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706.000 Overview of Auxiliary Activities

This chapter describes activities that affect the delivery of benefits and are required to ensure the proper and accurate direction of funds. Unless otherwise specified these regulations apply to TAFDC and EAEDC applicants and recipients.

Auxiliary activities and the circumstances in which they are required are described in the following sections:

(A) Inquiries, Requests and Complaints, 106 CMR 706.100;

(B) Overpayments, Underpayments and Recovery, 106 CMR 706.200;

(C) Referral to Bureau of Special Investigations, 106 CMR 706.240;

(D) Delivery of Checks, 106 CMR 706.400;

(E) Lost and Stolen Checks, 106 CMR 706.500;

(F) Vendor Payments, 106 CMR 706.600; and

(G) Quality Control, 106 CMR 706.700.

706.100: Inquiries, Requests, and Complaints

The worker must respond to all appropriate inquiries, requests and complaints regarding Department Programs or cases for which he or she is responsible. These responses must be made within the limitations of the Massachusetts Freedom of Information Act as contained in 106 CMR 100: Fair Information Practices, and the regulations which follow.

706.110: Inquiries

An inquiry is an oral or written request for information about the TAFDC and EAEDC Programs in general. Inquiries must be responded to by workers in the area offices or branch offices to which such inquiries are directed.

706.120: Requests

Under certain circumstances, defined in 106 CMR 100-108, information about a specific case may be released. When requests for information about a specific case may not be met, the reasons for the unavailability of information must be explained in writing to the person or institution making the request.

706.130: Complaints

A complaint is an oral or written communication expressing dissatisfaction with the policies and procedures of the Department or its administration. Complaints may be made by persons, institutions, or other agencies.

706.140: Oral Complaints

In the case of an oral complaint, the worker must attempt to address the complainant's dissatisfaction by providing a prompt interpretation of agency policy. In the event the complainant is not satisfied with the worker's explanations and wishes to go beyond the worker for assurance that he or she is receiving equitable treatment, the worker's immediate supervisor must be available for a three-way discussion of the problem.

The applicant, recipient or institution must be informed of the right to appeal and have a fair hearing or to have a review without a hearing.

706.150: Written Complaints

In the case of a written complaint, the complaint must be reviewed by the worker to determine its validity. After the review is completed, a summary must be made of the facts and the action to be taken.

A letter must then be sent to the complainant informing such individual or institution of appropriate action in relation to the complaint. The letter must inform the complainant of the right to appeal and have a fair hearing or to have a review without a hearing.

706.200: Overpayments and Underpayments

An overpayment exists when an assistance unit receives assistance for which it is not eligible or the assistance exceeds the amount for which it was eligible. However, an unaccessed EBT cash benefit shall not be considered an overpayment.

An overpayment may result from Department error, recipient error, misrepresentation or withholding of information, or payment of assistance pending implementation of a fair hearing decision upholding the Department's proposed action.

An underpayment exists when:

(A) a financial assistance payment received by or for an assistance unit for the month is less than the amount for which the assistance unit was eligible; or

(B) the Department fails to issue a financial assistance payment for the month to an eligible assistance unit, if such payment should have been issued.

706.210: Correction of Overpayments and Underpayments

The Department has the responsibility to identify and to correct overpayments and underpayments. The Department must promptly correct underpayments to current recipients and to those who would be current recipients if the mistake causing the underpayment had not occurred.

When an underpayment is established, the Department shall send written notice to the recipient that 1) includes the amount and 2) informs the recipient of the right to request a fair hearing.

Before an action to recoup an overpayment, as provided in 106 CMR 706.290, is taken, the Department shall notify the recipient in accordance with 106 CMR 702.500.

If both an underpayment and an overpayment exist, the Department may offset one against the other before correcting the payment if the existence and amount of both the underpayment and the overpayment can be promptly determined. Otherwise, the Department shall proceed to correct the underpayment and overpayment independently.

Retroactive corrective underpayments shall not be considered as income or as a resource for purposes of determining continued eligibility and amount of assistance either in the month paid or in the following month.

All overpayments are subject to recovery by the Department. Overpayments involving possible fraud shall be referred to the Bureau of Special Investigations (BSI).

706.220 Causes of Overpayments

(A) Department Error

An overpayment may occur as a result of Department error. Department error includes failure of the worker to act on information that affects eligibility or the amount of assistance.

(B) Payments Pending a Fair Hearing Decision

An overpayment occurs when the Department's position is upheld on an appeal by a recipient of a reduction or termination, and aid was paid pending the implementation of the decision.

The overpayment in a split fair hearing decision, where the action of the Department is only partly upheld, is the amount found in the fair hearing decision to be incorrectly paid.

(C) Recipient Error, Misrepresentation or Withholding of Information

An overpayment may occur as a result of recipient error. Recipient error may occur when the recipient, because of a misunderstanding of his or her responsibilities, fails to notify the Department of a change in his or her resources or other circumstances within the prescribed 10 days of such a change. Certain instances of recipient error may be fraudulent and should be referred to the Bureau of Special Investigations (BSI).

