

ARKANSAS REGISTER

Transmittal Sheet

* Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
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For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Workforce Services

Department Temporary Assistance for Needy Families

Contact Derwin Taylor E-mail derwin.taylor@arkansas.gov Phone 501-683-1353

Statutory Authority for Promulgating Rules Arkansas Code 20-76-444, Arkansas Act 1705 of 2007

Rule Title: Amendment to TEA State Plan Arkansas Title IV-A, TANF and TEA forms 1412,1413 and Policy Sections 3660-3660.4

Intended Effective Date
(Check One)

Date

Emergency (ACA 25-15-204)

Legal Notice Published

Jun 4, 2011

30 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

Jul 11, 2011

Other 9/5/11
(Must be more than 30 days after filing date.)

Reviewed by Legislatice Council

Aug 15, 2011

Adopted by State Agency

Sep 5, 2011

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Derwin Taylor derwin.taylor@arkansas.gov

Aug 19, 2011

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-682-3101

Phone Number

artee.williams@arkansas.gov

E-mail Address

Director

Title

Aug 19, 2011

Date

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Department of Workforce Services
DIVISION: Temporary Assistance for Needy Families
PERSON COMPLETING THIS STATEMENT: Derwin Taylor
TELEPHONE NO. 501-683-1353 **FAX NO.** 501-683-1351 **EMAIL:** derwin.taylor@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Amendment to Transitional Employment Assistance (TEA) State Plan Arkansas Title IV-A, TANF and TEA forms 1412,1413 and Policy Sections 3660-3660.4

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X _____

2. Does this proposed, amended, or repealed rule affect small businesses?
Yes _____ No X _____

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

NA

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total NA

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total NA

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

STATE PLAN CHANGES

6.5 Extended Support Service

Such families are deemed financially eligible for Extended Support services if they were eligible for TANF cash assistance in the month prior to case closure due to employment. Such services will include one year of extended Medicaid coverage for those who meet the eligibility criteria under federal law for such coverage and one year of extended child care assistance at no cost with an additional year of child care assistance based on the current Division of Child Care fee scale.

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3. A child under the age of 18 who is under court-ordered supervision.
4. A child under age 18 who would be required to be included in the TEA grant, if not for the receipt of SSI or foster care payments.

A child described above who is living in the home of the TEA participant and for whom he or she exercises care and responsibility will be covered by the child care guarantee regardless of whether the child is included in the TEA cash assistance unit. This includes "family cap" children.

The age limits listed above apply to all eligible children where child care is paid by DWS.

Items 3 and 4 must be verified by the participant by providing necessary proof to the DWS Workforce Specialist.

3655.1 Guidelines For Payment Of Child Care Services

Child care (including relative care) for TEA participants will be purchased from eligible providers through the DHS Child Care Certificate Program.

The county cap rate is the local market rate determined and established by the Division of Child Care and Early Childhood Education. The county cap rate is based on:

- an 8-10 hour day of care, and
- established rates per child.

The maximum absentee days that may be paid by TEA each trimester are as follows:

- For the months of July through October:
12 absentee days, not to exceed 6 days in any month
- For the months of November through February:
16 absentee days, not to exceed 8 days in any month
- For the months of March through June:
12 bsentee days, not to exceed 6 in any month.

In situations where care exceeding 10 hours per day is required, extended care will be provided.

Note: Providers will not charge TEA participants for registration or activity fees.

Child care payments authorized to individuals providing care will be accomplished utilizing the Division of Child Care and Early Childhood Education (DCCECC) Automated Child Day Care System.

Any month in which a child care provider bills DHS for five (5) or more days will count as a month toward a participant's 24 cumulative months of ESS child care. If more than one child receives child care services, at least one of the children must receive child care services for five days for the month to count toward the limit. (See example below). A day in which any part of the day is billed counts towards the limit.

For purposes of the lifetime count, this policy is retroactive to September 2001. Any month, beginning with September 2001, in which five (5) or more days were billed for a child will count toward the lifetime limit.

