible copy of the recommended treatment;

(2) When a determination of mental impairment is made, the person shall accept and pursue treatment;

(3) When a determination of physical impairment is made, the person shall accept and pursue medical treatment;

(4) The individual with a primary diagnosis of substance abuse shall be required to receive treatment in a residential treatment facility or shall obtain treatment on an outpatient basis provided the treatment is received in a planned manner. Residential treatment facilities and outpatient clinics or providers shall be certified by medicare or medicaid, accredited by the state department of health's alcohol and drug abuse branch, licensed by the state department of health's hospital and medical facilities branch or be licensed providers of medical services;

(5) An individual's compliance to treatment shall be evaluated; and

(6) Refusal or failure to pursue medical, psychological or psychiatric treatment for the identified disability shall result in disqualification unless the department determines the refusal or failure is due to good cause. Good cause shall include but is not limited to the following:

(A) Mental illness or mental deficiency precludes understanding of the department's requirements;

(B) Treatment is contrary to the client's religious beliefs;

(C) Treatment is not available. Treatment is considered not available when the providers of a health plan the individual is enrolled

in are unable to provide treatment;
treatment is considered available even if
the individual does not have health coverage
or a health plan;

- (D) Personal emergency. A personal emergency is defined as:
 - (i) a life threatening circumstance affecting the individual, the individual's spouse, parent or child that is verified by a licensed physician or licensed psychologist; or
 - (ii) the individual suffers a natural disaster that is verified with the police department, fire department or other applicable agency; or
- (E) Circumstances which threaten the safety of the individual. These circumstances shall be verified with a licensed physician, a licensed psychologist, the police department, or other applicable agency.
[Eff 3/19/93; am 7/24/95; am 12/15/95; am 11/22/96; am 9/26/97; am 7/16/99; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §§346-31, 346-71)

§17-659-11.1 REPEALED. [R 12/15/95]

§17-659-12 REPEALED. [R 7/24/95]

§17-659-13 REPEALED. [R 9/26/97]

§17-659-14 Requirements for a dependent adult. (a)
The dependent adult must be under sixty-five years of age
and meet the requirements of this section.

(b) The applicant or recipient shall provide evidence
to establish a relationship with the dependent adult.

(c) The dependent adult is required to meet the work requirements of section 17-659-16, except a dependent adult who is disabled or employed full-time or enrolled in an organized government job training program.

(d) The disabled dependent adult is required to meet the provisions of sections 17-659-11.

(e) The dependent adult who is not disabled is exempt from registering with the department of labor and industrial relations, and from satisfying the employment search, and TLF requirements of section 17-659-16 when:

- (1) The dependent adult's parent, spouse, or child is severely ill and such illness requires the dependent adult's presence when no other care arrangement is feasible; and
- (2) A medical verification of the severity of illness and need for attendant care is provided. [Eff 3/19/93; am 5/18/96; am 9/26/97; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §§346-53, 346-71)

§17-659-15 Grandfathered persons. (a) A grandfathered person shall be eligible to receive assistance provided no lapse in receipt of assistance occurs after May 24, 1978.

(b) If a lapse in receipt of assistance occurs, after the individual met the requirement of subsection (a), the individual shall no longer be classified as a grandfathered person and shall be required to reapply for assistance when the lapse is due to the individual's:

- (1) Failure to comply with any requirements or conditions for receipt of benefits; or
- (2) Request for voluntary withdrawal.

(c) The grandfathered person shall satisfy the appropriate requirements of this chapter:

- (1) The individual, unless disabled, shall satisfy the employment search, the registration with the department of labor and industrial relations, and TLF requirements of section 17-659-16, unless the individual is employed full-time or currently enrolled in an organized government training program; and

- (2) The disabled person shall meet the requirements of section 17-659-11. [Eff 3/19/93; am 8/01/94; am 5/31/02; comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §346-71)

§17-659-16 Work requirements for the dependent adult. (a) An applicant under the age of sixty-five years who is unemployed shall have been separated from full-time employment for reasons other than voluntary separation without good cause or separation for misconduct within twelve months prior to application, unless disabled. Sections 17-659-18 and 17-659-19 shall apply in establishing good cause or determining misconduct.