An overpayment may also occur because the applicant or recipient knowingly misrepresents or withholds information from the Department.

If there is a reasonable possibility that fraud occurred in an overpayment of benefits, the case should be referred to BSI in accordance with 106 CMR 706.240.

706.230: Bureau of Special Investigations

The Bureau of Special Investigations (BSI) is authorized to investigate all overpayments involving possible fraud that are the result of recipient error, misrepresentation or withholding of information. The worker shall not investigate these cases. BSI has the responsibility to determine if an overpayment resulting from fraud exists.

BSI shall have full access to Department records and files for the purposes of fraud detection and control.

BSI investigators may enter any Department office to conduct an investigation or review procedures to determine if there has been a fraudulent claim or wrongful receipt of money under any assistance program administered by the Department. BSI employees may, in conjunction with such an investigation, examine all records, files, books and accounts within the scope of their investigation. Department workers shall cooperate fully with BSI representatives.

706.240: Referral to the Bureau of Special Investigations

Whenever there is a reasonable possibility that fraud occurred in an overpayment of benefits, the case shall be referred to the Bureau of Special Investigations (BSI).

All cases of actual or suspected medical vendor fraud or abuse must be referred to MassHealth.

706.250: Recovery

(A) The Department shall act promptly to recover all overpayments from current recipients and from previous recipients who (re)apply for and are determined eligible for TAFDC or EAEDC.

The Department shall refer overpayments where there is a reasonable possibility of fraud to the Bureau of Special Investigations (BSI). In such cases no recovery may take place until BSI notifies the Department that it has decided not to investigate or its investigation is complete, or unless recovery is being made pursuant to the Administrative Disqualification process in 106 CMR 706.300 through 106 CMR 706.365.

(B) The Department shall recover all overpayments from current recipients regardless of the amount of the overpayment. The Department shall recover all overpayments from previous recipients as defined in 106 CMR 706.280. An overpayment shall be recovered from the grantee(s) even if the grantee(s) was overpaid in one cash assistance program and is now receiving benefits in another cash assistance program.

(C) If through recoupment the monthly grant amount is reduced to zero, the assistance unit shall be considered to be still receiving assistance. For TAFDC cases, if through recoupment the monthly grant amount is between zero and $10, the assistance unit will receive a monthly payment. The minimum monthly payment shall be two dollars for TAFDC and EAEDC.

(D) In instances where recipients have used their cash benefits to purchase alcoholic beverages, lottery tickets or tobacco products, the recipient of such funds shall reimburse the Department for the full amount of that purchase.

706.260: Recovery of Overpayments Resulting from Department Error and Payments Pending a Fair Hearing Decision and Non-Fraudulent Recipient Error

(A) Overpayments resulting from Department error and non-fraudulent recipient error shall be recovered.

(B) Overpayments resulting from assistance paid pending implementation of a fair hearing decision following an appeal of reduction or termination in benefits shall be recovered if the fair hearing decision confirms the reduction or termination. The overpayment in a split fair hearing decision, where the action of the Department is only partly upheld, is the amount found in the fair hearing decision to be incorrectly paid.

(1) The Department shall inform the recipient that the Department will recover any aid paid pending implementation of a decision following a fair hearing that is decided in the Department's favor.

(2) The Department shall provide on the notification form letter the option for the appellant to waive the receipt of aid pending the hearing.

706.270: Recovery of Overpayments Resulting from Possible Fraud

Whenever there is a reasonable possibility that fraud occurred in an overpayment of benefits, recovery shall be made only after review by the Bureau of Special Investigations (BSI). If a recipient agrees with the BSI on an amount to be recovered by a grant reduction, the worker shall use this amount to make the recovery.

If the BSI indicates the cause of the overpayment to be other than fraud, the worker shall institute recovery according to the provisions of 106 CMR 706.250, 706.280 and 706.290.

706.280: Recovery from Previous Recipients

Recovery shall continue after a case closes unless the amount of the overpayment is less than $125, or meets the minimum recovery threshold established by the Department, whichever is higher. When the Bureau of Special Investigations (BSI) has determined that the case involved fraud, recovery must be made regardless of the amount of the overpayment. Upon agreement by the Department and previous recipient, the previous recipient may repay the overpayment by a lump sum payment, monthly installments or wage assignment as specified in 106 CMR 706.295. If the previous recipient who is employed is in arrears, he or she shall be required to repay the remaining overpayment by wage assignment in accordance with 106 CMR 706.295.

Recovery must be made if the overpaid assistance unit again begins to receive assistance, regardless of the amount of the overpayment.

Nothing in this section shall affect the availability of any other method of payment.

706.290: Recovery from Current Recipients

(A) Method of Recovery

(1) Recovery of an overpayment shall be sought from current recipients and from previous recipients who (re)apply for and are determined eligible for TAFDC or EAEDC. Such recovery shall be subject to the amounts specified in 106 CMR 706.290(B).

(2) Except as specified in 106 CMR 706.290(A)(3), the methods of recovery shall be by:

(a) recoupment, which is the recovery of an overpayment by means of a reduction in the recipient's grant;

(b) a lump sum payment;

(c) installment payments;

(d) wage assignment as specified in 106 CMR 706.295;

(e) a combination of the four; or

(f) any other recovery method permitted by law.

