**Section 160.30 Cooperation With Support Enforcement Program**

a) As a condition of eligibility, unless the Department determines there is good cause for refusing, a caretaker relative (see 89 Ill. Adm. Code 101.20 for definition of "caretaker relative") must cooperate with the Department in:

1) identifying and locating the responsible relative of a child for whom aid is claimed;

2) establishing the paternity of a child for whom aid is claimed;

3) obtaining support from the responsible relative; and

4) enforcing support obligations.

b) If the caretaker relative and his or her spouse are in the home and are included in the assistance grant, both must comply with the cooperation requirements. A caretaker relative who fails or refuses, without good cause (see Sections 160.35 through 160.45), to cooperate in the enforcement of support obligations shall be ineligible for medical assistance for himself or herself. If a caretaker states, without good cause, a refusal to cooperate with child support enforcement requirements, the family is not eligible for cash benefits. A caretaker who fails to cooperate, without valid reason, is subject to the following provisions:

1) For the first instance of non-cooperation, the cash assistance payment will be reduced by 50 percent of the family's Payment Level until the cooperation requirement is met. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment will be stopped.

2) For the second instance of non-cooperation, the cash assistance payment will be reduced by 50 percent of the family's Payment Level for three months. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment will be stopped.

3) For the third (or more) instance of non-cooperation, the family's entire cash assistance payment will be stopped for at least three months. Cash assistance will be reinstated for the fourth month if the cooperation requirement is met during the three-month sanction period.

4) Sanction penalties accumulate during any single period of continuous assistance. A loss of all cash assistance due to sanction shall not be considered a break in assistance. If a family member's non-cooperation occurs during a sanction period which was the result of another member's non-cooperation, the next progressive sanction penalty shall apply.

5) No sanction will be imposed until staff have a reconciliation meeting to determine whether the client had valid reason for failing to comply with requirements and the client has either failed to attend the meeting, failed to return required documents or failed to show valid reason. If the client fails to show valid reason, the reconciliation process will continue to enable resolution of disputes. Failure of the client to appear for a scheduled reconciliation meeting is not considered an instance of noncooperation.

6) The Department shall establish a reconciliation procedure to assist in resolving disputes related to any aspect of cooperation. Through the reconciliation process, the Department will have a mechanism to identify good cause and valid reason, ensure that the client is aware of the issue and enable the client to perform the required activity without facing sanction.

c) "Cooperating with the Department" in the context of subsection (a) of this Section means any of the following actions that are relevant to, or necessary for, the achievement of the objectives specified in subsection (a) of this Section:

1) appearing at, or failing to return the required documents to, such places as an office of the Department or the Department's legal representative (such as the Attorney General or his designee), as necessary, to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the caretaker relative;

2) appearing and testifying as a witness at judicial or administrative proceedings;

3) paying to the Department any child support payments received from the responsible relative; and

4) providing information, or attesting to the lack of information, under penalty of perjury (for the penalty for perjury, see Section 32-2 of the Criminal Code [720 ILCS 5/32-2]). All caretaker relatives must sign a statement attesting that:

A) he or she has, to the best of his or her ability, provided all information requested of him or her; and

B) all information which he or she has provided is true and correct, to the best of his or her knowledge.

d) Grounds for a determination that a caretaker relative has failed or refused to cooperate with the requirements of subsection (c) of this Section are as follows:

1) failure or refusal, without a valid reason, to appear for an appointment or interview at, or to return the required documents to, such places as the Department's or the Department's legal representative's office;

2) failure or refusal, without a valid reason, to appear and testify as a witness at a judicial or administrative proceeding;

3) failure or refusal, without a valid reason, to submit to a court or administratively-ordered genetic test; or

4) failure or refusal to attest under penalty of perjury that:

A) he or she has provided all verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by him or her about the identity and location of the responsible relative; and

B) the information provided is true and correct, to the best of his or her knowledge.

5) A caretaker relative may claim a valid reason for failure or refusal to appear for an appointment or interview, to return required documents, to appear and testify as a witness at a judicial or administrative proceeding or to submit to a court or administratively-ordered genetic test.

A) Examples of valid reasons for failure or refusal to cooperate include, but are not limited to:

i) illness;

ii) incapacity (for example, a broken leg, information of a scheduled surgery or recuperation from surgery);

iii) death in the family;

iv) non-Child Support Enforcement court required appearance;

v) temporary incarceration;

vi) family crisis;

vii) breakdown in child care arrangements;

viii) sudden or unexpected emergency;

ix) unavailability of otherwise suitable child care;

x) breakdown in transportation arrangements or lack of reasonably available transportation; or

xi) non-receipt of notice of appointment or interview, court date or genetic test date.

