

**Final Guidance
Medical Incapacity
Welfare Transition Program**

Of Interest To:

Workforce Florida, Inc., all Regional Workforce Boards, and other entities engaged in implementing programs under the Temporary Assistance for Needy Families Program and the Welfare Transition Program.

Subject

Revised Guidance pertaining to noncompliance related to medical incapacity, applicants for Social Security Income (SSI) or Social Security Disability Income (SSDI) and Outpatient Mental Health or Substance Abuse Treatment. The guidance is being revised to clarify the requirements for documenting and verifying medical incapacity. Specifically, physicians must be licensed under Florida Statutes Chapter 458 or 459. Physicians are not required to use the medical verification forms developed by AWI to document the individual's condition and limitations. The Regional Workforce Board (RWB) providers should accept any form of documentation that clearly documents the individual's medical incapacity and limitations. However, the medical verification forms provided by AWI include important information for both the individual and the physician as well as a request to the physician to provide required information. The RWB may use the medical verification forms provided by AWI as a format or any regionally verification form. The guidance also deletes all reference to substance abuse/mental health treatment earned months as a result of statutory changes. by the Florida legislature.

Background

Florida Statute sections 414.065 and 414.105, were amended in 1999. Florida Statute, section 414.065 (4) (d), allows Welfare Transition (WT) participants to be excused from work activities contingent upon verification by a physician licensed under Chapter 458 or Chapter 459, F.S.. The provision allows for assignment of work activities consistent with a participant's medical limitations and gives the RWB authority to require an individual to cooperate in medical or vocational assessment necessary to evaluate the individual's ability to participate in work activities. The amendment also created sections 414.065 (4) (f) and 414.105 (11). These sections of the Florida Statutes provide for an exception from participation in work activities for those who have documented a current application, including an appeal, for SSI/SSDI. These sections require the assignment of program activities based on the participant's medical ability to comply and provides for time limit extensions for persons applying for SSI/SSDI.

I. Program Guidance

Recipients of Temporary Cash Assistance (TCA) who are referred to the WT program as mandatory are required to participate in countable work activities (445.024, F.S.) unless an exception to the work activity requirement is met (414.065 (4), F.S.). Participants who meet an exception to noncompliance as defined in 414.065 (4) are not exempt from participation and therefore, must be referred to the WT program and participate based on his or her medical ability to comply.

A. **Noncompliance Related to Medical Incapacity, Florida Statute 414.065 (4) (d):**

Participants may not be able to participate 30 hours per week in countable work activities due to medical issues. Participants who provide a signed statement from a physician licensed under Chapter 458 or 459 of the Florida Statutes may be *excepted (excused)* from work activities.

According to the Florida Administrative Code (FAC) 65A-4.206, individuals claiming a medical incapacity that prevents them from participating in work activities or limits their participation in work activities shall be required to provide a statement from a **physician licensed under Chapter 458 or 459, F.S.**, specifying the nature of the disability or incapacity, the duration of the disability or incapacity, the number of hours per week the individual can participate in activities, the percentage of the individual's disability and any other limitations on participation in work activities¹.

- Participants may not be excused from work activity requirements unless the medical incapacity is verified (a signed statement) by a physician licensed under Chapter 458 or 459, F.S.
 - ▶ Physicians licensed under 458 have license numbers that begin with the **pre-fix "ME"**, and physicians licensed under 459 have license numbers that begin with the **prefix "DO"**.
 - ▶ **Participants may provide a letter or document from the physician rather than the medical verification forms provided for regional use by AWI.**
 - ▶ **The RWB provider must make the participant aware of the information required to meet program requirements:** a statement from a physician licensed under Chapter 458 or 459, F.S., specifying the nature of the disability or incapacity, the duration of the disability or incapacity, the number of hours per week the individual can participate in activities, the percentage of the individual's disability and any other limitations on participation in work activities².
- The RWB provider must assist the participant in developing an Individual Responsibility Plan (IRP) or Alternative Requirement Plan (ARP) necessary for the individual to resume participation. The Medical Verification Form AWI-WTP 2288(a) was developed to assist the RWBs in securing information

¹ Florida Administrative Code 65A-4.206(1-3)