(3) If a recipient who refuses or fails to pay or who has been repaying his or her overpayment to the Department through a lump sum payment and/or installment payments or a combination of methods specified in 106 CMR 706.290(A)(2) misses one of his or her payments or is in arrears, he or she shall be required to repay the remaining overpayment by recoupment as specified in 106 CMR 706.290(A)(2)(a) or by wage assignment as specified in 106 CMR 706.290(A)(2)(d), subject to the amounts specified in 106 CMR 706.290(B).

(B) Amount of Recovery

(1) Effective 3/1/99, the Department shall recover overpayments on a monthly basis, in an amount equal to :

(a) 10 percent of the appropriate TAFDC Payment Standard (see 106 CMR 204.420 and 204.425) or EAEDC Standards of Assistance (see 106 CMR 321.420),

(b) an amount that exceeds 10 percent of the appropriate TAFDC Payment Standard or EAEDC Standards of Assistance, if the recipient agrees, through an arrangement with the Bureau of Special Investigations (BSI) (see 106 CMR 706.270) or the Department,

(c) a judgment or order of the court, or

(d) a repayment agreement established by an administrative hearing or an administrative disqualification hearing.

(2) For recovery of overpayments initiated prior to 11/1/92, the Department shall recover overpayments on a monthly basis, in an amount equal to one percent of the appropriate TAFDC Payment Standard (see 106 CMR 204.420 and 204.425) or EAEDC Standards of Assistance (see 106 CMR 321.420).

A recipient may have agreed or may now agree, through an arrangement with the Bureau of Sp ecial Investigations (BSI) (see 106 CMR 706.270) or the Department, to an amount that exceeds one percent of the appropriate TAFDC Payment Standard (see 106 CMR 204.420 and 204.425) or EAEDC Standards of Assistance (see 106 CMR 321.420).

706.295: Recovery by Wage Assignment

(A) Any judgment or order of the court requiring repayment to the Department, any overpayment established by administrative hearing or administrative disqualification hearing or any voluntary agreement to repay an overpayment shall include an assignment to the Department of a portion of the grantee's salary, wages, earnings or other periodic income pursuant to Massachusetts General Laws Chapter 18, Section 30.

(B) The applicant or recipient must be informed that to implement wage assignment, the Department will have access to information available to and provided by the Department of Revenue including, but not limited to, 14-day labor reporting information and wage information.

The Department need not obtain prior approval to acquire and use information for the reasons indicated in this section.

706.296: Recovery of Legal Counsel Fee

Upon notification by a Massachusetts Clerk of Court that a recipient owes any portion of the counsel fee assessed under G.L. c 211D, the Department shall recover the amount from the recipient's cash benefits in accordance with 106 CMR 706.290 (A)(1) and (2)(a).

706.300: Definition of an Intentional Program Violation (IPV)

An Intentional Program Violation (IPV) is any action by an individual for the purpose of establishing or maintaining eligibility or for increasing or preventing a reduction in the amount of the grant which is intentionally:

(A) A false or misleading statement(s) or misrepresentation, either orally or in writing, concealment or withholding of facts from the Department; or

(B) Any act(s) intended to mislead, misrepresent, conceal or withhold facts or to propound a falsity.

706.305: Intentional Program Violations (IPV) Disqualification Penalties

(A) IPV/ Disqualification Penalties

Unless the conditions in 106 CMR 706.305 (B) apply, an individual found to have committed an IPV by an Administrative Disqualification Hearing (ADH) or a court of appropriate jurisdiction as specified in 106 CMR 706.350 shall be ineligible to participate in the TAFDC or EAEDC assistance programs for a period of six months for the first finding, 12 months for the second finding, and permanently for the third finding.

The Department shall disqualify only the individual found to have committed an IPV, not the entire assistance unit. However, if the disqualified individual is a member of the filing unit, his or her income and assets shall be considered available to the assistance unit. The period of disqualification shall begin with the first possible month following the date written notification of the ADH decision is sent to the individual.

If the individual is no longer participating in the assistance programs or has been previously disqualified from eligibility, the IPV disqualification shall be deferred until such time as he or she applies or reapplies after the disqualification period expires, and is determined otherwise eligible. An individual who is sanctioned for any other reason shall have his or her IPV disqualification deferred until such time as the sanction has ended and the individual is determined otherwise eligible.

If the individual waives his or her rights to an ADH in accordance with 106 CMR 706.340 or signs a consent agreement with a court of law, the length of the disqualification period shall be determined by regarding each waiver or agreement as one finding that an IPV was committed.

Once disqualification commences, it shall continue uninterrupted regardless of current eligibility. In cases of an individual's disqualification resulting from a prior receipt of assistance, the disqualification will be postponed until after assistance is approved for the disqualified individual. Recovery of any overpayment, in accordance with 106 CMR 706.290, shall continue regardless of eligibility.

