



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Transitional Assistance
600 Washington Street . Boston MA 02111

Argeo Paul Cellucci
Governor

Jane Swift
Lieutenant Governor


William D. O'Leary
Secretary

Claire McIntire
Commissioner

FAX 99-74

Field Operations Memo 99-10 B
May 18, 1999

To: Transitional Assistance Office Staff

From:  Joyce Sampson
Assistant Commissioner for Field Operations

Re: *Smith v. McIntire* Lawsuit

Background

Field Operations Memo 99-10 A addressed the *Smith v. McIntire* lawsuit. This lawsuit challenged the Department's: (1) use of a financial eligibility test without the earnings disregard to determine a recipient's eligibility for an extension of benefits; and (2) failure to include the earnings disregard in the grant calculation of a recipient eligible for an extension.

The judge's ruling on *Smith v. McIntire* means that, when determining eligibility for an extension, the extension test of financial eligibility at 106 CMR 203.210 (A) must not be applied. Further, the earnings disregard must be included in the grant calculation of a recipient eligible for an extension of benefits.

Transitional Assistance Office Staff were instructed to pend all decisions on outstanding extension requests on cases with earnings until further instructions were received. Fax 99-73 instructed Transitional Assistance Workers that cases with pending extension requests closing or being denied for any TAFDC reason unrelated to the *Smith* lawsuit could have their extension requests processed.

Effective May 19, 1999 PACES has been modified to include the earnings disregard for extension cases with earnings.

**Changes to
Extension
Request
Procedures**

The *Smith v. McIntire* lawsuit eliminates the extension test of financial eligibility in 106 CMR 203.210 (A). This means that eligibility for extensions must be based on the criteria in 106 CMR 203.210 (B)(2)(a) through (e), *unless* the person is working full time (35 hours or more per week at or above minimum wage).

**Changes to
Extension
Request
Procedures
(continued)**

If the person is working full time, the extension shall be granted in accordance with 106 CMR 203.210 (B)(1) *without* applying the extension financial test of eligibility in 106 CMR 203.210 (A).

NOTE: In a two-parent household each nonexempt grantee must be employed full time (at least 35 hours per week) earning at least minimum wage.

Eligibility for all other extension requests must be evaluated based on the criteria in 106 CMR 203.210 (B)(2)(a) through (e):

- the degree to which a nonexempt grantee has cooperated, and is cooperating, with the Department in work-related activities;
- whether the nonexempt grantee received and/or rejected offers of employment, reduced his or her hours of employment or quit a job without good cause;
- whether appropriate job opportunities exist locally at that time;
- whether suitable state-standard child care is unavailable during the grantee's hours of employment and commuting time; and
- whether the nonexempt grantee has been sanctioned or has otherwise failed to cooperate with the Department's rules and regulations.

Effective **05/19/99**, any case requesting an extension or any extension-approved case will receive the earned income disregards when calculating cash grants online or when submitting wages on a PACES Worksheet.

However, for the extension to be approved, the recipient must meet all TAFDC eligibility rules.

The TAFDC Procedural Guide, Chapter 19 will be updated to reflect these new procedures.

Instructions

The instructions on the following pages must be followed for processing the extension requests of certain groups affected by the lawsuit. These groups are:

- active extension cases receiving a reduced grant;
- new, pending and reapplication cases requesting an extension; and
- extensions denied/cases closed since 4/20/99 due to excess income who did not receive the earned income disregards .

Instructions will be issued shortly for cases that closed due to the 24-month time limit and did not request an extension (AR 52) and cases that did request an extension but closed before 4/20/99 due to excess income (AR 61, 65).

**Active Extension
Cases Receiving
a Reduced Grant**

Cases with earnings previously approved for an extension (either Extension Program Code 4 or 9) had their grant calculated without the earned income disregards.

A report titled "Active Extension Cases" will be generated on **05/20/99** and sent to Transitional Assistance Offices listing cases with earnings previously approved for an extension (either Extension Program Code 4 or 9). There are fewer than 60 cases statewide listed on this report.

Transitional Assistance Workers must:

- resubmit the most recent four weeks' wages and any other income currently on file in PACES on a new PACES Worksheet; and
- enter the date of 5/13/99 in the CHANGE DATE section of the PACES Worksheet. The effective date of the grant increase will be 5/13/99.

These Worksheets must be data-entered no later than 5:00 p.m. on 06/04/99.

NOTE: No additional recipient contact is needed.

PACES will calculate the grant and food stamp benefit amount using the earned income disregards and generate the updated PACES notice. A notice will also be mailed to recipients informing them that additional money has been deposited into their EBT or direct deposit account.

Central Office will send a separate notice to these recipients explaining why their grant was increased (see Attachment A).

