**Section 112.6 The Family Violence Option**

a) In recognition of the reality of domestic or sexual violence for many individuals and families who may need assistance under the Illinois Public Aid Code, the State of Illinois adopts section 602(a)(7) of the Social Security Act (42 USC 602(a)(7)), and the implementing federal regulations at 45 CFR 260.50 et seq. (2008). It is the policy of the State of Illinois and the practice of the Illinois Department of Human Services that:

1) no individual or family should be forced to remain in a violent living situation or place themselves or others at risk in order to attain or retain assistance; and

2) no individual or family should be unfairly penalized because past or present domestic or sexual violence or the risk of domestic or sexual violence causes them to fail to comply with requirements for assistance.

b) Definitions

1) *"Domestic or sexual violence" means domestic violence, sexual assault or stalking. Sexual assault means any conduct proscribed by Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961* [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15 and 12-16]. *Domestic or sexual violence may occur through electronic communication.* [305 ILCS 5/2-18] It includes:

A) physical acts that result in or threaten to result in physical injury;

B) sexual abuse;

C) sexual activity involving a dependent child;

D) being forced to participate in nonconsensual sexual acts or activities;

E) threats of, or attempts at, physical or sexual abuse;

F) mental abuse;

G) neglect or deprivation of medical care; or

H) domestic violence as defined in the Illinois Domestic Violence Act [750 ILCS 60/103(3)].

2) "Assistance" is as defined at 45 CFR 260.31.

3) "Victim", "victims", "survivor" and "survivors" mean a person or persons alleging to have been subjected to domestic or sexual violence or abuse.

4) "Written informed consent" means a written agreement allowing the Department to release information executed by the victim of domestic or sexual violence or, where the victim is a minor, by the victim's caretaker relative whose interests are not adverse to the minor, or by the legally authorized representative without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion. Any written informed consent form used by the Department shall provide at least the following:

A) an explanation of the Department's confidentiality policies and procedures, including the voluntary nature of the consent and the right to withdraw consent at any time;

B) identification of the specific information to be released, the name of the person to whom the information is to be released and the agency or other governmental department or any other public or private entity to whom the information will be released;

C) the purpose and potential uses of the information; and

D) the specific dates the written informed consent is valid.

5) "TANF" means the Temporary Assistance for Needy Families program.

6) *"Stalking" means any conduct proscribed by Sections 12-7.3, 12-7.4 and 12-7.5 of the Criminal Code of 1961* [720 ILCS 5].

7) *"Electronic communication" includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, pager, or any other "electronic communication" as defined in Section 12-7.5 of the Criminal Code of 1961.* [305 ILCS 5/2-18]

c) Standards and procedures shall be established and enforced to:

1) Screen and identify applicants and recipients of assistance who are past or present victims of domestic or sexual violence or at risk of further domestic or sexual violence, while maintaining the confidentiality of such individuals.

2) Refer such individuals to appropriate counseling and supportive services.

3) Waive, pursuant to a determination of good cause, for so long as necessary, any program requirements that would make it more difficult for such individuals to escape domestic or sexual violence or unfairly penalize past or present victims of domestic or sexual violence or those at risk of further domestic or sexual violence, such as time limits on receiving assistance, employment and work activity requirements, and paternity establishment and child support cooperation requirements.

d) Notification of the Family Violence Option

1) All applicants and recipients shall be informed of the Family Violence Option, its purpose, waiver criteria and the process to obtain waivers and the availability of services designed to assist individuals to identify, escape, or stop domestic or sexual violence, as well as deal with the effects of domestic or sexual violence. This notification shall also occur when a client is identified as having a domestic or sexual violence issue.

2) Notification shall include a description of Department policies and procedures regarding the confidentiality of case information when an applicant or recipient is a victim of domestic or sexual violence.

3) Notification shall include informing the applicant or recipient that responding to inquiries about domestic or sexual violence is voluntary and refusal or failure to respond shall not result in any negative action against the individual or the case.

e) Screening for and Identification of Victims of Domestic or Sexual Violence

1) The Department shall inquire of and screen all TANF applicants and recipients regarding the existence of any domestic or sexual violence committed against the applicant or recipient or any member of the household and the risk of domestic or sexual violence.

2) The Department shall not refer any client, either within the Department or to the Department of Healthcare and Family Services, for the purposes of paternity establishment and/or child support enforcement activities without first inquiring and screening for the existence of domestic or sexual violence issues and the establishment of a good cause reason under 89 Ill. Adm. Code 160.35.

3) Persons identified through inquiring and/or screening as being the victims of past or present domestic or sexual violence or at risk of future domestic or sexual violence shall be referred to appropriate available domestic or sexual violence services.

