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OFFICE OF FAMILY STABILITY LETTER #74

July 1, 2008

TO: Directors, County Departments of Job and Family Services

FROM: Jeanne Carroll, Deputy Director
Office of Family Stability

SUBJECT: PRC Diversion Programs – Clarification from HHS

Several county Prevention, Retention and Contingency (PRC) plans include programs called "diversion," or otherwise have separate programs to assist needy families with short term crisis situations. We would like to bring to your attention a new Temporary Assistance for Needy Families (TANF) Program Instruction issued on May 19, 2008, by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance which clarifies what type of "diversion" programs are allowable under the TANF regulations. This Program Instruction goes into effect October 1, 2008, and is attached.

Ohio provides TANF cash assistance to meet a family's ongoing basic needs through the Ohio Works First Program. Pursuant to Section 5108.05 of the Ohio Revised Code, a CDJFS may not provide any benefit or service that falls within the TANF definition of "assistance". This prohibition does not preclude providing PRC benefits and services for nonrecurring, short-term needs not to extend beyond four months. These services and non-assistance benefits address a specific crisis situation or episode of need that may include food, clothing, shelter, utilities, home repairs, household goods, personal care items, and general incidental expenses.

Each CDJFS should review its PRC plan in conjunction with the Program Instruction and existing federal and state law. Chapter 1 of the PRC Reference Guide, and the attached Program Instruction, provide the definition of assistance found in the TANF regulations, and what is excluded from the definition of assistance.

Counties should review their PRC plans to ensure that they are not providing "assistance" as defined by TANF regulation and clarified by the TANF Program Instruction. Counties should ensure that programs providing nonrecurrent short term benefits (including "diversion" programs) are designed to deal with a specific, identified crisis situation or episode of need experienced by the family. Most importantly, the Program Instruction points out that diversion programs may not be used as a substitute for ongoing assistance programs or to remove families from the OWF work participation rate.

When reviewing your PRC plan to ensure that it is consistent with federal and state law, and the TANF program instruction, please keep in mind the following:

- Chronic or continuing situations do not constitute a specific, identified family crisis or episode of need.
- Payments for ongoing basic needs, even if the payments are made for four or fewer months, are not designed for a specific, identified crisis or episode of need and are therefore considered "assistance."
- Diverting cases solely to avoid the work participation requirements (including for two parent families) does not constitute a specific, identified family crisis situation or episode of need.
- Recurring needs-based payments and other income supports to participate in education and work activities constitute "assistance."
- Bundling four months of cash assistance payments into a single lump sum payment is considered "assistance."

Additionally, counties should review their PRC plans to ensure that "diversion" programs do not impose other requirements or conditions contrary to law.

- A county may condition receipt of benefits on participation in certain activities in a "diversion" program; however, receipt of a cash benefit in exchange for participation in activities that resemble work experience or community service is considered "assistance," and, as a result, is not an allowable PRC requirement.
- A participant receiving a "diversion" benefit or service may not be sanctioned.
- Receipt of diversion benefits or services may not count against a participant's OWF time limit.
- A CDJFS may not condition receipt of benefits or services upon assignment of child support or child support cooperation requirements.
- A CDJFS may not condition eligibility for a PRC diversion program (or any PRC program) on agreement by the participant not to apply for OWF, and no applicant for OWF may be denied as a result of participation in a PRC diversion program.

Any questions regarding this letter may be directed to the Office of Family Stability Program Policy Services section using the TANF_FSTA mailbox or 1-866-886-3537 (Option 6).

JC: bk

Attachment

c:

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