(B) Court Convictions for Fraud

(1) A grantee who is convicted of felonious fraud against the Department's programs for an amount of one thousand dollars or more is permanently ineligible to receive:

(a) TAFDC for himself or herself if the fraud was committed on or after 11/1/95; or

(b) EAEDC for himself or herself if the fraud was committed on or after 5/1/96.

In a two-parent household, both parents shall be ineligible for public assistance.

(2) An individual convicted in a federal or state court of having made a fraudulent statement or representation with respect to his or her place of residence, in order to receive assistance simultaneously from two or more states, is ineligible to receive TAFDC for a ten-year period if the fraud was committed on or after 9/26/96.

The ten-year period for the individual begins on the date he or she is convicted of the fraud.

706.310: Warning to Applicants and Recipients

At the time of application, the Department shall inform all applicants, in writing, of the disqualification penalties, in accordance with 106 CMR 706.305, for committing an Intentional Program Violation (IPV).

The Department shall notify all current recipients, in writing, of the disqualification penalties, in accordance with 106 CMR 706.305 for committing an IPV at the time of implementation of these regulations.

706.315: Introduction to Administrative Disqualification Hearings (ADH)

An Administrative Disqualification Hearing (ADH) shall be conducted by the Division of Hearings to determine if an Intentional Program Violation (IPV) has been committed, unless a determination is made by a court of law pursuant to 106 CMR 706.355. An ADH may be initiated by the Department if there is reason to believe an IPV was committed.

706.320: Advance Notice of an Administrative Disqualification Hearing (ADH)

The Department shall provide a written notice at least 30 days prior to the Administrative Disqualification Hearing (ADH), in accordance with 106 CMR 706.325. The notice shall contain:

(A) The date, time and place of the hearing;

(B) The charge(s) against the individual;

(C) A summary of the evidence, and how and where it can be examined;

(D) A warning that failure to appear without good cause, in accordance with 106 CMR 343.320(D), will result in a decision by the hearing officer based solely on the information provided by the Department at the hearing;

(E) A statement that good cause for failure to appear at the originally scheduled hearing must be presented to the Division of Hearings within 10 calendar days of the originally scheduled hearing in order to receive a new hearing;

(F) A statement that a postponement of the hearing may be requested if the request is made to the Division of Hearings at least 10 calendar days in advance of the originally scheduled hearing. However, the hearing shall not be postponed for more than 30 calendar days and only one postponement shall be permitted;

(G) A description of the IPV penalties in accordance with 106 CMR 706.305. This warning shall inform the individual of the applicable period of disqualification if he or she is found guilty at the ADH;

(H) A statement that the hearing does not preclude the Commonwealth from prosecuting the individual for an IPV in a civil or criminal court action or from collecting an overpayment;

(I) A listing of individuals or organizations that may provide free legal representation to individuals alleged to have committed intentional program violations;

(J) An explanation that the individual may waive his or her right to an ADH; and

(K) A statement that the individual has the right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against him or her in a court of law.

706.325: Timeliness Standards

The Department shall provide written notice to the individual suspected of an Intentional Program Violation (IPV) at least 30 days in advance of the Administrative Disqualification Hearing (ADH). ADH decisions shall be made within 90 days of the date of the notice.

The Department must initiate administrative action which will make the decision effective beginning the first possible month following the date the individual receives written notification of the ADH decision, consistent with the requirements of 106 CMR 706.305.

706.330: Consolidation of Administrative Disqualification Hearing (ADH) with Fair Hearing

To determine the amount of the claim, the Department may combine a fair hearing and an ADH if the factual issues arise out of the same or related circumstances. The individual shall receive prior notice that the hearings will be consolidated and that the claim amount may be determined as a result. The individual shall also be informed that due to the consolidation, he or she shall not have the right to a subsequent fair hearing to dispute the claim amount. The timeliness standards of 106 CMR 706.325 shall be in effect.

The rights and regulations governing fair hearings, as specified in 106 CMR 343.000, apply to ADHs. If, however, 343.000 conflicts with 106 CMR 706.300 through 706.365, the provisions of the latter apply.

706.335: The Administrative Disqualification Hearing (ADH)

If the individual or his or her representative fails to appear at the ADH without good cause, in accordance with 106 CMR 343.320(D), the ADH shall still be conducted. The hearing officer is required to carefully consider the evidence and determine if an IPV was committed based on a preponderance of the evidence standard. If the individual is found to have committed an IPV, but the Director of the Division of Hearings for the Department later determines that the individual or his or her representative failed to appear with good cause in accordance with 106 CMR 343.320(D), the previous decision shall no longer remain valid and the Department shall conduct a new hearing. The individual has 10 days from the date of the originally scheduled hearing to present reasons indicating good cause for failure to appear.

706.340: Waiver of an Administrative Disqualification Hearing (ADH)

A waiver form allowing the individual to forgo the ADH may be issued with the advance notice of an ADH. An individual suspected of an IPV may complete, sign and return the waiver form to the Department. By completing, signing and returning the waiver form, the individual agrees to all penalties and requirements, including repayment, incumbent upon an individual who is found guilty of an IPV at an ADH.

