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POLICY TRANSMITTAL NO. 04-19	DATE: MARCH 30, 2004
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:10-10-3.

EXPLANATION: OAC 340:10-10-3 Instructions to Staff are updated to add a reference to OAC 340:10-2-2 and clarifying information.

Original signed on 3-25-04

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WF # 04-F (NAP)

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## **INSTRUCTIONS FOR FILING MANUAL MATERIAL**

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS as the rulemaking agency; the “2” specifies the Chapter number; and the “1” specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

### **REMOVE**

340:10-10-3

### **INSERT**

340:10-10-3, pages 1-5, revised 4-1-04

### **340:10-10-3. Unemployed parent**

(a) **Applicability.** Deprivation for the child(ren) may be established when both the natural or adoptive parents are residing with the child(ren) and the parent determined to be the principal wage earner (PWE) meets the conditions to qualify as unemployed. If one of the parents is an ineligible alien, unemployment as the reason for deprivation is not precluded.

(b) **PWE.** The PWE is defined as the parent who earned the greater amount of gross income during the 24-month period ending with the month prior to the Temporary Assistance for Needy Families (TANF) application. This determination is made regardless of when the parent's relationship began or when the parent(s) began residing with the child(ren). The employment or receipt of unemployment insurance benefits of the parent not determined to be the PWE is not a factor in determining deprivation. The amount, dates, and sources of earnings used in determining which parent is the PWE must be documented. It is the assistance unit's responsibility to provide the documentation to the best of the assistance unit's ability. Acceptable documentation includes DHS case records, employer(s) contact, wage stubs for the 24-month period, Income Eligibility Verification System (IEVS), Oklahoma Wage Link (OWL), Oklahoma Wage (OWG) and, if self employed, gross and net earnings from tax returns or business records. The assistance unit must be involved in determining which parent is the PWE. Documentation must be recorded in the case record as to which parent was determined to be the PWE and the circumstances used in that determination.

(1) If both parents earned an identical amount of income in the 24-month period, the PWE is the parent who earned the greater amount of income in the last six months of the 24-month period.

(2) If the income in the six-month period is identical, either parent may be designated the PWE. The designation must be the one most advantageous to the assistance unit.

(3) The designation of the PWE is permanent and remains effective as long as the deprivation remains unemployment and the assistance unit remains eligible for and continues to receive TANF benefits. If the TANF case is closed and a new application is filed at a later date, the PWE must be redetermined.

(c) **Conditions the PWE must meet prior to certification.** The PWE must meet the conditions described in (1) - (3) of this subsection for deprivation to be established.

(1) **TANF Work requirements.** The PWE's activities and responsibilities must allow the PWE to be available for TANF Work activities and the PWE must comply with these requirements. ■ 1 If the PWE is determined to be unavailable or if the PWE does not comply with TANF Work requirements, the application is denied.

(2) **Qualifications as unemployed.** For the PWE to be considered unemployed, the PWE must not be employed, or if the PWE is employed, the countable net earnings plus any other countable income must be less than the payment standard for the family size. ■ 2 The PWE must meet the definition of unemployed during the application process and prior to the date of certification.

(A) **Specific period of unemployment.** To qualify as not employed, the PWE must be unemployed for 30 days prior to the receipt of TANF benefits. The assistance unit is eligible for assistance beginning the 31st day if all other eligibility requirements are met.

(B) **Refusal of employment.** The PWE cannot have refused a bona fide offer of employment or terminated employment, without good cause, within the 30 days prior to the receipt of TANF benefits. Before it is determined that the PWE has refused a bona fide offer without good cause, a determination is made that such an offer was actually made. For the offers made through public employment agencies, the determination is made by that agency. The PWE is given the opportunity to explain why the offer was not accepted. A bona fide offer is an offer of employment made directly by an employer to the PWE. An offer of employment by the employer must be substantiated in a written or oral statement to the Department that on a specified time and date, the PWE was offered a job of a specified nature and at a specified wage. Acceptable reasons for good cause are:

- (i) wages were less than minimum wage requirement or less than customary for the community;
- (ii) employment was available because of a strike, lockout, or other labor dispute;
- (iii) the PWE was unqualified or physically unable to perform such work;
- (iv) the work involved risk to health or safety; or
- (v) lack of worker's compensation protection.

(3) **Work history requirement.** The PWE must have a verified work history. Undocumented employment cannot be used to establish quarters of work. The work history exists when the PWE meets one of the conditions in (A) - (C) of this paragraph.

