

## § 263.21

will reside in accordance with the meaning of section 1034 of the Internal Revenue Code of 1986 (26 U.S.C. 1034). The qualified acquisition cost of the residence cannot exceed the average purchase price of similar residences in the area.

### § 263.21 May a State use the TANF grant to fund IDAs?

If the State elects to operate an IDA program, then the States may use Federal TANF funds or WtW funds to fund IDAs for individuals who are eligible for TANF assistance and exercise flexibility within the limits of Federal regulations and the statute.

### § 263.22 Are there any restrictions on IDA funds?

The following restrictions apply to IDA funds:

(a) A recipient may deposit only earned income into an IDA.

(b) A recipient's contributions to an IDA may be matched by, or through, a qualified entity.

(c) A recipient may withdraw funds only for the following reasons:

(1) To cover post-secondary education expenses, if the amount is paid directly to an eligible educational institution;

(2) For the recipient to purchase a first home, if the amount is paid directly to the person to whom the amounts are due and it is a qualified acquisition cost for a qualified principal residence by a qualified first-time home buyer; or

(3) For business capitalization, if the amounts are paid directly to a business capitalization account in a federally insured financial institution and used for a qualified business capitalization expense.

### § 263.23 How does a State prevent a recipient from using the IDA account for unqualified purposes?

To prevent recipients from using the IDA account improperly, States may do the following:

(a) Count withdrawals as earned income in the month of withdrawal (unless already counted as income);

(b) Count withdrawals as resources in determining eligibility; or

(c) Take such other steps as the State has established in its State plan

## 45 CFR Ch. II (10-1-06 Edition)

or written State policies to deter inappropriate use.

## PART 264—OTHER ACCOUNTABILITY PROVISIONS

Sec.

264.0 What definitions apply to this part?

### Subpart A—What Specific Rules Apply for Other Program Penalties?

264.1 What restrictions apply to the length of time Federal TANF assistance may be provided?

264.2 What happens if a State does not comply with the five-year limit?

264.3 How can a State avoid a penalty for failure to comply with the five-year limit?

264.10 Must States do computer matching of data records under IEVS to verify recipient information?

264.11 How much is the penalty for not participating in IEVS?

264.30 What procedures exist to ensure cooperation with the child support enforcement requirements?

264.31 What happens if a State does not comply with the IV-D sanction requirement?

264.40 What happens if a State does not repay a Federal loan?

264.50 What happens if, in a fiscal year, a State does not expend, with its own funds, an amount equal to the reduction to the adjusted SFAG resulting from a penalty?

### Subpart B—What are the Requirements for the Contingency Fund?

264.70 What makes a State eligible to receive a provisional payment of contingency funds?

264.71 What determines the amount of the provisional payment of contingency funds that will be made to a State?

264.72 What requirements are imposed on a State if it receives contingency funds?

264.73 What is an annual reconciliation?

264.74 How will we determine the Contingency Fund MOE level for the annual reconciliation?

264.75 For the annual reconciliation, what are qualifying State expenditures?

264.76 What action will we take if a State fails to remit funds after failing to meet its required Contingency Fund MOE level?

264.77 How will we determine if a State met its Contingency Fund expenditure requirements?

**Subpart C—What Rules Pertain Specifically to the Spending Levels of the Territories?**

- 264.80 If a Territory receives Matching Grant funds, what funds must it expend?
- 264.81 What expenditures qualify for Territories to meet the Matching Grant MOE requirement?
- 264.82 What expenditures qualify for meeting the Matching Grant FAG amount requirement?
- 264.83 How will we know if a Territory failed to meet the Matching Grant funding requirements at § 264.80?
- 264.84 What will we do if a Territory fails to meet the Matching Grant funding requirements at § 264.80?
- 264.85 What rights of appeal are available to the Territories?

AUTHORITY: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 609, 654, 1302, 1308, and 1337.

SOURCE: 64 FR 17896, Apr. 12, 1999, unless otherwise noted.

**§ 264.0 What definitions apply to this part?**

(a) The general TANF definitions at §§ 260.30 through 260.33 of this chapter apply to this part.

(b) The following definitions also apply to this part:

*Countable State Expenditures* means the amount of qualifying State expenditures, as defined in § 264.75, plus the amount of contingency funds expended by the State in the fiscal year.

*FAG* means the Family Assistance Grant granted to a Territory pursuant to section 403(a)(1) of the Act. It is thus the Territorial equivalent of the SFAG, as defined at § 260.30 of this chapter.

*Food Stamp Trigger* means a State's monthly average of individuals participating in the Food Stamp program (as of the last day of the month) for the most recent three-month period that exceeds its monthly average of individuals in the corresponding three-month period in the Food Stamp caseload for FY 1994 or FY 1995, whichever is less, by at least ten percent, assuming that the immigrant provisions of title IV and the Food Stamp provisions under title VII of PRWORA had been in effect in those years.

*Unemployment Trigger* means a State's average unemployment rate for the most recent three-month period of at least 6.5 percent and equal to at least 110 percent of the State's unemployment rate for the corresponding three-

month period in either of the two preceding calendar years.

**Subpart A—What Specific Rules Apply for Other Program Penalties?****§ 264.1 What restrictions apply to the length of time Federal TANF assistance may be provided?**

(a)(1) Subject to the exceptions in this section, no State may use any of its Federal TANF funds to provide assistance (as defined in § 260.31 of this chapter) to a family that includes an adult head-of-household or a spouse of the head-of-household who has received Federal assistance for a total of five years (i.e., 60 cumulative months, whether or not consecutive).

(2) The provision in paragraph (a)(1) of this section also applies to a family that includes a pregnant minor head-of-household, minor parent head-of-household, or spouse of such a head-of-household who has received Federal assistance for a total of five years.

(3) Notwithstanding the provisions of paragraphs (a)(1) and (a)(2) of this section, a State may provide assistance under WtW, pursuant to section 403(a)(5) of the Act, to a family that is ineligible for TANF solely because it has reached the five-year time limit.

(b)(1) States must not count toward the five-year limit:

(i) Any month of receipt of assistance by an individual who is not the head-of-household or married to the head-of-household;

(ii) Any month of receipt of assistance by an adult while living in Indian country (as defined in section 1151 of title 18, United States Code) or a Native Alaskan Village where at least 50 percent of the adults were not employed; and

(iii) Any month for which an individual receives only noncash assistance provided under WtW, pursuant to section 403(a)(5) of the Act.

(2) Only months of assistance that are paid for with Federal TANF funds (in whole or in part) count towards the five-year time limit.

(c) States have the option to extend assistance paid for by Federal TANF funds beyond the five-year limit for up to 20 percent of the average monthly