The waiver form shall include:

(A) The date the signed waiver must be received by the Department, with the signatures of the accused individual and the grantee, if the accused individual is not the grantee;

(B) A statement of the accused individual's right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against him or her in a court of law;

(C) A statement that signing the waiver will result in automatic disqualification for the appropriate period and recoupment, even if the individual does not admit to the facts as presented by the Department; and

(D) The opportunity for the individual accused of an IPV to specify whether or not he or she admits to the charge(s) cited in the ADH advance notice. (See 106 CMR 706.320.)

706.345: Results of an Administrative Disqualification Hearing (ADH) or Waiver - Notification

(A) If the hearing officer determines the individual did not commit an Intentional Program Violation (IPV), the Department shall inform that individual in writing of such finding.

(B) If the hearing officer determines the individual committed an IPV, the Department shall inform the individual in writing of such findings, and that he or she will be disqualified from the program for the appropriate time period in accordance with 106 CMR 706.305. The notification shall contain the following information:

(1) The period of disqualification; and

(2) The adjusted grant level and the right of the assistance unit to a Fair Hearing regarding the new grant level unless the hearing has already been consolidated with an ADH or a waiver or consent agreement has been filed.

(C) Recoupment of any overpayment shall be in accordance with 106 CMR 706.290.

706.346: Out-of-State Intentional Program Violation Disqualification Referrals for TAFDC

The disqualification of an individual for an Intentional Program Violation (IPV) in a Title IV program such as TAFDC in another state shall be applicable in Massachusetts as if it originated in Massachusetts, pursuant to 106 CMR 706.300 et seq.. Penalties arising from the disqualification of an individual for an IPV in another state shall be in accordance with 106 CMR 706.305.

706.350: Civil and Criminal Prosecution

A case of an alleged Intentional Program Violation (IPV) may be taken to a court of appropriate jurisdiction for civil or criminal prosecution. The case may be prosecuted by the United States of America, the Commonwealth of Massachusetts or a political subdivision as prosecutor or plaintiff.

706.355: Duties and Limitations on the Department with Respect to Court Ordered Disqualification

The Department shall disqualify an individual found guilty of an Intentional Program Violation (IPV) by a court, in accordance with 106 CMR 706.305, unless otherwise ordered by the court. The Department shall initiate the disqualification period with the first possible month following the date the disqualification was ordered, consistent with the requirements of 106 CMR 706.305.

706.360: Notification of Court Imposed Disqualification

If a court finds an individual guilty of an Intentional Program Violation (IPV), a written notice shall be sent prior to the period of disqualification, whenever possible. This notice shall inform the member of the decision and shall be in accordance with 106 CMR 706.305.

706.365: Overturned Intentional Program Violation (IPV) Disqualification

In cases where a determination of an IPV is overturned or reversed by a court of appropriate jurisdiction, the Department shall reinstate the individual in the assistance unit if the assistance unit is otherwise eligible. The Department shall restore any benefits that were lost as a result of the disqualification.

706.400: Delivery of Benefits

(A) Requirement

The monthly grant is paid to the grantee in two semimonthly installments. These installments and retroactive or additional payments are made by one of the following methods:

(1) direct deposit to his or her bank account as specified in 106 CMR 706.410;

(2) electronic benefit transfer (EBT) as specified in 106 CMR 706.420; or

(3) mailing a check as specified in 106 CMR 706.400 (C).

(B) Exceptions

The full monthly grant is not made by the methods stated in 106 CMR 706.400(A) when:

(1) a grantee does not receive a monthly grant in accordance with 106 CMR 706.400 (D);

(2) a grantee is a participant in the Full Employment Program as specified in 106 CMR 207.180; or

(3) a partial or full monthly grant is made to the recipient as:

(a) a vendor payment in accordance with 106 CMR 706.600, et seq.;

(b) an immediate needs payment in accordance with 106 CMR 702.130; or

(c) an immediate assistance pending replacement payment in accordance with 106 CMR 706.530.

If 106 CMR 706.400 (B)(3)(a) applies, the balance of the monthly grant, if any, will be paid to the recipient in accordance with 106 CMR 706.400 (D).

(C) Mailing a Check

(1) When a grantee is temporarily absent from the Commonwealth (see 106 CMR 203.660), the local office director or designee may authorize delivery of checks to the temporary out-of-state address.

(a) In cases where checks are sent to a temporary out-of-state address, continued residence or intent to retain residency, as appropriate, must be verified as specified in 106 CMR 706.400 (C)(1)(b).

(b) One of the following documents, provided it bears the name and Massachusetts address of the recipient, constitutes acceptable verification:

(i) a current rent receipt;
(ii) a current gas bill;
(iii) a current electric bill;
(iv) a current telephone bill; or
(v) any other form of documentation that the supervisor has determined verifies the continued residence or intent to retain residency, as appropriate, of the recipient.

(2) In situations other than 106 CMR 706.400 (C)(1), the Department may, at its discretion, authorize delivery of checks to grantees.

(3) To avoid the misdirection of checks, the worker must require verification of address from an applicant or recipient who moves and requests a change of address.

