

**Office of Family Assistance, ACF, HHS**

**§ 286.165**

**§ 286.155 May a Tribe condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe?**

(a) Tribes have the option to condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe consistent with paragraph (b) of this section.

(b) For Tribes choosing to condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe, the TFAP must address the following—

(1) Procedures for ensuring that assigned child support collections in excess of the amount of Tribal TANF as-

sistance received by the family will not be retained by the Tribe; and

(2) How any amounts generated under an assignment and retained by the Tribe will be used to further the Tribe's TANF program, consistent with § 286.45(f).

[65 FR 8530, Feb. 18, 2000, as amended at 69 FR 16672, Mar. 30, 2004]

**§ 286.160 What are the applicable time frames and procedures for submitting a Tribal Family Assistance Plan?**

(a) A Tribe must submit a Tribal TANF letter of intent and/or a TFAP to the Secretary according to the following time frames:

Implementation date:	Letter of intent due to ACF and the State:	Formal plan due to ACF:	ACF notification to the State due:
January 1, February 1 or March 1.	July 1 of previous year .....	September 1 of previous year	October 1 of previous year.
April 1, May 1 or June 1 .....	October 1 of previous year ....	December 1 of previous year	January 1 of same year.
July 1, August 1 or September 1.	January 1 of same year .....	March 1 of same year .....	April 1 of same year.
October 1, November 1 or December 1.	April 1 of same year .....	June 1 of same year .....	July 1 of same year.

(b) A Tribe that has requested and received data from the State and has resolved any issues concerning the data more than six months before its proposed implementation date is not required to submit a letter of intent.

(c) The effective date of the TFAP must be the first day of any month.

(d) The original TFAP must be sent to the appropriate ACF Regional Administrator, with a copy sent to the Division of Tribal Services, Office of Community Services, Administration for Children and Families.

(e) A Tribe that submits a TFAP or an amendment to an existing plan that cannot be approved by the Secretary will be given the opportunity to make revisions in order to make the TFAP, or an amendment, approvable.

(f) Tribes operating a consolidated Public Law 102-477 program must submit a TFAP plan to the Secretary for review and approval prior to the consolidation of the TANF program into the Public Law 102-477 plan.

**§ 286.165 How is a Tribal Family Assistance Plan amended?**

(a) An amendment to a TFAP is necessary if the Tribe makes any substantial changes to the plan, including those which impact an individual's eligibility for Tribal TANF services or participation requirements, or any other program design changes which alter the nature of the program.

(b) A Tribe must submit a plan amendment(s) to the Secretary no later than 30 days prior to the proposed implementation date. Proposed implementation dates shall be the first day of any month.

(c) We will promptly review and either approve or disapprove the plan amendment(s).

(d) Approved plan amendments are effective no sooner than 30 days after date of submission.

(e) A Tribe whose plan amendment is disapproved may petition for an administrative review of such disapproval under § 286.170 and may appeal our final written decision to the Departmental Appeals Board no later than 30 days from the date of the disapproval. This appeal to the Board should follow the

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provisions of the rules under this subpart and those at 45 CFR part 16, where applicable.

### **§ 286.170 How may a Tribe petition for administrative review of disapproval of a TFAP or amendment?**

(a) If, after a Tribe has been provided the opportunity to make revisions to its TFAP or amendment, the Secretary determines that the TFAP or amendment cannot be approved, a written Notice of Disapproval will be sent to the Tribe. The Notice of Disapproval will indicate the specific grounds for disapproval.

(b) A Tribe may request reconsideration of a disapproval determination by filing a written Request for Reconsideration to the Secretary within 60 days of receipt of the Notice of Disapproval. If reconsideration is not requested, the disapproval is final and the procedures under paragraph (f) of this section must be followed.

(1) The Request for Reconsideration must include—

(i) All documentation that the Tribe believes is relevant and supportive of its TFAP or amendment; and

(ii) A written response to each ground for disapproval identified in the Notice of Disapproval indicating why the Tribe believes that its TFAP or amendment conforms to the statutory and regulatory requirements for approval.

(c) Within 30 days after receipt of a Request for Reconsideration, the Secretary or designee will notify the Tribe of the date and time a hearing for the purpose of reconsideration of the Notice of Disapproval will be held. Such a hearing may be conducted by telephone conference call.

(d) A hearing conducted under § 286.170(c) must be held not less than 30 days nor more than 60 days after the date of the notice of such hearing is furnished to the Tribe, unless the Tribe agrees in writing to an extension.

(e) The Secretary or designee will make a written determination affirming, modifying, or reversing disapproval of the TFAP or amendment within 60 days after the conclusion of the hearing.

(f) If a TFAP or amendment is disapproved, the Tribe may appeal this

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final written decision to the Departmental Appeals Board (the Board) within 30 days after such party receives notice of determination. The party's appeal to the Board should follow the provisions of the rules under this section and those at 45 CFR part 16, where applicable.

### **§ 286.175 What special provisions apply in Alaska?**

A Tribe in the State of Alaska that receives a TFAG must use the grant to operate a program in accordance with program requirements comparable to the requirements applicable to the State of Alaska's Temporary Assistance for Needy Families program. Comparability of programs must be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and the Tribes in Alaska. The State of Alaska has authority to waive the program comparability requirement based on a request by an Indian tribe in the State.

### **§ 286.180 What is the process for developing the comparability criteria that are required in Alaska?**

We will work with the Tribes in Alaska and the State of Alaska to develop an appropriate process for the development and amendment of the comparability criteria.

### **§ 286.185 What happens when a dispute arises between the State of Alaska and the Tribal TANF eligible entities in the State related to the comparability criteria?**

(a) If a dispute arises between the State of Alaska and the Tribes in the State on any part of the comparability criteria, we will be responsible for making a final determination and notifying the State of Alaska and the Tribes in the State of the decision.

(b) Any of the parties involved may appeal our decision, in whole or in part, to the HHS Departmental Appeals Board (the Board) within 60 days after such party receives notice of determination. The party's appeal to the Board should follow the provisions of the rules under this section and those at 45 CFR part 16, where applicable.