**Section 160.35 Good Cause for Failure to Cooperate with Support Enforcement**

a) The Department shall inform the caretaker relative of the right to claim good cause for failing to cooperate.

b) In order to be exempted from the cooperation requirement as to a particular child, the caretaker relative who claims good cause must either:

1) provide the Department with evidence on which it may base a determination of good cause; or

2) furnish information sufficient to permit the Department to investigate to determine that cooperation is against the best interests of the child (see Section 160.40).

c) Upon request, the Department shall assist the caretaker relative in obtaining acceptable evidence and shall not deny, delay or discontinue assistance, pending a determination of good cause, if the caretaker relative has complied with the requirement to furnish evidence or information.

d) A caretaker relative has good cause and is exempt from the requirement of cooperation if:

1) The Department determines that cooperation reasonably may be expected to result in physical or emotional harm to the caretaker relative or the child for whom support is being sought; or

2) The Department determines that because of the existence of one of the following circumstances proceedings to establish paternity or to obtain support would be detrimental to the child:

A) The child was conceived as a result of incest or forcible rape;

B) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

C) The caretaker relative or parent in the home is currently being counseled by a public or licensed private social agency in order to decide whether to keep the child or to relinquish the child for adoption and the counseling has not lasted more than three months.

e) An applicant for, or recipient of, TANF who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of good cause circumstance. Such applicant or recipient will be required to:

1) Specify the circumstances, as described in subsection (d) of this Section, that the applicant or recipient believes provide sufficient good cause for not cooperating.

2) Corroborate the good cause circumstances in accordance with Section 160.40.

3) If requested, provide sufficient information (such as the information listed in Section 160.40(b)(1) through (b)(6)). See Section 160.40(f) for when the Department will conduct an investigation.

f) If the requirements of subsection (e) of this Section are not met, the Department shall determine that good cause does not exist. If the Department determines that good cause does not exist:

1) the applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application, or have the case closed; and

2) continued refusal to cooperate will result in imposition of the sanction provided by Section 160.30(b), or in a case assigned to the experimental treatment group or the non-experimental treatment group in the paternity establishment and continued eligibility program under subsection (c) of Section 160.61, the sanctions provided by Section 160.62.

g) The Department's final determination that good cause does or does not exist shall be made within 45 days after the date the exemption was claimed, shall be in writing, shall contain its findings and basis for the determination, and shall be filed in the TANF case record. The Department will exceed this time standard only where the case record documents that the Department needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corrobative evidence within the period required by Section 160.40. Such extension shall not exceed 45 days and shall be granted only under the conditions described in subsection (f) of this Section.

h) The administrative unit responsible for the Department's support enforcement activities shall have an opportunity to review and comment on proposed determinations of good cause for refusing to cooperate and may participate in any administrative hearing proceeding resulting from actions taken pursuant to a final determination. In accordance with established procedures, the caretaker relative has the right to appeal any action taken by the Department as a result of its final determination.

i) The Department shall review, during each redetermination of eligibility, all cases in which there has been a determination of good cause based on circumstances subject to change.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)