(b) A dependent adult under fifty-five years of age who is unemployed or employed less than full-time shall actively and diligently seek gainful employment and accept or pursue referrals for employment, unless disabled or exempt:

- (1) The applicant shall seek employment from a minimum of three prospective places of employment within seven days after being informed of this requirement and shall continue to seek employment from a minimum of three prospective places on a weekly basis during the month of application and through the month of approval;
- (2) The recipient shall seek employment from a minimum of twelve prospective places of employment on a monthly basis following the month of approval;
- (3) The applicant and recipient shall furnish to the department written statements, on the department's form or other valid statements from prospective employers, substantiating the dependent adult's effort to obtain employment:
 - (A) The applicant shall provide the verification within seven days after being informed and weekly thereafter; and
 - (B) The recipient shall provide the verification by the last work day of the month; and

- (4) The applicant and recipient shall register with the department of labor and industrial relations (DLIR):
 - (A) The applicant shall provide proof of initial registration; and
 - (B) The recipient shall complete a monthly visit to DLIR in search of employment and shall provide proof of the monthly visit.
- (c) A dependent adult between the ages of fifty-five and sixty-five years of age who is unemployed or employed less than full-time shall actively and diligently seek gainful employment and accept or pursue referrals for employment, unless disabled or exempt:
 - (1) The applicant shall seek employment from one prospective place of employment weekly during the month of application and through the month of approval;
 - (2) The recipient shall seek employment from a minimum of four prospective places of employment following the month of approval on a monthly basis;
 - (3) The applicant and recipient shall furnish to the department written statements, on the department's form or other valid statements from prospective employers, substantiating the dependent adult's effort to obtain employment:
 - (A) The applicant shall provide the verification within seven days after being informed and weekly thereafter; and
 - (B) The recipient shall provide the verification by the last work day of the month; and
 - (4) The applicant and recipient shall register with the DLIR:
 - (A) The applicant shall provide proof of initial registration; and
 - (B) The recipient shall complete a monthly visit to DLIR in search of employment and shall provide proof of the monthly visit.
- (d) Applicants or recipients shall not meet the department's definition of "diligently seeking work" by merely mailing employment resumes each week.

(e) The recipient, unless disabled or exempt, shall register and participate in the TLF program and shall accept any assignment to work on a project.

(f) Applicants and recipients shall accept offers of employment unless there is good cause as specified in section 17-659-18 for refusing the offer of employment.

(g) Recipients shall have been unemployed from full-time employment for reasons other than voluntary separation without good cause or separation for misconduct. Sections 17-659-18 and 17-659-19 shall apply in establishing good cause and determining misconduct.

(h) A dependent adult, if entitled to benefits or not subject to a waiting period under the state DLIR-unemployment insurance benefit (UIB) program, shall exhaust all of the available UIB specified under chapter 383, Hawaii Revised Statutes. Supplementary GA may be provided while a person is exhausting the UIB, if the amount received under UIB is less than the GA the assistance unit would otherwise be eligible to receive.

(i) A dependent adult's refusal or failure to meet the requirements of this section shall result in disqualification and exclusion as specified in section 17-659-27. [Eff 3/19/93; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71, 346-104) (Imp: HRS §§346-31, 346-71)

§17-659-17 REPEALED. [R 12/15/95]

§17-659-18 Determination of good cause for a dependent adult subject to work requirements. (a) The applicant or recipient shall be responsible to provide the necessary verification to establish good cause for refusing or leaving employment or work training. The department may contact the applicant's or recipient's last employer or prospective employer to corroborate good cause.