Example: The participant has two children who received child care services at a local daycare center. Both children were at the daycare center for three days during the month for which the services were billed. This will not count as a month towards the participant's 24 month lifetime limit as neither child received at least five days of child care services.

If a participant has not needed child care prior to obtaining employment, but later requests child care to accept or maintain employment, the participant may receive ESS child care assistance.

3660.2 Minimum Hours of Work Requirement

To receive ESS child care assistance at no cost during the first twelve months at least one of the following conditions must be met:

- earnings alone caused the family to be income ineligible for TEA, or
- the participant is employed an average minimum of 20 hours per week.

To receive ESS child care assistance during the second year, a participant must be employed an average of 25 hours per week .

Note: Income is not considered the first year, just required hours. When the participant makes an initial request for ESS child care, their declaration of the number of hours worked is accepted. The Division of Child Care and Early Childhood Education, (DCCECE) worker will only verify hours the second six months of the first year. During the second year, the DCCECE worker will verify both hours and income because hours of employment and income are both considered when determining where the participant falls on the fee scale. If the verified hours are less than 20, or the earnings are not sufficient to cause TEA ineligibility, the ESS child care assistance case will be closed.

The participant will be advised of the minimum hours of work requirement prior to authorization of the ESS child care via form DCO-1413, Notice of ESS Child Care Lifetime Limit and Minimum Hours of Work Requirement.

At each authorization the participant will be notified via DCO-1412, TEA Notice of Child Care Action, of the number of months remaining in his or her lifetime limit.

3660.3 Verification of Hours of Employment

Local offices responsible for keying child care will follow the procedures outlined in this section.

At the initial request for ESS child care assistance, the participant's declaration regarding the number of hours worked per week or the amount of earnings received will be accepted. However, prior to renewal of the authorization for the second six months of the first twelve months, the hours of employment or earnings must be verified. Form TEA-1414, ESS Child Care Request for Verification of Earnings and Hours of Employment, will be sent to the participant to request the verification. If the verified hours of employment are less than 20 hours per week and the earnings are not sufficient to cause TEA ineligibility, the ESS child care case will be closed after appropriate notice.

The participant must return the completed form TEA-1414, ESS Child Care Request for Verification of Earnings and Hours of Employment, and provide verification of income and number of hours of employment per week for the second year of ESS child care assistance (See TEA policy 3660.4). If the verified hours of employment are less than the required minimum hours the ESS child care case will be closed after appropriate notice.

Failure to verify income and the hours of employment will result in the ESS child care case being closed after appropriate notice.

The participant will be advised of the closure via TEA-1412, Child Care Notice of Action. The child care provider must also be notified that the child care case is being closed via TEA-1404, Termination or Change of Service.

3660.4 Division of Child Care Fees

The fee scale is used by the worker in the second year of ESS/CC to determine the percentage of the child care payment for which the family will be responsible (See Appendix C).

This will be determined using earnings information reported by the participant for each employed TEA adult participant and verified by the worker. The fee scale is used as follows:

1. Take the total gross wages for each adult participant and multiply by
 - 4.334 if paid weekly
 - 2.167 if paid bi-weekly
 - 2 if paid semi-monthly

- 1 if paid monthly
2. Total the monthly earned income for all employed TEA adult participants;
 3. The parent or caretaker relative who is employed at least 30 hours per week will receive a \$100.00 work-related deduction from his or her gross income. If the adult participant is employed less than 30 hours per week, no deduction is allowed.
 4. Add the unearned income to the earned income total (after appropriate deductions).
 5. Use the total income amount in #4 to determine which income group the family belongs, according to family size (parents or caretaker relative and siblings).
 6. The fee percentage the participant will be required to pay can be found on the bottom row of the scale. A different fee rate is found beneath each income level and ranges from 0% to full rate. (Refer to Appendix C .)

3660.5 Participant's Responsibility to Pay ESS Fees to Provider

The following will be explained to the participant:

1. The participant's responsibility for paying registration and activity fees (as determined by the provider).
2. The amount the participant is expected to pay to the provider (fee scale);
3. The participant's responsibility for making timely payments to the child care provider;
4. When and how often payments will be made will be based on arrangements made between the participant and provider; and
5. Failure to pay required fees may result in termination of ESS/CC benefits.

