

## **Clarification: Waiving TANF requirements in Domestic Violence Cases**

Date: October 27, 2008

References: 45-CFR – 260.52 thru 260.59 - ORS 411.117; OAR 461-135-1200; FSM - TANF - K

### **Back ground:**

Federal TANF regulations require that we track TANF requirements that are waived due to the risk of domestic violence. Waiver of TANF requirements impact JOBS participation as well as Federal time-limits.

TA-DVS stand alone cases (without a companion TANF case) are not counted towards participation or time-limits. We can still waive requirements that put a client at risk due to domestic violence but these cases do not impact our JOBS participation rate and are not subject to time-limits.

### **Impact on JOBS Participation:**

Victims of domestic violence are not exempt from the Federal work participation rate, however, both State and Federal law allow us to waive JOBS participation (for as long as necessary) when such participation would put a client at risk of further domestic violence. **If the State is unable to meet the required Federal work participation rate, the number of domestic violence waivers will be considered in determining reasonable cause for failing to meet that rate.**

We track DV waivers using the waiver codes (see below). We also track waivers using open *DV intervention activity codes (DV)* with attendance entered and an active (within the 90 day eligibility period) *DVS needs/resource code* when there is a Program 2/82 case that does not meet work participation hours.

### **To Receive Federal Recognition of DV Waivers:**

- Cases where we are waiving TANF requirements related to domestic violence must have case plans;
  - The case plan should focus on the client's needs related to domestic violence and to the extent possible, without putting the client at further risk, activities that will eventually lead to work.

- Waivers must be developed by someone who has had domestic violence training;
  - Current training requirements include DV 101 and either “DV Policy and Case Planning for Self-Sufficiency Programs” (if the person is doing a case plan) or “DV Policy and Practice for Screeners and Upfront Staff in Self-Sufficiency Programs” (if the person screens for domestic violence but does not develop a case plan).
- Waivers must be reviewed at a minimum of every six months;
  - When considering extending a waiver beyond six months an assessment of whether or not there are still current safety risk due to the domestic violence, should be made. The assessment should consider whether or not there is a likelihood of the victim having to return to the abuser if the waiver is ended.
- Waivers must be tracked and reported annually.

### **Tracking The Waivers...**

On TRACS, under the case plan section, there is a DV flag that should be used whenever you waive a TANF requirement related to domestic violence.

The Flag which is labeled - “DOM VIOL” requires a code of “no” or one of several other options. Examples of things that can be waived and how you would code them on TRACS.

#### **Use the “No” under the waiver flag:**

- When there are no TANF requirements being waived due to domestic violence.
- In cases where domestic violence is not a factor

#### **Use the *Work and JOBS* waiver reason code:**

- When required hours of participation are reduced due to domestic violence
- When participating in specific activities would put a client at risk
- When a job quit is due to domestic violence
- When other JOBS or work requirements are waived due to an increased risk of domestic violence

#### **Use the *Penalties* waiver reason code:**

- When non-cooperation with child support is due to domestic violence concerns ( i.e. Good Cause given for non-cooperation).
- When non-cooperation with JOBS is due to domestic violence concerns (e.g. Good Cause was granted for non-cooperation due to the impact of domestic violence or disqualifications removed due to domestic violence)
- When overpayments or fraud are a result of actions by the abuser or the abusers control over the victim
- When other penalties would have been assessed as a result of domestic violence and/or if the penalty would put the client at risk of further domestic violence (i.e. pursuing an overpayment; IPV or other penalty that names the abuser and the victim and pursuit would potentially give the abuser knowledge of the victims address or other information.)
- When waiving penalties for failure to comply with a program requirement

**Use the *Non-Financial* waiver reason code:**

- When waiving the requirement for the client to be in her last month of pregnancy (This waiver extends through the length of pregnancy – even if longer than 6 months)
- When waiving Citizenship requirements due to domestic violence
- When waiving the requirement or expectation that children will be in the home within 30 days (If the child is expected to be out of the home for 90 days or more staff the case with your manager to make a decision on whether or not to extend this requirement)
- When waiving residency (i.e. intent to reside) due to risk of or flight from domestic violence
- When other non-financial requirements would put the client at risk of further/future domestic violence

**Use the *Financial* waiver reason code:**

- When you're waiving income controlled by the abuser
- When you're waiving income used to flee the violence
- When you're waiving other financial requirements that pursuit may put the client at risk of domestic violence

**Use the *time-limits* waiver reason code:**

- When waiving the federal 5 year lifetime time limit requirements and the time limit would put the client at further risk of domestic violence

**What we can't waive:**

- We can't waive any requirements that are not associated with putting a client at risk of domestic violence.
- We can't waive the requirement that a person be a caretaker relative of a minor child or pregnant.
- We can't waive that a dependent child live with a caretaker relative, except during a reasonable period while the caretaker relative escapes domestic violence.
- We can't waive residency except that a current resident who wants to move out of state due to domestic violence doesn't have to have an intent to reside in Oregon.
- We can't waive income or resources limits for TANF except that we do not count income used to flee the domestic violence or income or resources controlled by the abuser (even if the victim earns the income) if it's not safe to access the income or resource.

**Resources:**

If you have any questions about waiving requirements contact Carol Krager at 503-945-5931.