(b) The department shall consider circumstances beyond the dependent adult's control in determining

whether there was good cause. Examples of circumstances beyond the dependent adult's control include, but is not limited to:

- (1) There was discrimination by the employer based upon age, race, sex, color, handicap, religious belief, national origin, or political beliefs as evidenced by the dependent adult's formal appeal made to the proper federal or state agencies administering equal employment opportunity practices;
- (2) The employment or training violated health and safety laws and regulations which were detrimental to the dependent adult's health and safety as established by the state department of labor and industrial relations (DLIR);
- (3) Employment activities were detrimental to the dependent adult's health. Medical documentation to substantiate the detriment shall be provided;
- (4) The wages offered were less than or were reduced to below the state minimum wage;
- (5) The conditions or demands of the job, such as not being paid, or not being paid on time, made continued employment unreasonable and the matter was reported to the DLIR;
- (6) The dependent adult left the job to accept a definite and firm offer of employment elsewhere as evidenced by a letter of confirmation revealing the:
 - (A) Name of the employer or the representative of the employer who made the offer;
 - (B) Address or telephone number of the employer; and
 - (C) Verified statement from the employer of the actual job offer.

When the employment does not subsequently materialize because of circumstances beyond the dependent adult's control, this reason shall be considered good cause;

- (7) The resignation of the dependent adult was recognized by the employer as retirement and

- is substantiated by the receipt or pending receipt of retirement or pension benefits;
- (8) The employment or training was beyond the dependent adult's mental or physical capacity, as mutually determined by the employer and the dependent adult. If the dependent adult was determined as being physically capable of doing the work by the employer, but the dependent adult disagrees, the dependent adult shall provide a medical statement to verify physical inability to do the job;
 - (9) Daily commuting time exceeds two hours per day. Good cause shall exist when both public and private means of transportation are unavailable in getting to the job site;
 - (10) The dependent adult's parent, spouse or child was severely ill and such illness required the dependent adult's presence when no other care arrangements were feasible;
 - (11) A pregnant dependent adult leaves work on the advice of a physician and presents medical verification;
 - (12) The self-employment business was not producing an amount equivalent to the state minimum wage after business expenses were subtracted from the gross income; or
 - (13) The dependent adult left a job to move with the family where the spouse was offered or found full-time employment.

(c) When verification of good cause for leaving employment is not available for such reasons as the business is no longer in existence or the doctor is no longer in practice, a signed statement from the applicant or recipient shall be accepted as the verification for good cause.

(d) When employment offers were made through DLIR, the department shall accept the decision of DLIR as to whether the offer was bona fide or whether there was good cause to refuse employment or training.

(e) The employment history of the dependent

adult, as a minor, shall not be considered. [Eff 3/19/93; am 3/14/94; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §346-71)

§17-659-19 Determination of misconduct for a dependent adult subject to work requirements. (a) The department may contact the applicant's or recipient's last employer to determine whether the applicant or recipient is unemployed because of misconduct.

(b) Separation from employment due to unsatisfactory performance which is based on medically documented physical or mental illness or mental retardation shall not be considered misconduct.

(c) The following situations shall constitute employee misconduct:

- (1) One unexcused absence, unless the presence of the individual is required in a court proceeding and the employer refused to give time off;
- (2) Repeated tardiness;
- (3) An argument or altercation with a superior or co-worker while at the place of employment during work time caused by the applicant or recipient;
- (4) Intentional conversion of business or personal property of the employer by the employee;
- (5) Intentional disregard of a superior's or employer's reasonable instructions;
- (6) Use of intoxicants on the job;
- (7) Neglect in the performance of work duties after a prior warning was given the employee by the employer;
- (8) Noncompliance with company policy which endangers the health or safety of the other employees, the employer's business, or the employer's customers; and
- (9) Intentional violation of the employer's lawful and reasonable rules and orders.