3660.6 When the Participant Fails to Pay Required Fees

When the child care provider notifies the local office that the participant has failed to pay the required fee, the worker will obtain the following information from the provider:

- total amount of delinquent fee;
- time period for which fees are owed; and
- date last payment was made by the participant.

Using the above information, the worker will notify the participant that the ESS/CC case will be closed within ten (10) calendar days of the date of the notice. The notice will include the reason(s) why the action is being taken and steps the participant can take to avoid the action. To avoid closure the participant must:

**Arkansas Department of Workforce Services
Transitional Employment Assistance
Child Care Notice of Action**

TO:

FROM:

DATE:

Section I. Notice of Action

The following action(s) has been taken regarding your eligibility for child care assistance:

- No change was made regarding your eligibility for child care assistance.
- The amount of child care that you pay has changed. DWS will pay \$ _____ and you will pay per _____ to the child care provider effective _____.
- Your child care assistance will end on _____.

Section II. Notice of TEA Extended Child Care (ESS CC) Authorization

- 12 Months No Cost ESS Child Care**
Because your TEA cash assistance case closed while you were employed, you are currently receiving ESS Child Care. You are currently in the _____ month of receiving ESS Child Care assistance at no cost to you. This is to notify you that you have _____ months of ESS Child Care remaining in your 12 months of no-cost child care.
- 12 Months Sliding Fee Scale Child Care**
Because you have previously received 12 months of ESS Child Care at no cost to you, you are now receiving ESS Child Care on a cost-sharing basis. You are currently in the _____ month of your 24 months lifetime limit of ESS Child Care. You have _____ months of ESS Child Care remaining in your lifetime limit. DWS will pay \$ _____ and you will pay \$ _____ per _____ to the childcare provider effective _____.

Section III REASON FOR ACTION

Our policy supporting this action is TEA policy _____.
This action will be taken on _____. You may appeal this action by filing your request for a hearing by _____ (30 days from date of notice). Benefits may continue at the current level if you file your request by _____ (within 10 days from date of notice). If assistance is continued at its present level or reinstated until a decision is reached, you may be required to repay the additional benefits if the hearing decision is not in your favor.

PLEASE READ PAGE 2 OF THIS NOTICE FOR INFORMATION ABOUT WHAT TO DO IF YOU DISAGREE WITH THIS ACTION AND YOUR RIGHT TO A HEARING.

If you become unemployed, you must report this change within 10 days of the date the change occurs. By reporting in a timely manner, you will preserve any remaining months of this benefit. If you continue to receive ESS child care assistance while you are not employed, you will be required to repay all ESS Child Care assistance received during that time and you may be subject to prosecution for fraud and fined and/or imprisoned.

DWS Workforce Specialist Signature

Phone Number

Section IV: Your Right to a Hearing

If you disagree with the action the agency plans to take/has taken, you may request and receive a hearing. If you request a hearing by the date shown in Section III on the front of this form, child care assistance will continue pending a hearing. If assistance is continued at its present level or reinstated until a decision is reached, you may be required to repay the additional benefits if the hearing decision is not in your favor. The latest you may file an appeal is 30 calendar days from the date of this notice. However, benefits will not be continued pending the hearing if your appeal is filed after the date shown in the box on the front of this form.

Section V: How to File for a Hearing

If you are not satisfied with the decision on your case, you may request a hearing by completing form DHS-1200 (Appeal for a Hearing), or by writing the Appeals and Hearings Section, P. O. Box 1437, Slot N401, Little Rock, AR 72203-1437. Form DHS-1200 can be obtained from the DHS county office or DWS local office.

Section VI: Your Right to Representation

If you request a hearing, you have the right to appear in person and to be represented by a lawyer or other person you select. You may contact the Helpline Center for Arkansas Legal Services at 1-800-952-9243 to request legal aid (if available in your area).