Acceptable verification includes a rent receipt, statement from the new landlord, or a gas, electric or telephone bill that shows the new address.

(D) Minimum Monthly Payment

The smallest monthly grant paid for TAFDC is $10. The smallest monthly grant paid for EAEDC is $2. If the grant amount is greater than zero but less than the smallest monthly grant paid for the cash program, the grantee is considered to be receiving assistance, but will not receive a monthly payment.

706.410: Direct Deposit

(A) Requirement

(1) The grantee with an active account at a banking or financial institution shall have his or her grant deposited directly to that account.

(2) The grantee who establishes an account is required to cooperate with the direct deposit process.

Failure to meet the requirements of 106 CMR 706.410 (A)(1) or (2) shall result in the grantee being sanctioned in accordance with 106 CMR 706.410 (D).

(B) Exemptions

The director or designee may waive the requirement in 106 CMR 706.410 (A)(1) or (2) when no bank, financial institution, or public transportation is accessible. Exemptions are limited to the following situations:

(1) a grantee who does not have access to public transportation within one mile of his or her residence or within one mile of the financial institution; or

(2) a disabled grantee who can demonstrate that he or she would be unable to meet this requirement due to lack of handicapped-accessible transportation services.

(C) Exception

Direct Deposit is not required when the grantee is a battered victim and the co-holder of the account has a history of physical or emotional abuse as specified in 106 CMR 204.120 (B)(3)(a) or 321.120 (B)(3)(a).

(D) Sanction for Noncompliance with Direct Deposit Requirement

A grantee who fails to comply with the requirements of 106 CMR 706.410 (A)(1) or (2) will be sanctioned by a denial or a reduction of cash benefits in an amount equal to his or her portion of the assistance grant. In an assistance unit with no other dependents, benefits will be terminated.

A sanctioned TAFDC grantee is still subject to other TAFDC provisions including, but not limited to, Time-Limited benefits as specified in 106 CMR 203.200, the Family Cap as specified in 106 CMR 203.300 and the Work Program requirements as specified in 106 CMR 203.400.

706.420: Electronic Benefit Transfer (EBT)

(A) Requirement

Payment of cash benefits not made through Direct Deposit or check shall be made through the electronic benefit transfer (EBT) method at the discretion of the Department. Refer to 106 CMR 706.400: Delivery of Benefits.

(B) EBT Accessibility

Cash benefits paid through EBT shall be accessible to the grantee or to an authorized payee as designated by the grantee. Refer to 106 CMR 701.370: Authorized Payee - Electronic Benefit Transfer (EBT). The grantee and/or the authorized payee must use his or her EBT card and personal identification number (PIN) to have access to EBT for the withdrawal/debit of cash benefits.

(C) Replacement of Benefit Access Cards

Replacement of a lost or stolen Benefit Access Card shall be in accordance with 106 CMR 701.450:

(D) Inactive EBT Accounts

When an EBT cash benefit authorization remains unaccessed for 90 consecutive days, the Department shall notify the grantee that the EBT cash benefits have been purged. These purged EBT cash benefits may be restored to the grantee during the next six months upon request. The local office director or designee must approve or deny the request for restoration of the purged cash benefits. Situations when the director or designee may approve the restoration of purged EBT cash benefits include, but are not limited to:

(1) temporary absence (see 106 CMR 203.660 and 320.540);
(2) hospitalization; or
(3) an emergency that prevented the recipient from accessing the EBT cash benefits within the 90 days.

EBT cash benefits remaining purged for an additional six months shall be permanently purged.

(E) Special Rules Regarding Recovery of Unaccessed EBT Cash Benefits

(1) Unaccessed EBT cash benefits may be recovered immediately in their entirety if it has been confirmed that the benefits were issued when the grantee was ineligible by reason of being incarcerated in a penal institution.

(2) Unaccessed EBT cash benefits may be recovered in their entirety within 48 hours of issuance if the issuance was due to Department or banking error. After the 48 hours have elapsed, with the exception of circumstances described in 106 CMR 706.420 (E)(1), recovery must be made in accordance with 106 CMR 706.290: Recovery from Current Recipients.

706.430: Check Cashing Requirements

All parties cashing Commonwealth of Massachusetts, Department of Transitional Assistance checks, such as banks, credit unions, check cashers, retailers, grocers and other financial and/or commercial entities, must verify that the identity of the person attempting to transact the check is that of the named check payee.

The check cashing party must obtain two forms of identification (such as a driver's license, Social Security card or MassHealth card) from him/her. One document must include a photo-identification If a photo-ID is not available, the check cashing party must obtain three forms of ID. Then, the check cashing party must:

(1) Verify that the photograph on the identification, if any, matches the person attempting to transact the check,

(2) Verify that the Social Security number on the alternative identification matches the Social Security number on the check,

(3) Write the appropriate information (i.e., Date of Birth, Social Security Number, Driver's License Number, etc.) taken from alternative IDs onto the back of the check,

(4) Write the birth date of the person attempting to transact the check onto the back of the check,

(5) Verify that the signature(s) on the alternative ID(s) matches that of the endorsement on the back of the check being cashed, and

(6) If possible, take a picture of the client transacting the check.