(d) The employment history of dependent adults, as minors, shall be considered. [Eff 3/19/93; am 3/14/94; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §346-71)

§§17-659-20 to 17-659-25 (Reserved)

SUBCHAPTER 3

DISQUALIFICATIONS AND EXCLUSIONS

§17-659-26 Purpose. The purpose of this subchapter is to establish the periods of disqualification and exclusion from GA when an individual fails or refuses to comply with the requirements of this chapter. [Eff 3/19/93; am 08/01/94; comp 3/27/09] (Auth: HRS §346-14) (Imp: HRS §346-71)

§17-659-27 Financial assistance disqualification and exclusion for failure to comply with program requirements.

(a) All applicant assistance units who fail to comply with the requirements and conditions of this chapter shall be denied assistance.

(b) When the application includes an adult member who fails to meet the work requirements of section 17-659-16, the adult member shall be disqualified and the remaining member of the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the requirement occurred.

(c) A recipient who refuses or fails to comply with any of the requirements or conditions set forth in this chapter shall be disqualified and excluded from receiving assistance.

- (1) The failure of one member of the recipient assistance unit to comply with the requirements or conditions of this chapter shall exclude the entire assistance unit from the program except as specified in paragraph (2);
- (2) When the member is disqualified for not meeting the work requirements of section 17-659-16:
 - (A) The member who failed to meet the work requirement shall be disqualified; and
 - (B) The remaining member of the assistance unit shall be disqualified unless the assistance

unit was formed after the failure to meet the work requirement occurred. [Eff 3/19/93; am 3/14/94; am 5/18/96; am 9/26/97; am 7/16/99; am 5/31/02; comp 3/27/09] (Auth: HRS §346-14) (Imp: HRS §346-71)

§17-659-28 REPEALED. [R 08/01/94]

§17-659-29 Periods of disqualification and exclusion.

(a) Noncompliance with the following requirements shall result in disqualification and exclusion for twelve months:

- (1) Quitting a job without good cause;
- (2) Being fired from a job for misconduct;
- (3) Refusing or failing to exhaust UIB entitlement;
- and
- (4) Refusing employment without good cause.

(b) When an individual or assistance unit is disqualified and excluded for twelve months as specified in subsection (a), the individual's eligibility may be re-established before the twelve month disqualification period is over, provided:

- (1) The individual who was disqualified for quitting a job without good cause, refused employment without good cause, or was fired from a job for misconduct becomes disabled or is employed full-time; or
- (2) The individual who refused or failed to exhaust UIB entitlement, accepts or exhausts the UIB entitlement.

(c) Noncompliance with any other work requirement or failure to accept or pursue medical treatment for a physical or mental disability, shall result in disqualification and exclusion for the following periods:

- (1) One month - first noncompliance;
- (2) Three months - second noncompliance; and
- (3) Six months - more than two noncompliances.

(d) In order to determine the appropriate disqualification and exclusion period, the recipient's entire history with the department shall be considered.

(e) When an individual or assistance unit is disqualified and excluded for not meeting any work requirement, eligibility may be re-established before the disqualification period is over when the individual becomes:

- (A) Disabled;
- (B) Employed full-time; or
- (C) Enrolled in an organized government training program.

(f) All recipients disqualified and excluded from the program shall be required to reapply and satisfy all eligibility requirements before receiving assistance. [Eff 3/19/93; am 1/30/95; am 7/16/99; am 5/31/02; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §346-71)

§§17-659-30 to 17-659-35 (Reserved)

SUBCHAPTER 4

TEMPORARY LABOR FORCE PROGRAM (TLF)

§17-659-36 Purpose. The purpose of this subchapter shall be to establish the requirements for registration and participation in the public works projects under the department's temporary labor force program for recipients of GA. [Eff 3/19/93; comp 3/27/09] (Auth: HRS §§346-14, 346-71, 346-102, 346-104) (Imp: HRS §§346-31, 346-71, 346-101)

§17-659-37 Definitions. As used in this subchapter:

"Liaison officer" means a state employee of the sponsoring state or county department or agency assigned the responsibilities to work directly with the DHS-BESSD branch TLF coordinator in administering the TLF program.