(A) The PWE was employed for six or more calendar-quarters within a 13 consecutive calendar-quarter period. The 13 consecutive calendar-quarter period must end within 12 months prior to the TANF application date. Calendar-quarter means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31. To be considered employed, the PWE must have received gross earnings of at least \$50 in a calendar-quarter or earned the minimum amount required for a covered quarter as defined by the Social Security Administration (SSA). ■ 3 The SSA states an individual qualifies for a quarter of coverage for any quarter that the individual earns a designated amount for that calendar year. ■ 4 An individual can have earnings in one quarter to qualify for a full year's coverage. ■ 5

(B) The PWE is receiving or has received Unemployment Insurance Benefits (UIB) within the 12 calendar months prior to the TANF application date. If the PWE has a pending UIB application, the work history determination is delayed until the UIB determination is made.

(C) The PWE would have qualified for UIB for one week or more during the 12 calendar month period prior to the TANF application date had the PWE made application for UIB based on earned wages, both covered and uncovered. Covered employment generally includes employment in construction, plants, stores, restaurants, offices, or other places of business which employ one or more persons. Uncovered employment generally includes employment from farm labor, odd jobs, and non-profit organizations.

(i) A PWE who had sufficient earnings to meet the UIB earnings requirement is deemed eligible for UIB even though all or a portion of the PWE's earnings were from uncovered employment. To be eligible or deemed eligible for UIB, the PWE must have earned at least the qualifying wages during the base period. ■ 6 The base period consists of the first four of the last five completed quarters immediately preceding the quarter of the UIB application.

(ii) The earnings must be in more than one quarter. The quarter with the highest earnings is the "high quarter." The total gross earnings of the remaining three quarters must equal at least one-half of the "high quarter" earnings. If the earnings do not meet this test, the PWE is ineligible for UIB.

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- (iii) If the PWE earned an amount equal to the total taxable wages in one quarter of the base period, the PWE is "deemed" eligible for UIB based on that quarter alone. ■ 6
- (d) **UIB eligibility.** The PWE is required to apply for and accept UIB which the PWE is eligible or potentially eligible to receive. Thirty days are allowed for verification of a UIB application to be furnished. Ineligible aliens are not required to apply for UIB.
- (e) **Ineligible alien status.** If the PWE is an ineligible alien, the PWE's needs are not included in the assistance unit. ■ 7 The PWE is not required to participate in TANF Work activities but the PWE's spouse or other parent included in the assistance unit is required to participate in TANF Work activities unless otherwise exempt.
- (f) **Striker status.** The assistance unit is not eligible for TANF for any month in which the natural or adoptive parent is participating in a strike on the last day of the month. ■ 8
- (g) **Changes after certification.** After initial eligibility the two-parent family must meet the conditions listed in (1) and (2) of this subsection.
- (1) Both parents must participate in TANF Work related activities. Failure of either parent to participate without good cause for the required number of hours will result in closure of the case. ■ 9
- (2) If the household's countable earned income plus any other income exceeds the payment standard for the family size, the case is closed. Continued medical benefits are authorized for the assistance unit if all other factors of eligibility are met.

**INSTRUCTIONS TO STAFF**

1. See OAC 340:10-2-1(a)(1). If the principal wage earner (PWE) is temporarily unavailable for employment, see OAC 340:10-2-2 for policy regarding good cause.
2. See Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource and Payment Standards, Schedule IX, TANF, Emergency Assistance, and OAC 340:10-3-31 through 33 for information concerning earned income.
3. The PWE's Federal Income Tax Schedule C can be used to determine earnings when determining work history.

4. See OKDHS Appendix C-1, Schedule XII B, TANF, Deprivation Based on Unemployed Parent.
5. An example is the required minimum earnings per quarter for 2003 is \$890 per quarter. The PWE qualifies for four quarters if \$3,560 was earned in the first quarter of 2003 since \$3,560 divided by \$890 equals four.
6. See OKDHS Appendix C-1, Schedule XII A, TANF, Deprivation Based on Unemployed Parent.
7. See OAC 340:10-3-57(g)(2) for information concerning income of an alien parent.
8. See OAC 340:10-3-57(k) for additional information concerning strikers.
9. See OAC 340:10-2-2 for information concerning penalties for individuals who refuse or fail to participate in assigned work activities.