

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-53  
FAMILIES FIRST INTENTIONAL PROGRAM VIOLATIONS**

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**1240-1-53-.01 INTENTIONAL PROGRAM VIOLATIONS DEFINED.** An intentional program violation is an action by an individual for the purpose of establishing or maintaining a family's eligibility for Families First, or for increasing or preventing a decrease in the amount of the grant, which is intentionally a false or misleading statement, or a misrepresentation, concealment or withholding of facts, or any act intended to mislead, misrepresent, conceal, or withhold facts, or propound a falsity.

*Authority:* T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 235.112 and 235.113. *Administrative History:* Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-53-.02 NOTICE OF POLICY REGARDING DISQUALIFICATION PENALTIES.** All Families First applicants must be provided a written notice informing them of the disqualification penalties for fraud under chapter 1240-5-15 at the time of application.

*Authority:* T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 235.112 and 235.113. *Administrative History:* Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-53-.03 PRE-HEARING INVESTIGATION REQUIREMENTS.** Prior to conducting an administrative disqualification hearing under chapter 1240-5-15, an investigation of an allegation that a person committed an intentional program violation must be conducted.

*Authority:* T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 235.112 and 235.113. *Administrative History:* Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-53-.04 ADMINISTRATIVE ACTIONS PENDING DISQUALIFICATION PROCEEDINGS.** Pending the outcome of a disqualification proceeding, pursuant to chapter 1240-5-15, DHS may take any necessary action to discontinue, terminate, suspend, or reduce assistance, or change the manner or form of payment to a protective, vendor, or two-party payment for reasons unrelated to the reason for the disqualification hearing.

*Authority:* T.C.A. §§4-5-201 et seq., 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 235.112 and 235.113. *Administrative History:* Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-53-.05 DISQUALIFICATION PENALTIES.**

- (1) Scope. An individual who, on the basis of a plea of guilty, nolo contendere, or otherwise, is found to have committed an intentional program violation after the results of an administrative disqualification hearing (ADH) by a state or federal court will be disqualified from participating in the Families First program. The disqualification penalty is limited to the individual(s) found guilty of having committed an intentional program violation.

(Rule 1240-1-53-.05, continued)

- (2) **Penalty.** An individual found to have committed an intentional program violation as set forth in this chapter shall not have his/her individual needs taken into account when determining the assistance group's need and amount of assistance, but any resources and income of the disqualified individual will be considered available to the assistance group, except that the earned income disregards shall be applied to any earnings of the disqualified individual.
- (3) **Duration of Penalty.** Upon the first occasion of any such offense, the individual's needs shall not be taken into account for six (6) months; twelve (12) months upon the second occasion of any such offense; and permanently upon the third or a subsequent occasion of any such offense.
- (4) **Applicability of Penalty.** In cases where a disqualification penalty and other sanctions or penalties apply, the disqualification penalties affect the individual concerned and cannot be substituted for other sanctions under the Families First program (e.g., failure to participate in the Families First Employment and Training program or to cooperate with Child Support Enforcement) but may run concurrently with other sanctions which are in place. After the disqualification period expires, the person will have to meet all eligibility requirements before being added to the Families First AG.
- (5) **Imposition of the Disqualification Penalty.**
  - (a) A disqualification penalty will be imposed only after the issuance of a Final Administrative Order finding the individual guilty of committing an intentional program violation and the period of disqualification will commence no later than the second month following the date of the Final Order, or, in the event of a finding by a state or federal court that the individual is guilty of committing an intentional program violation, the penalty will be imposed according to the terms of the court order. If the court order is silent on imposition of the penalty, the penalty will begin no later than the second month following the date of the court order.
  - (b) Where the individual's disqualification results from a prior receipt of AFDC or Families First and the case is closed, the disqualification will run as if the person were an active recipient.
- (6) **Notice of Disqualification.** The Department of Human Services shall cause to be sent to the individual who has been found to have intentionally violated this program by a Final Order as found in rule 1240-5-15 or has entered into a consent agreement as provided in rule 1240-1-53-.06 a notice which contains at least the following:
  - (a) The period of disqualification as provided for in this section;
  - (b) The amount of payment, if any, the AG will receive during the disqualification period; and
  - (c) In cases of an individual's disqualification resulting from a prior receipt of assistance, the disqualification will run as if the person were an active recipient.
- (7) **Stay of Penalty.** Any period for which a disqualification penalty is imposed shall remain in effect, without possibility of an administrative stay, unless and until a finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which the penalty is imposed be subject to review.

Even if the case is closed, the period of disqualification continues as if it were an active case.

**Authority:** T.C.A. §§4-5-201 *et seq.*, 71-1-105, Public Acts of 1996, Chapter 950, and 45 CFR 235.112 and 235.113. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-53-.06 COURT ACTIONS ON CONSENT AGREEMENTS.**

- (1) The Department of Human Services may enter into an agreement with the local district attorney's office allowing said district attorney to enter into consent agreements with accused intentional program violators. The agreement shall be filed with a court of competent jurisdiction and approved by the court. Prior to entering into a consent agreement with the accused individual, the district attorney's office shall send advance written notice to the accused of the consequences of entering into such an agreement. The advance written notice, prepared by the Department of Human Services, shall contain at a minimum the following:
  - (a) A statement for the accused individual to sign that he/she understands the consequences of signing the agreement, along with a statement that the caretaker relative must also sign the agreement if the accused individual is not the caretaker relative;
  - (b) A statement that signing the agreement will result in a reduction in payment for the appropriate period; and
  - (c) A statement of which disqualification period will be imposed as a result of the accused individual signing the agreement.
  - (d) After the court confirms the agreement, the Department will provide a written notice to the individual which specifies the period of disqualification (which shall be no later than the first day of the second month which follows the date of the notice), and the amount of the payment the unit will receive during the disqualification period. However, if the court specifies the date for initiating the disqualification period, the Department shall disqualify the accused individual in accordance with the court order. If an individual whose case has been terminated signs a consent agreement, the disqualification period shall begin no later than the first day of the second month which follows the date of notice.

**Authority:** T.C.A. §§4-5-201 et seq., 71-1-105, 71-3-120, 71-3-157, 71-3-158, Public Acts of 1996, Chapter 950, and 45 CFR 235.110, 235.112, and 235.113. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002.