"Project supervisor" means the state employee designated by the sponsoring agency who has the responsibilities to oversee the project assignment and participation of the TLF worker.

"Sponsoring agency" means the state or county department or agency which requested and has been approved to sponsor a work project for the GA recipients.

"TLF coordinator" means the employee of the DHS-BESSD branch who has the responsibilities to administer the department's TLF program for its branch, and to act as coordinator and liaison person between the eligibility worker for the GA recipient and the sponsoring agency. In branches where there is no TLF coordinator assigned, the eligibility worker shall act in the capacity of the coordinator. [Eff 3/19/93; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §§346-14, 346-71)

§17-659-38 Administration of public work projects.

- (a) The public work projects shall be administered to:
- (1) Utilize the GA recipients' productive capabilities;
 - (2) Assist in the retention of the individuals' work skills or the acquisition of new skills;
 - (3) Provide the state and counties with supplementary and complementary workers to render public services; and
 - (4) Afford GA recipients the opportunity, confidence, satisfaction, and dignity of leading productive and contributive lives.
- (b) TLF workers shall be financial assistance recipients subject to rules governing GA eligibility and assistance.
- (c) The TLF workers shall be considered to be employees of the department for coverage under the worker's compensation law. Laws relating to civil service, classification, retirement, vacation, sick leave, and other matters relating to regular public employees shall not apply to TLF workers.
- (d) TLF workers assigned to participate in public work projects shall not be used to replace, delay, or prevent appointment of regular employees or render services for which government funds are available.
- (e) Payment for work performed under the TLF program shall not be made from the funds of the sponsoring agency

but shall be deemed paid through the financial assistance provided the recipient.

(f) A TLF worker shall not be assigned to work projects where sponsoring agencies are engaged in a dispute with organized labor. [Eff 3/19/93; comp 3/27/09] (Auth: HRS §§346-14, 346-71, 346-102) (Imp: HRS §§346-31, 346-71, 346-101, 346-102)

§17-659-39 TLF work projects. (a) The following criteria shall be considered in establishing TLF work projects:

- (1) Provide employment which, to the extent possible, utilizes, nurtures, and sustains the productive capacities of the individual;
- (2) Accomplishes work which, otherwise, may not be undertaken due to the absence of regular positions or funds; and
- (3) Entails little or no expense to the department.

(b) The state or county agency shall file a request with the TLF coordinator, on the department's form, to sponsor a work project for the GA recipients.

(c) The state or county agency approved by the department to sponsor a work project shall be assigned appropriate TLF workers by the TLF coordinator. [Eff 3/19/93; comp 3/27/09] (Auth: HRS §§346-14, 346-71, 346-102) (Imp: HRS §§346-71, 346-101)

§17-659-40 Sponsoring agency's responsibilities. (a) The sponsoring agency shall provide the following work-related needs:

- (1) Transportation on the same basis as that furnished regular employees;
- (2) Equipment and tools;
- (3) Physical examinations, if required. The department shall assume the cost of physical examinations through its medicaid program if the sponsoring agency is unable to make the necessary arrangements;
- (4) Worker's compensation coverage. The department shall assume the cost of the medical coverage

through its medicaid program if the sponsoring agency is unable to make the necessary arrangements. There shall be no duplication of coverage by worker's compensation and medicaid coverage; and

(5) Supervision and training as required.

(b) The sponsoring agency shall submit to the department's TLF coordinator regular reports as required.

(c) The sponsoring agency shall report to the department's TLF coordinator serious or repeated infractions by the TLF worker of the sponsoring agency's rules and policies. [Eff 3/19/93; comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §§346-14, 346-71)

§17-659-41 Certification and assignment of individuals for projects. (a) GA recipients, unless exempted by specific provisions of this chapter, shall be certified for participation in the TLF program. The project supervisor shall determine which calendar days the certified recipient shall work.