Prior to the hearing, you and/or your representative have the right to review your record and any other evidence that will be presented at the hearing. You have the right to present evidence in your own behalf, to bring witnesses and to question any person who is presented as a witness against you.

Section VII: Your Responsibility to Report Changes

It is your responsibility to report changes in school attendance, employment, earned income, and any other changes that could affect your eligibility for child care. Changes must be reported within 10 calendar days to your child care worker. Failure to report changes may result in an overpayment and action may be taken by DHS or DWS to collect the overpayment. You may also be subject to prosecution for fraud and fined and/or imprisoned.

Instructions

TEA-1412

Child Care Notice of Action

Purpose

Form TEA-1412, Child Care Notice of Action, is used to notify a TEA participant or a former TEA participant of any action taken regarding ESS child care assistance and of the number of months remaining in the Extended Supportive Services (ESS) Child Care 24 month lifetime limit. Form TEA-1412 will be sent to the ESS Child Care participant at each re-authorization.

Completion

Section I – TEA Child Care

The DWS Workforce Specialist will indicate the action taken by checking and completing the appropriate item.

Section II – Extended Support Services Child Care

- 12 Month No Cost ESS Child Care - The DWS Workforce Specialist will check the box and complete the number of months the participant has received ESS Child Care and the number of months remaining in the 12 months of no cost Child Care.
- 12 Months Sliding Fee Child Care - The DWS Workforce Specialist will check the appropriate boxes and complete information in the spaces provided.

Section III - Reason for Action - A clear and concise statement as to the reason for the action will be shown in the space provided. This statement should be specific and in language the participant can be expected to understand. The specific TEA manual policy reference will be shown. In the appropriate spaces, the DWS Workforce Specialist will complete the date the action has been or will be taken and the date by which the participant may appeal the action. This date will be 10 days following the date form TEA-1412 is sent. (The participant has 30 calendar days in which to appeal the action, however the appeal must be filed within 10 days of the date the form is sent in order to continue receiving benefits pending the hearing.)

Routing

Form TEA-1412 will be mailed to the participant. A copy will be filed in Section 5 of the case file.

Retention

The TEA-1412 will be retained for five years. Refer to the **Arkansas General Records Retention Schedule** for additional information.

**Arkansas Department of Workforce Services
Transitional Employment Assistance
Notice of ESS Child Care Lifetime Limit
& Minimum Hours of Work Requirement**

To: _____ Date: _____
_____ From: _____

This is to notify you that Arkansas state law has limited TEA Extended Support Service (ESS) Child Care assistance to a lifetime maximum of 24 months. The first 12 months you receive ESS Child Care will be at no cost to you. You may be required to pay a portion of your child care expenses during months 13-24 of ESS Child Care assistance based on a sliding fee scale and your household's income.

Any month in which your child care provider bills 5 days of care for your child(ren) will count as one of your 24 months.

To receive ESS Child Care assistance, you are required to work a minimum number of hours per week as shown below:

First 12 months (no cost)

- You must be working at least 20 hours per week, or your earnings must be enough to cause you to be ineligible for TEA cash assistance.

12 Months on Sliding Fee Scale

- Months 13-24 (sliding fee) 25 hours per week minimum

Arkansas Department of Workforce Services
Public Notice and Request for Public Comment

In accordance with the Temporary Assistance for Needy Families (TANF) Program Final Rule (45 CFR Part 260, et al), the Arkansas Department of Workforce Services (ADWS) has amended its State Plan, specifically section 6.5 Extended Support Services for Title IV-A of the Social Security Act. Pursuant to Arkansas Code 20-76-444, ADWS issues proposed changes to the Transitional Employment Assistance (TEA) policies and forms.

ADWS requests public comment on the amended section of the State Plan, policies and forms. Hard copies of the amendments are available at TANF – 4th Floor, #2 Capitol Mall, Little Rock, Arkansas 72201.

All comments must be submitted in writing no later than COB, Monday, July 11, 2011. Please submit written comments to Department of Workforce Services (TANF), Attn: Derwin Taylor, PO Box 2981, Little Rock, Arkansas 72203 or Derwin.Taylor@arkansas.gov.