² Florida Administrative Code 65A-4.206(3)

regarding the participant's limitations in an attempt to engage the participant in a work activity; however, the participant may provide other documentation from the physician or assessment provider that meets the information requirements:

- ▶ Work activities shall be assigned consistent with documented limitations.
 - ▶ The ARP activities shall be assigned based on both limitations and the course of action necessary to resume participation.
- A deferral or "excuse" from work activity requirements is time limited and should be based on the medical documentation received.
 - The individual must be assigned to work activities consistent with documented limitations. The IRP or ARP should be updated to reflect medical assessment, vocational assessment, treatment plan progress, participation based on medical ability to comply. Subsequent medical documentation detailing the individual's limited abilities or inability to participate should be required every six months, at a minimum, based on local operating procedures (LOPs).

Evaluation of Limitations and Medical Ability to Comply

Activities, including work activities, must be consistent with the limitations identified in the medical verification/documentation. The participant must be evaluated regarding his or her ability to participate. The RWB provider may require an evaluation, including a medical evaluation, a vocational assessment or a work evaluation to assess the participant's ability to participate in work activities. Evaluations assist in the process of developing a plan for moving the participant towards being able to comply with work activities, developing an ARP and developing a plan towards eventual self-sufficiency.

1. Medical Verification Form and the Statement of Need for Care Form

Two medical forms have been developed to assist the RWBs with securing documentation regarding the WT participant's medical incapacity, limitations and ability to comply. The Medical Verification Form has been modified and the Statement of Need for Care Form has been developed to include provisions of the Health Insurance Portability and Accountability Act (HIPAA). The Medical Verification Form, AWI-WTP 2288(a), is a three-page form that includes:

- A letter to the physician requesting the release of the client's information;
- A page disclosing the WT participant's rights and responsibilities regarding compliance;
- A page disclosing the WT participant's rights and responsibilities regarding the release of medical information;
- A request for the physician to provide information regarding restrictions on participation in both work and classroom activities; and

- A place for the physician to provide an estimated duration of the condition and the therapy or treatment plan prescribed for the participant.

The Statement of Need for Care Form, AWI-WTP 2288 (b), includes:

- A notice of rights and responsibilities for the WT participant;
- An authorization to release medical information for the individual requiring care to the RWB Provider;
- The rights and responsibilities of the individual receiving care regarding medical information and confidentiality; and
- A page to be completed by a physician licensed under Chapter 458 or 459, F.S. providing information regarding the amount of time the WT participant should be excused from work activities to provide care for the medically incapacitated adult/child.

2. Securing Medical Documentation

Regions have reported that WT participants are having difficulty obtaining the completed medical documentation from the appropriate physicians. Physicians are frequently requiring payment for the completion of documents and/or requiring several visits/appointments to complete the medical form. Participants are also having difficulty scheduling timely appointments with their physicians.

a. Steps to assist participants in obtaining medical documentation:

- Obtaining medical documentation could be included as a step to self-sufficiency on the IRP.
- The RWB can develop a working relationship with Medicaid physicians.
- Develop a LOP regarding the type of documentation the RWB provider may accept as suitable in lieu of the approved medical forms.

b. The WT program participant must secure documentation signed by a physician licensed under Chapter 458 or 459, F.S. that includes³:

- The nature of the medical incapacity;
- The duration of the incapacity;
- The number of hours per week the individual can participate in activities;
- The percentage of the individual's disability;
- Other limitations on participation in work activities; and
- The course of treatment necessary to resume participation.

c. Payment for the completion of medical documentation:

³ 65A-4.206 Florida Administrative Code

Federal Law prohibits the use of TANF funds for medical services, However, because the completion of programmatic forms by physicians is not covered by Medicaid local funds may be used for this purpose if:

- The physician does not code the completion of the form as a medical appointment and does not submit the charge to Medicaid. The charge for completing the form must be a separate charge.
- The physician charges all patients for the completion of medical documentation for non-medical providers/purposes (there is no discrimination between Medicaid and Non-Medicaid clients).
- The physician provides a receipt for the purchase of medical documentation. The receipt must be retained in the participant's record for financial and programmatic monitoring.