(b) The following recipients shall be exempt from participating in TLF:

(1) A person whose welfare payment is less than the equivalent of eight hours times the current state minimum wage;

(2) A recipient who is employed full-time or is currently enrolled in an organized job training program; and

(3) Any other recipient whose participation in TLF is exempted by specific provisions of this chapter.

[Eff 3/19/93; am 9/26/97; comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §346-71)

§17-659-42 Determination of number of hours and work days assigned to TLF workers. (a) The number of work hours or work days assigned shall be determined on the basis of the financial assistance grant amount divided by the state's legal minimum wage rate. Payment for TLF work performed shall not be considered wages and the use of the state's minimum wage rate, in computing the number of TLF

work hours or days assigned, shall serve merely as a determinant.

(b) The determined number of hours or work days shall be prorated equally between a couple provided the number of assigned days exceed twelve days. If the number of assigned days is twelve or less, the recipient couple shall be allowed to elect one member to fulfill the TLF requirements. The elected individual shall not be interchangeable from one adult to the other, unless mutually agreed upon by the adult recipient and department's eligibility worker.

(c) The number of work days and hours shall be limited by the following conditions:

- (1) Hours of work shall be limited to eight hours maximum per day, thirty-two hours per week, during daylight hours unless a voluntary approval is otherwise secured from the recipient; and
- (2) Work may be assigned for any day of the week except Saturdays, Sundays, or state legal holidays. [Eff 3/19/93; am 9/26/97; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71, 346-102) (Imp: HRS §§346-31, 346-102, 346-103)

§17-659-43 Conduct of workers. (a) TLF workers shall be expected to conduct themselves as would regular employees of the sponsoring agency.

(b) The assistance unit, which includes a TLF worker, shall be subject to a reduction in grant or disqualification from the general assistance program for unexcused absences, tardiness, or infractions of the sponsoring agency's rules and policies by the TLF worker.

- (1) Unexcused absences, if not made up, totaling less than one-half the number of assigned work days in a given month shall require a reduction of the assistance unit's assistance grant on a prorated basis.
- (2) Unexcused absences, if not made up, totaling one-half or more of a number of assigned work days in a given month shall result in disqualifying the assistance unit from assistance. The disqualification shall be in accordance with the

provisions of section 17-659-27. [Eff 3/19/93; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71, 346-104) (Imp: HRS §§346-14, 346-71)

§17-659-44 Absences, time-off, and make-up. (a) A recipient who is absent from TLF work shall report the absence and the reason for the absence to the project supervisor or to the eligibility worker by the department's next working day.

- (1) The project supervisor shall prepare an absence report, on a form provided by the department, on a monthly basis.
- (2) The absence report shall be submitted to the department by the third working day of the following month by the project supervisor or liaison officer.

(b) Absences may be excused by the department or by the project supervisor for the following reasons:

- (1) Recipient's illness. A medical verification may be requested by the department;
- (2) Illness or death in recipient's family;
- (3) Private employment;
- (4) Visits to the DLIR-ESD to satisfy the department's work requirements if no other time is suitable;
- (5) Flood or storm preventing access to project;
- (6) Breakdown in transportation facilities;
- (7) Project shutdown; and
- (8) Other reasons upon approval of the department.

(c) The reasons for absences given by the recipient may be subject to verification.

(d) The department shall consider the recipient's absence unexcused if the individual fails to report promptly or is unable to provide a valid, justifiable reason for the absence or absences.

(e) Time-off for less than a full day may be allowed with the consent of the project's supervisor or liaison officer for:

- (1) Interviews for possible work;
- (2) Visits to the DLIR-ESD; and
- (3) Unforeseen emergencies.

(f) Make-up time for unexcused absences may be arranged, if possible, on unassigned working days in the month with the consent of the project supervisor or liaison officer. [Eff 3/19/93; am and comp 3/27/09] (Auth: HRS §§346-14, 346-71) (Imp: HRS §§346-14, 346-71)