B) The Department will not require a caretaker relative to provide proof of a valid reason for failure or refusal to cooperate unless:

i) the caretaker relative has failed or refused to return required documents, to appear for an appointment or interview, judicial or administrative proceeding or genetic test on at least one other occasion within a 30-day day period from the first failure to appear; or

ii) evidence, independent of the explanation of valid reason, contradicts the caretaker relative's explanation.

C) When the Department requests proof of a valid reason, the caretaker relative must provide such proof (for example, physician's statement, dated pharmacy statement, hospital admission statement, statements by witnesses) within ten calendar days of the request. The Department shall allow an additional ten calendar days to provide proof at the request of the caretaker relative. If the caretaker relative does not provide the proof, the Department shall reject the claim of a valid reason.

D) The sanction for failure or refusal to return required documents, to appear for an appointment or interview, judicial or administrative proceeding or genetic test shall be rescinded at any level of the appeal process up through and until the final agency decision and any lost benefits will be restored, if the caretaker relative establishes a valid reason for his or her failure or refusal.

e) If a caretaker relative, who is subject to the penalty at subsection (b) of this Section because of a failure or refusal to cooperate indicates that he or she is willing to cooperate within the three-month penalty period, he or she will be given the opportunity to cooperate. The caretaker relative will be determined to have cooperated if he or she complies with the requirements that he or she previously failed or refused to meet as follows:

1) In the case of a caretaker relative for whom a sanction was imposed for missing an interview or appointment or for failing to return requested documents, he or she may demonstrate cooperation by appearing at a new interview or appointment or completing and returning the requested documents to the Department or its legal representatives. If the caretaker relative notifies the Department that he or she is willing to cooperate, the Department will schedule a new interview or appointment no later than three weeks from the date of such notification. If the caretaker relative appears at the new interview or appointment, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or she was willing to cooperate if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.

2) In the case of a caretaker relative for whom a sanction was imposed for failure to submit to a genetic test to establish paternity, he or she may demonstrate cooperation by submitting to the genetic test. If the caretaker relative notifies the Department that he or she is willing to cooperate, the Department will schedule a genetic test within three weeks from the date of such notification. If the caretaker relative submits to the genetic test, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or she was willing to cooperate if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.

3) In the case of a caretaker relative for whom a sanction was imposed for not attending a court or administrative appearance, he or she may demonstrate cooperation by attending the next court or administrative appearance or, once in a court or administrative case after 30 days have passed since the missed appearance, by signing a statement that he or she is now willing to cooperate and will attend the next scheduled court or administrative appearance. Assistance for the caretaker relative shall be authorized as of the date he or she demonstrates cooperation by either method if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.

4) In the case of a caretaker relative for whom a sanction was imposed for failure to attend a court or administrative appearance or other failure to cooperate resulted in the dismissal of the court or administrative case, he or she may demonstrate cooperation by doing what he or she failed to do or, once in a court or administrative case after 60 days have passed since the dismissal, by signing a statement that he or she is now willing to cooperate. Assistance for the caretaker relative shall be authorized as of the date he or she demonstrates cooperation by either method if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.

5) In the case of a caretaker relative for whom a sanction was imposed for not attesting, he or she may demonstrate cooperation by executing the attestation described in subsection (d)(4) of this Section. Assistance for the caretaker relative shall be authorized as of the date he or she executes the attestation if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.

6) The Department shall not deny or terminate a pregnant caretaker relative's medical assistance because of the caretaker relative's failure to cooperate with the requirements of subsection (c) of this Section until at least 30 days have elapsed since termination of the pregnancy.

f) A sanction for failure or refusal to comply with the requirements of subsection (c) of this Section shall be rescinded at any level of the appeal process up through and including the final agency decision and any lost benefits will be restored, if the caretaker relative establishes good cause for failure or refusal.

g) Sanctions under this Section, employment and training programs and the Responsibility and Services Plan (89 Ill. Adm. Code 112.79), and the School Attendance Initiative (89 Ill. Adm. Code 112.68(c)) shall be considered along one track. After a sanction is taken under one Section, a subsequent sanction under that Section or either of the other two Sections will be at the next sanction level, as described in Section 160.30(b)(1), (2) and (3) of this Section.

(Source: Amended at 29 Ill. Reg. 14995, effective September 30, 2005)