

Department of Public
Health and Human Services

SECTION:

WoRC CASE MANAGEMENT

WoRC GUIDELINES MANUAL

SUBJECT:

Fair Hearings

References: 45 CFR 261.13 - .15; ARM 37.78.102, .506 and .508; ARM 37.5.307 and .316

GENERAL RULE-- TANF cash assistance may continue, if requested, pending a Fair Hearing decision if the assistance unit is otherwise eligible. All non financial and financial eligibility requirements must be evaluated and met before authorization of benefits.

NOTE: TANF Extended Benefit cases are not eligible for continued benefits.

If a fair hearing is requested and the reason is the WoRC Employability Plan or Extended Benefits, an activity or participation in such, then the WoRC Case Manager needs to be involved in the process. The request for the fair hearing may mean the activity or issue is disputed or sanctioned based on the non-participation that is in dispute. In any case, the WoRC Case Manager must present evidence of participant progress or lack thereof which supports the adverse action being appealed. WoRC must coordinate and cooperate with the Office of Public Assistance (OPA) in this process. OPA will initiate the process after receiving a Request For Fair Hearing form.

FAIR HEARING REQUEST FIRST SANCTION

A sanction is considered imposed when a sanction notice (either A740 or A741 First Sanction Decrease or A604 First Sanction Close Over Income) has been sent.

Even if a Fair Hearing and continued benefits are requested, the current Family Investment Agreement and WoRC Employability Plan (FIA/EP) ends:

1. At the end of the month prior to the sanction penalty month for “work-eligible individuals” who are required to negotiate a FIA/EP during the sanction penalty month (TANF 701-1); or
2. At the end of the sanction penalty month for individuals who are not “work-eligible” individuals (TANF 701-1) and not required to negotiate a FIA/EP during the sanction penalty month.

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NOTE:

If the sanctioned individual is **not** a “work-eligible” individual and not required to negotiate a FIA/EP during the sanction penalty month, **they must negotiate a FIA/EP prior to the last day of the penalty month** to avoid case closure. This information is included in the A740 notice.

If the sanctioned individual does not negotiate a new FIA/EP, close the case. No further notice is required.

If the sanctioned individual does negotiate a FIA/EP, the TANF cash assistance remains open and benefits are issued for the next month, provided all other eligibility requirements are met.

**► CONTINUED BENEFITS & REQUEST FOR FAIR HEARING
FIRST SANCTION**

If a sanctioned individual requests a fair hearing on the imposition of a sanction penalty month and requests continued benefits pending a fair hearing, the ‘FHP’ (Fair Hearing Pending) component code will be used to account for full hours on the FIA/EP during the sanction penalty month in TEAMS to allow continued benefits to be issued.

In order to receive cash assistance following the receipt of continued benefits during a sanction penalty month, a new FIA/EP must be negotiated. This information is included on the A502 “CONT BENEFITS PENDING HEARING” notice.

**FAIR HEARING REQUEST
SECOND AND SUBSEQUENT SANCTION**

A sanction is considered imposed when a sanction notice (A609) has been sent. Even if a Fair Hearing and continued benefits are requested, the current FIA/EP ends at the end of the month prior to the sanction ineligibility month.

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Imposing a second or subsequent sanction and an ineligibility month are not independent actions, they occur at the same time. Participants who wish to request a Fair Hearing for both actions only have to request a fair hearing once to address both concerns.

CONTINUED BENEFITS & REQUEST FOR FAIR HEARING SECOND OR SUBSEQUENT SANCTION

If a sanctioned individual requests a fair hearing on the imposition of a second or subsequent sanction and ineligibility period, and requests continued benefits pending a fair hearing, the 'FHP' (Fair Hearing Pending) component code will be used to account for full hours on the FIA/EP during **one month of the ineligibility period** in TEAMS to allow continued benefits to be issued.

- ▶ **NOTE:** If one parent in a two-parent household requests a fair hearing and they are requesting continued benefits during a sanction ineligibility month, each parent is coded as FHP.

In order to receive cash assistance following the receipt of continued benefits during a one month ineligibility period, a new FIA/EP must be negotiated and the individual must complete an Intensive Case Management meeting when a second sanction has occurred. This information is included on the A502 "CONT BENEFITS PENDING HEARING" notice.

If the household receives one month of continued benefits during a 3 or 6 month ineligibility period, it will count as month '1' in the ineligibility period, however the remaining months of the ineligibility period must be served, prior to being eligible for TANF cash assistance. The household must make application for TANF cash assistance, following the ineligibility period. (TANF 701-3)