Failure to follow the above requirements shall result in the refusal by the Commonwealth to indemnify check cashing parties from any losses incurred by cashing Department checks.

706.500: Lost and Stolen Checks

(A) When a recipient reports that a check is lost or has not been received, the worker must determine:

(1) the address to which the check was mailed; and
(2) whether or not the check has been returned to the Department.

(B) If the recipient has reason to believe that the check has been stolen, he or she must report the theft to the police.

(C) The recipient may request a replacement check when:

(1) a check has been returned to the Department; or
(2) a check has not been returned to the Department and

(a) four days (including the check date) have elapsed, and
(b) he or she signs a form prescribed by the Department. If the recipient does so, he or she must be advised of the need to return the original check if it is received at a later date.

706.510: Authorization of a Replacement Check

(A) Unless the weight of the evidence indicates that the recipient or his or her designee has transacted the check(s) claimed to be lost or stolen, the Department must approve a request for a replacement check when:

(1) the original check is reported lost or stolen and four days (including the check date) have elapsed; or

(2) the original check has been returned to the Department and the recipient has corrected the circumstances that made the check undeliverable.

(B) If 30 or more days have elapsed since the issuance of the check, the local office director or his or her designee must approve or deny the replacement request.

Situations when the director or designee may approve the replacement request include, but are not limited to:

(1) temporary absence (see 106 CMR 203.660),

(2) hospitalization, or

(3) an emergency that prevented the recipient from cashing the check within 30 days.

706.520: Issuance of a Replacement Check

Before issuing a replacement check, the Department shall:

(A) request a stop payment order on the original check if the original check has not been cashed; or

(B) require the recipient to sign a form prescribed by the Department that the endorsement is not his or hers if the original check has been cashed.

706.530: Immediate Assistance Pending Replacement

If immediate assistance is needed pending the arrival of the replacement check, food or shelter invoices, or both, must be authorized. The amount of such invoices must be deducted from the amount of the replacement check. If the check is not subsequently replaced, the amount of such invoices shall be considered an overpayment. This overpayment shall be subject to the overpayment regulations in 106 CMR 706.200 through 706.290.

706.600: Vendor Payments

Vendor payments are money payments made directly to a provider of goods and services on behalf of recipients of EAEDC or TAFDC. Financial assistance in the form of vendor payments must be provided when:

(A) The grantee fails to meet certain TAFDC eligibility requirements as specified in 106 CMR 706.610;

(B) The grantee has demonstrated an inability to manage funds or a presumption of mismanagement exists, as defined in 106 CMR 706.620 (A);

(C) The grantee requests that vendor payments be established; or

(D) Certain TAFDC or EAEDC related benefits are authorized.

All plans for assistance in the form of vendor payments must be approved by the supervisor. When vendor payments are authorized as an alternative to full, direct money payments, the grantee must be given the opportunity to participate in the determination of the payment plan and in the selection of the vendor, to the extent that this is possible.

706.610: Vendor Payments for TAFDC Sanction Situations

Assistance in the form of vendor payments is required when the grantee does not meet the requirements of:

(A) the ESP as specified in 106 CMR 207.000 et seq.;

(B) the CSEU program as specified in 106 CMR 203.700 through 203.780;

(C) the Work Program as specified in 106 CMR 203.400;

(D) Immunization as specified in 106 CMR 203.800;

(E) cooperation with the Department in identifying and providing information that would assist the Department in pursuing any third-party liability for medical services, as specified in 106 CMR 203.785;

(F) a teen parent to meet the school attendance requirements as specified in 106 CMR 203.610;

(G) eligibility due to a sanction for a court conviction for fraud as specified in 106 CMR 706.305; and

(H) Direct Deposit as specified in 106 CMR 706.410.

Assistance in these cases is provided in the form of vendor payments to the extent possible. Any remaining portion of the grant to which the assistance unit is entitled must be made to the grantee.

Vendor payments may be terminated, with a return to direct money payment status, only when the requirements of these programs have been met.

706.620: Vendor Payments for Mismanagement of Funds

Vendor payments are required when a grantee has demonstrated an inability to manage funds such that the grant has not been used in the best interests of the child or the assistance unit. This means that the grantee has mismanaged funds to such an extent that allowing him or her to manage the grant would be a threat to the health or safety of the assistance unit. Mismanagement must have continued for a period of at least one month before a finding of financial mismanagement can be made by the Department.

When it appears that a grantee has demonstrated mismanagement of funds, the worker shall proceed to establish a mandatory vendor payment(s) on the basis of mismanagement.

When vendor payments are established on the presumption of financial mismanagement, the worker must refer the grantee to a social service agency specified by the Department for counseling. A statement of the specific reasons that demonstrate the need for making vendor payments must be placed in the case record.

(A) Presumption of Mismanagement

The Department reserves the right to presume mismanagement when one of the following situation exists: shelter costs, including, but not limited to, rent, heat, fuel, and utilities have not been met; or an EA payment for rent or mortgage arrearage is made on behalf of the assistance unit.