The *Smith v. McIntire* lawsuit eliminates the extension test of financial eligibility in 106 CMR 203.210 (A). This means that eligibility for extensions must be based on the criteria in 106 CMR 203.210 (B)(2)(a) through (e), *unless* the person is working full time (35 hours or more per week at or above minimum wage).

If the person is working full time, the extension shall be granted in accordance with 106 CMR 203.210 (B)(1) *without* applying the extension financial test of eligibility in 106 CMR 203.210 (A).

NOTE: In a two-parent household each nonexempt grantee must be employed full time (at least 35 hours per week) earning at least minimum wage.

**New, Pending
and
Reapplication
Cases
Requesting an
Extension**

Field Operations Memo 99-10 A instructed Transitional Assistance Workers not to change the Program Code to 4 or 9 for earned income cases with outstanding extension requests.

Effective **05/19/99**, for any new, pending or reapplication case requesting an extension Transitional Assistance Workers may now enter the Extension Program Codes 4 or 9. Entering an Extension Program Code 4 or 9 on the PID when entering wages on a PACES Worksheet will now cause PACES to calculate the grant and food stamp benefit amount using the earned income disregards and generate a new PACES notice using the earned income disregards.

The *Smith v. McIntire* lawsuit eliminates the extension test of financial eligibility in 106 CMR 203.210 (A). This means that eligibility for extensions must be based on the criteria in 106 CMR 203.210 (B)(2)(a) through (e), *unless* the person is working full time (35 hours or more per week at or above minimum wage). If the person is working full time, the extension shall be granted in accordance with 106 CMR 203.210 (B)(1) *without* applying the extension financial test of eligibility in 106 CMR 203.210 (A).

NOTE: In a two-parent household each nonexempt grantee must be employed full time (at least 35 hours per week) earning at least minimum wage.

For the extension to be approved, the recipient must meet all TAFDC eligibility rules.

If the case is approved, use the existing procedures for processing case maintenance related to extensions.

**Extensions
Denied & Cases
Closed Due to
Excess Income
Since 4/20/99**

Central Office will send a notice (see Attachment B) to recipients whose extensions were denied/cases were closed for excess income (AR 61 or 65) since 4/20/99 who did not receive the earned income disregards. This notice explains that the former recipient's case will be reopened and reevaluated for an extension.

A report titled "Cases Closed Since 4/20/99" will be generated on 05/20/99 and sent to Transitional Assistance Offices listing cases closed since 4/20/99, the date of the court's decision. There are fewer than 100 cases statewide listed on this report.

The Transitional Assistance Worker must:

- reopen the case back to the day following the closing date using the appropriate Program Code (**no Extension Program Code should be entered until the extension request is evaluated using the criteria in 106 CMR 203.210 (B)(2)(a) through (e)**);
- submit a new PACES Worksheet **using the wages previously submitted and any other income received that caused the case to close**;
- after the case reopens, determine the extension request eligibility; and
- use the existing procedures for processing case maintenance related to extensions.

NOTE: if for any reason the case appears ineligible for TAFDC, call the Policy Hotline.

These Worksheets must be data-entered no later than 5:00 p.m. on 06/04/99.

This will cause PACES to calculate the grant and food stamp benefit amount using the earned income disregards and generate a new PACES notice using the earned income disregards.

The *Smith v. McIntire* lawsuit eliminates the extension test of financial eligibility in 106 CMR 203.210 (A). This means that eligibility for extensions must be based on the criteria in 106 CMR 203.210 (B)(2)(a) through (e), *unless* the person is working full time (35 hours or more per week at or above minimum wage).

If the person is working full time, the extension shall be granted in accordance with 106 CMR 203.210 (B)(1) *without* applying the extension financial test of eligibility in 106 CMR 203.210 (A).

NOTE: In a two-parent household each nonexempt grantee must be employed full time (at least 35 hours per week) earning at least minimum wage.

Questions

If you have any policy-related questions, have your Hotline Designee call the Policy Hotline at (617) 348-8478.

May 19, 1999

Dear Recipient:

You will soon get a notice telling you that your extension benefits have increased. This increase is because of a court decision. The court said that we must use the earned income disregard while you are working and getting extension benefits. With the earned income disregard, your extension benefits will increase. You will get this increase from May 13, 1999.

Department of Transitional Assistance

May 19, 1999

Dear Former Recipient:

Your extension request was recently denied and your Transitional Assistance (TAFDC) case closed. Your extension request was denied because of your earnings.

A court has told the Department that it must use the earned income disregard to see if you are eligible for extension benefits. With the earned income disregard, you may be eligible for extension benefits if you meet other extension rules.

Because of the court's decision, the Department will reopen your TAFDC case. The Department will also look at your extension request again.

The Department will send you a notice to tell you that your TAFDC case has reopened. The Department will also send you a notice to tell you if you get an extension. You may appeal any Department notice and have a fair hearing.

Department of Transitional Assistance