B. Noncompliance Due to Medical Incapacity by Applicants of SSI or SSDI, Florida Statutes, section 414.065 (4) (f): Individuals who have applied for SSI/SSDI and have not received a final determination from the Social Security Administration (SSA) may be “exempted” or “temporarily excused” from *work requirements* while awaiting a final determination. The term “exempt” under this subsection in Florida Statutes is not to be confused with the term “exempt” defined by eligibility determination. The participant must:

- Secure documentation from the SSA verifying a current application or appeal is on file;
- Provide medical verification regarding the nature of the medical incapacity, limitations to participation, the duration of disability or incapacity, as well as a course of treatment recommended or required; and
- Participate in program requirements according to his or her documented medical ability to comply.
- If the WT program participant provides documentation verifying an application or appeal for SSI/SSDI is on file at the SSA office, the participant may be *excused from work requirements*. **The participant is not exempt from WT program requirements. The participant must comply with an ARP that is consistent with the individual's limitations.**⁴

Participants who have provided verification of a SSI/SSDI application or appeal must provide documentation of his/her limitations regarding program participation from a physician licensed under Chapter 458 or 459, F.S.. The participant's ARP should be developed based on the limitations outlined in the medical documentation.

⁴ Florida Administrative Code 65A-4.206 (4)-(6)

- Section 414.105 (11), F.S., states persons who have applied for SSI/SSDI but have not received a final determination must continue to meet all program requirements assigned to the participant based on medical ability to comply.
- Section 414.065 (1) (b), F.S., states participants receiving TCA who are exempted from noncompliance penalties fails to comply with the alternative plan requirements will be subject to the same penalties as those who are subject to work requirements as outlined in 414.065 (a).

C. Noncompliance Related to Outpatient Mental Health or Substance Abuse Treatment: If a participant informs the RWB provider that (s)he is in need of substance abuse or mental health services, the participant should be referred to a Substance Abuse and/or Mental Health (SAMH) service provider. The RWB provider should be responsive to the individual and the need for an Alternative Requirement Plan. If the participant reports to the RWB provider (s)he is already involved in a treatment or mental health program, the provider should assist the participant in updating the IRP to include the alternative requirements, participation in the treatment program and documentation of the treatment.

Counting the Hours Florida Statutes, section 414.065 (e), allows participants to be *excused* from work activity requirements for up to **5 hours per week** to participate in a substance abuse or mental health treatment program. The participant may be excused from the work activity **for up to five hours per week** after a mental health or substance abuse professional certifies the treatment protocol and provides verification of attendance at the counseling or treatment sessions each week. If the participant requires more than five hours a week for SAMH treatment or (s)he is involved in an inpatient treatment program, it must be verified by a physician licensed under Chapter 458 or 459, F.S. An ARP must be developed that includes the:

- Assigned program requirements to remain in compliance with the WT program;
- Program and activity requirements that take into consideration the participant's medical limitations; and
- Course of treatment necessary for the individual to resume participation based on the medical documentation.

The Substance Abuse and Mental Health Treatment Verification form, CF-ES 2299, must be used to certify the participant's engagement in the treatment program. Once the participant has started the SAMH program, the SAMH counselor should complete section B of the CF-ES 2299 to verify the WT participant has started the treatment process. The RWB will communicate with the SAMH counselor and monitor participation at least monthly. The RWB provider is responsible for obtaining verification of attendance at the counseling and treatment sessions for each week. Obtaining verification may be included in the participant's IRP/ARP. The RWB should establish a LOP describing the process to document hours in treatment, how often the CF-ES 2299 should be updated and returned to the RWB

provider, as well as, a document or process to verify participation in treatment/counseling activities on a weekly basis.

Once treatment is completed, the SAMH counselor will complete section C of the SAMH Treatment Verification Form, CF-ES 2299, indicating the months that the participant fully complied with the SAMH treatment requirements and successfully completed the program. This information will then be forwarded to the RWB provider.

II. Forms

[Medical Verification Form](#), AWI-WTP 2288(a)

[Statement of Need for Care Form](#), AWI-WTP 2288(b)

[Substance Abuse and Mental Health Treatment Form](#), CF-ES 2299

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