Although other relevant considerations may be taken into account, the Department shall consider the following situations as exceptions to presumption of mismanagement.

(1) The assistance unit has experienced some emergency or extraordinary event for which it was appropriate for available funds to be spent; or

(2) The assistance unit has withheld the payment as a reasonable exercise of consumer rights when there is a legitimate dispute as to whether terms of an agreement have been met.

(B) Number of Vendor Payments

The number of vendor payments authorized in cases of mismanagement depends on the circumstances of the case. If the grantee has had difficulty with the management of all budgetary items, the worker shall provide for assistance for all items, except personal care, in the form of vendor payments.

If the grantee has had difficulty with only certain items, such as rent, the worker shall make vendor payments for such selected items only.

(C) Review of Cases Involving Mismanagement

Cases in which vendor payments are based on financial mismanagement must be reviewed, for the purpose of determining whether the need for vendor payments continues. Vendor payments are terminated when there is evidence that the grantee is able to manage direct money payments.

706.630: Voluntary Vendor Payments

An applicant or recipient may, at any time, request that vendor payments be established. The request must be made in writing by the applicant or recipient and must be filed in the case record. Voluntary vendor payments shall continue until the applicant or recipient requests in writing that they be terminated.

706.640: Vendor Payments for EAEDC- or TAFDC-Related Benefits

Vendor payments are also used to provide certain EAEDC or TAFDC-related benefits. 106 CMR 705.000 includes a description of these benefits.

If the benefit is provided as an advance on the grant, the amount of the vendor payment must be deducted from the amount of the grant on which it was drawn. Other benefits are provided in addition to the grant and are provided for in the amount prescribed in 106 CMR 705.000.

706.650: Determination of Amount of Vendor Payments

A vendor payment for housing must be made in the amount of the rent or mortgage payment contracted for by the applicant or recipient.

A vendor payment for fuel or utilities must be made in the amount of the monthly cost of the fuel or utility averaged over a 12-month period, as determined by the applicant's or recipient's arrangement with the fuel or utility company.

The total amount provided by vendor payments must not exceed the total amount of the grant for which the assistance unit is eligible.

706.660: Vendor Payments for Housing

When a vendor payment is made for rental housing, the worker must obtain written certification from the City, the Town Board of Health, or, if in Boston, the Inspectional Services Department, Housing Division, stating that the housing complies with the minimum standards for health and safety, established by that agency.

If the housing does not meet these requirements, vendor payments will not be made and the worker shall make a referral to the Department of Social Services if applicable.

706.670: Notification of Request for Vendor Payments

An applicant or recipient must be given written notification whenever the local office receives a vendor's request that vendor payments for mismanagement be established on the basis of nonpayment of bills. If a presumption of mismanagement exists, or if the Department otherwise finds that mismanagement exists, the worker shall establish a mandatory vendor payment(s). (See 106 CMR 706.620.) The applicant or recipient must be given written notification of the disposition of the vendor's request.

706.680: Notification of Vendor Payment Status

(A) Applicant or Recipient Notification

An applicant or recipient whose grant is provided, in whole or in part, in the form of vendor payments must be given written notification of the payment status. This notification must include the requirement that the Department must provide one month notice to a vendor(s) prior to the termination of a vendor payment(s), the reason(s) for the status and the right to a fair hearing.

(B) Vendor Notification

The Department must provide written notification to a vendor whenever a vendor payment(s) is started or terminated; and

(1) except as specified in 106 CMR 706.690, the Department must send written notice one month in advance of the date of terminating a vendor payment(s); and

(2) the director or designee may waive this requirement under certain circumstances determined by the Department.

706.690: Exceptions to Advance Vendor Notification

(A) The Department is not required to send a written notice to a vendor(s) one month in advance of a vendor payment termination when:

(1) the recipient has verified, by the Board of Health or appropriate code enforcement authority, the existence of a health and/or safety code violation;

(2) the recipient's assistance is terminated;

(3) the recipient's monthly grant amount is less than the amount of a vendor payment(s);

(4) the recipient has verified that the last month's rent was paid as part of a lease agreement;

(5) the TAFDC recipient is participating in the Full Employment Program as specified in 106 CMR 707.180; or

(6) the director or designee has waived this requirement as specified in 106 CMR 706.680.

(B) For the exceptions specified in 106 CMR 706.690(A), the Department is required to send a written notice to the vendor no later than the date of termination of a vendor payment(s).

706.700: Quality Control

Quality Control is a system of continuing review designed to measure the accuracy of decisions on eligibility and the amount of assistance for TAFDC, MassHealth, food stamp benefits and EAEDC.

The Division of Quality Control has responsibility for administering the review system. The review is an ongoing process based on a sample of TAFDC cases.

706.710: Requirement of Cooperation with Quality Control Reviews

When a case is selected for review, the grantee is required to cooperate with the Quality Control review process as a condition of continued eligibility. Cooperation includes, but is not limited to, a personal interview with the Quality Control reviewer and the furnishing of information and verifications necessary to determine eligibility and the amount of assistance.