4) No applicant or recipient shall be required to answer any question about domestic or sexual violence, but rather shall be afforded the opportunity to self-disclose when and if she feels ready and safe to do so.

5) That an individual is a past or present victim of domestic or sexual violence or at risk of further domestic or sexual violence may be established at any time.

6) Applicants and recipients who do not self-identify as victims of domestic or sexual violence shall not be penalized for failure to self-identify.

7) The screening and identifying of victims of domestic or sexual violence and the waiver process shall not delay the determination or redetermination of eligibility for or payment of benefits.

f) In the assessment process and development of a Responsibility and Services Plan (RSP) and reassessment and review of the RSP, the factor of domestic and sexual violence shall be taken into account in determining the work, education and training activities that are appropriate. For those identified as having a presence, history or risk of domestic or sexual violence, the RSP shall be designed with confidentiality and the health and safety of the individual and her children as a consideration. The RSP shall include consideration of the following:

1) the degree to which domestic or sexual violence is a barrier to obtaining employment or participation in other work activities;

2) flexibility to accommodate any prior or current legal obligations or other activities or issues related to the domestic or sexual violence;

3) referral for services for the victim and other members of the household, including, but not limited to:

A) individual or group counseling;

B) substance abuse services;

C) medical services;

D) mental health counseling;

E) immigration services;

F) relocation services;

G) independent living skills;

H) financial planning; and

I) legal services;

4) the need for waivers; and

5) the approval and terms of any waivers.

g) Evidence of Domestic or Sexual Violence

1) In order for the provisions of subsections (h) and (i) of this Section to apply, the client must submit other evidence to support the allegations of domestic or sexual violence. One item of other evidence from the kinds listed below shall be sufficient to establish the presence of domestic or sexual violence for purposes of subsections (h) and (i) of this Section:

A) a written statement, from any individual other than the client with knowledge of the circumstances, that provides the basis for the claim;

B) a police record or file;

C) a government agency record or file;

D) a court record or file;

E) documentation from a domestic or sexual violence program or rape crisis organization from which the client has sought services or advice in dealing with the domestic or sexual violence;

F) documentation from a legal, clergy, medical or other professional from whom the individual has sought services or advice in dealing with the domestic or sexual violence;

G) other evidence, such as physical evidence, of violence; or

H) any other evidence that supports the allegation.

2) The Department shall not contact the person believed to be the perpetrator of abuse, or any other person deemed by the victim to be unsafe to contact for any reason, including for the purpose of corroborating, verifying or refuting evidence of abuse.

h) If an applicant or recipient fails to work, search for work, participate in a work activity or appear for an appointment on a particular date, it shall be considered good cause if the applicant or recipient acting on her own behalf or on behalf of a member of the household:

1) is seeking or sought medical attention for, or is recovering from, physical or mental injuries that were caused by domestic or sexual violence;

2) is obtaining or obtained services from a victim services organization;

3) is obtaining or obtained psychological or other counseling due to domestic or sexual violence;

4) relocated or is relocating on a temporary or permanent basis, participated or is participating in safety planning, or took or is taking other steps to increase the safety of the applicant or recipient and members of her household or to prevent the applicant or recipient, minor child or other member of her household from being subjected to domestic or sexual violence in the future; or

5) is seeking or sought legal assistance or remedies to ensure the health and safety of the applicant or recipient or a member of her household, including preparation for or participation in any civil or criminal proceeding that resulted from the applicant or recipient, minor child or any other member of her household being subjected to domestic or sexual violence.

i) Waivers

1) The client's 60-month time limit on assistance may be stopped or an exception to the 60-month time limit may be granted for months in which the client is experiencing a domestic or sexual violence issue or is involved in domestic or sexual violence programs or services such that it is difficult for the client to participate in other appropriate work, training or education activities. If the clock is stopped, the client's Responsibility and Services Plan will be revised to reflect this waiver of work, training or education activities while the client resolves the domestic or sexual violence issues.

2) The client shall not be required to participate in paternity establishment or child support cooperation requirements if the client is determined to have "good cause" as defined under 89 Ill. Adm. Code 160.35 due to domestic or sexual violence issues.

3) Waivers shall be granted for so long as necessary for any program requirements in cases where compliance with such requirements would make it more difficult for an applicant or recipient to escape domestic or sexual violence, unfairly penalize them, or subject them to further risk of domestic or sexual violence.

4) Applicants and recipients can apply for a waiver at any time. At no time shall an applicant's or recipient's decision not to disclose abuse or not seek waivers due to abuse preclude disclosure or a request for waiver at a later date, nor will it preclude future access to services, other waivers or approval of client-desired education, training or other activities.

5) Any denial, termination or modification of a waiver shall be in writing and shall state the reason for the denial, termination or modification. Such actions may be appealed through the standard appeal and fair hearing procedures applicable to other determinations of eligibility, progress or status. (See 89 Ill. Adm. Code 14.)

6) While the request for any waiver is pending or is under appeal, no negative action based on the ground for a waiver pending or under appeal on an applicant's or recipient's case shall occur.

7) Applicants and recipients who request a waiver of the employment and work activity requirement shall not be required to participate in employment and work activities while the waiver request is pending or is under appeal.

8) The duration of a waiver shall be initially determined and subsequently redetermined on a case-by-case basis. At the time of assessment and review of the RSP, a determination shall be made as to whether the waiver will be continued, terminated or modified, or whether any other waivers of other program requirements are appropriate and shall be granted. Continuing eligibility for a waiver shall be redetermined no less often than every six months.

9) There is no limit on the total number of months a waiver may be extended or the number of waivers approved for any individual or family.

10) An individual may decline a waiver or terminate an existing waiver at any time without penalty.

11) The granting of a waiver shall not negatively affect the amount of the household's grant or the budgeting of income for the applicant or recipient.

j) For the protection of clients, any information about a client or case is confidential and shall be used only for purposes directly related to the administration of the assistance programs, as provided in 89 Ill. Adm. Code 10.230 and, in addition:

1) Any information pertaining to any applicant or recipient who may be a past or present victim of domestic or sexual violence or an individual at risk of further domestic or sexual violence shall remain confidential and shall not be released unless required for the administration of public assistance programs, authorized pursuant to law or in writing by the victim or, if the victim is a minor child or otherwise not legally competent, the caretaker relative whose interests are not adverse to the minor or legally authorized representative. This information includes but is not limited to information on the applicant's or recipient's current address, work place, work placement or school that the individual has been identified as a victim of domestic or sexual violence, or any details concerning the domestic or sexual violence.

2) The Department shall inform all applicants and recipients of the meaning of case information confidentiality, the Department's policy on maintaining case information confidentiality, and the limitations of case information confidentiality, and shall explain specifically what limitations on case information confidentiality exist, including State law and regulations regarding the reporting of known or suspected child abuse and neglect under 325 ILCS 5.

3) All applicants and recipients shall be advised that, if they are victims of domestic or sexual violence and their abuser, or someone close to their abuser or any other person deemed by the victim, or the victim's caretaker relative or legally authorized representative to be unsafe to contact, is employed by an agency or governmental department to whom case information may be furnished, including, but not limited to the Illinois State Scholarship Commission, the Illinois Department of Healthcare and Family Services or any successor agency, bureau or department, and the Illinois Department of Revenue, and any local, State or federal law enforcement agencies, or is a State or local law enforcement official or officer, the applicant or recipient should inform the Department so that information is not released without the applicant's or recipient's informed written consent and without appropriate precautions taken.

4) Information with respect to victims of domestic or sexual violence shall not be released to any other household member, the household's currently authorized representative, or a person acting in the household's behalf unless authorized in writing by the victim or, if the victim is a minor child or otherwise not legally competent, the victim's caretaker relative or legally authorized representative.

5) To protect against coercion, the Department, its employees, contractors, and subcontrators shall not request written informed consent authorizing the release of information from a victim, or the victim's caretaker relative or legally authorized representative in the presence of the alleged abuser.

6) Department employees, contractors and subcontractors may have access to client identifiable information maintained on a victim of domestic or sexual violence only when the employees' job responsibilities cannot be accomplished without access to client identifiable information.

7) The confidentiality and integrity of the service provider and applicant and recipient relationship shall be preserved when reviewing an individual's participation in domestic or sexual violence services.

k) Domestic or sexual violence training shall be mandatory for all appropriate Department staff, including hearing officers, and the staff of any office or bureau, who work with applicants or recipients at any of the Department's offices or sites. The Department shall consult with State and local domestic or sexual violence experts to develop the curriculum.

l) Nothing in this Section shall be interpreted to require any actions, not required of applicants or recipients who are not domestic or sexual violence victims, by domestic or sexual violence victims, or those acting on behalf of victims, such as seeking orders of protection, pursuing any other civil or criminal legal action, attending counseling, or other actions. Nothing in this Section shall be interpreted as allowing a denial or reduction of benefits or a denial, modification or termination of a waiver to domestic or sexual violence victims because they do not take actions not required of other applicants or recipients. An individual may decline to participate in services specifically directed at domestic or sexual violence, or may terminate participation in such services, without penalty or sanction.

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