

Article 7
General Assistance Manual

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§1701. General Assistance. (a) **Authority.** The General Assistance Payment is administered island-wide by the Department of Public Health and Social Services, Division of Public Welfare, Bureau of Economic Security, Government of Guam. The same agency administers the federally funded public assistance programs in the Territory.

General Assistance Program is authorized under 10 GCA §2601.

(b) **Introduction.** The purpose of this manual is to provide the Bureau of Economic Security (BES) staff with requirements and procedures for determining eligibility and authorizing assistance in the Administration of General Assistance Program.

(c) **Background.** On a national basis, *General Assistance* is a generic term used to describe programs of emergency (non-continuing) income assistance funded solely by the local agency. General Assistance program is an important component of the income assistance system in the Territory of Guam, serving as the ultimate safety net for low-income persons not eligible for federally funded programs such as Aid for Families with Dependent Children (AFDC) and the Adult Programs (OAA, AB, APTD). It provides for short term or emergency assistance pending determination of eligibility for other programs or the realization of self support. The program is based on financial need only. Benefit levels are provided based on the need standards for all PA programs.

(d) **Organization of the Manual.** This manual is organized so that whenever possible, sections are presented in the same order as the procedures in practice.

(e) **Changes and Responsibilities for Updating Manual.** The Program Management Section (PMS), Policy Development Unit (PDU) will be responsible for updating the manual and keeping it current. Information regarding changes will be sent to all BES staff and official holders of

the manual via memorandum. Necessary controls will be established to assure that all manuals are current and up-to-date at all times.

(f) **Program Coordination.** The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau of Investigation and Benefit Recovery, Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department of Public Health & Social Services, and other agencies in order to assure proper program administration.

§1702. Application Process. (a) Request for Application for Assistance.

(1) **Right to Apply.** Each individual shall have the opportunity to apply for assistance and receive an application form without delay. An applicant may be assisted by other individuals in the various aspects of the application process. These individuals may serve as the authorized representative on behalf of the applicant.

(2) **Reapplication.** Terminated or denied cases must file a new application to reapply for assistance.

(3) **Reinstatements.**

(A) Assistance shall be reinstated without a new application when eligibility can be re-established on the basis of information provided by the recipient before the effective date of termination. A new application is needed if the information is provided after the effective date of termination.

(B) In case of agency error or directed by a fair hearing or court decision, aid shall be reinstated.

(4) **Distinction Between Application and Inquiry.** A request for General Assistance is considered an inquiry until a signed application with applicant's name and address is received by the Bureau of Economic Security.

(b) **Steps in the Application Process.**

(1) **Initial Contact with the Agency.** When an individual first contacts the agency for assistance, the Eligibility Specialist (ES) provides Part I application form for completion to pre-screen and determine the urgency of the applicant's situation.

(A) If the applicant is determined to be in urgent need of assistance, the applicant shall be interviewed immediately.

(B) If the applicant is determined not to be in urgent need of assistance, he/she will be scheduled for a mass screening orientation within two (2) weeks following the date of application. The applicant shall be provided with a list of required documents (document checklist) necessary for the interview.

Factors used in determining urgency of need are:

- (1) No income/resource
- (2) Renting and there is possibility of eviction because payment of rent is behind.
- (3) Utilities to be discontinued because of outstanding bills.

(2) Persons Who may sign Applications.

(1) **Initial contact with the agency.** The adult applicant, the designated authorized representative, or other responsible relatives acting on behalf of an incapacitated adult may sign the application. In the case of couples who do not qualify for AFDC, both parties must sign the application.

When there is a change in grantee-relative and the new grantee-relative is a person who has not signed the current application, a new application must be completed and signed by the new grantee-relative.

If the new grantee relative is the spouse of the former grantee-relative and signed the current application, no new application is needed.

(3) **Applicant's Rights.** Applicants for and recipients of General Assistance have certain rights which are protected by Federal and Local Policy.

Informing individuals of these rights, and interpreting them as necessary, is a basic part of the application process and each review of eligibility. These include:

- (A) Right to apply
- (B) Right to a fair hearing

(C) Right to confidentiality

(D) Civil rights

(4) **Applicant's Responsibilities.** The applicant or a protective payee is responsible to the extent permitted by his physical and mental condition for providing documentation to establish eligibility. Some applicant responsibilities include:

(1) Verification of applicant's identity and age.

(2) Verification of applicant's present address and living arrangement.

(3) Verification of the family composition and relationship of persons in the household.

(4) Verification of his financial need and eligibility for public assistance.

(5) Provision of Social Security Numbers for every member in the assistance unit.

When additional information is needed to establish eligibility, the applicant shall be given specific written instructions at the time of interview regarding any information that the applicant is responsible for providing within 5 days from the date of the written request for additional information. (APS-7)

(5) **Delay of Information.** Any time beyond the five days written notice shall be considered a delay on the part of the application. The delay shall be the basis for denial of the application, when it appears the applicant is not cooperating in establishing eligibility. The specific reason for the denial shall be clearly stated in the case record and in the notice of denial sent to the applicant.

(6) **Worker's Role.** The Eligibility Specialist (ES) represents the agency in dealing with inquiries, applicants, and recipients. The APW must:

(A) Explain the choice of assistance programs available and recommend the programs most appropriate to meet the needs of applicant such as Aid to Families with Dependent Children (AFDC), Old Age Assistance (OAA), Aid to the Permanently and Totally Disabled (APTD), Aid to

the Blind (AB), General Assistance (GA), Medicaid and Food Stamps.

(B) Assist the applicant to complete and file his/her application within agency policy.

(C) Inform the individual that the agency will reach a decision within thirty (30) days with respect to eligibility based on the information presented on application form and that the applicant/recipient is expected to furnish complete and accurate information in all areas covered by the form.

(D) Explain that some factors of eligibility must be verified and explain what the applicant/recipient is expected to provide in the way of verification.

(E) Explain that if assistance is granted, the client must assume the responsibility of notifying the agency of any change which would affect eligibility or the amount of payment within 10 days of the change.

(F) Explain that a number of persons receiving public assistance, as well as a number of rejected applications and terminated cases will be investigated by the Quality Control staff for an extensive review and verification of data provided in the case record. In signing the application or review the individual agrees to cooperate fully in such an investigation if the individual's name is selected; also, in signing the form, the individual assumes responsibility for accuracy of the information contained.

(G) Explain the necessity for contacting the absent parent to enlist aid in providing support for the children and that income from relatives on a regular basis, whether in the form of cash or income-in-kind, whenever available to a client shall be taken into consideration in determining the amount of assistance.

(H) Discuss certain factors involved in determining eligibility; such as treatment of income, registration with JOBS program, Social Security numbers, and assignment of Child Support. The ES will also discuss additional benefits that may be available to them, such as

medical coverage (retroactive also), food stamps and social services.

(I) Furnish information pertaining to the client's right to receive a ten day advance notice on adverse actions and the right to appeal the decisions of the Department of Public Health and Social Services.

(7) **Prudent Person Concept.** The ES shall follow the prudent person concept in determining eligibility whenever consistent with the procedures set forth in the manual.

The prudent person concept refers to the capability of the ES for reviewing and analyzing information provided by an applicant/recipient and accurately deciding that such information is sufficient for making an eligibility determination or that further inquiry in the client's circumstances is indicated. Proper execution of this concept is of critical importance to the successful administration of all programs. By definition, the prudent person must be vigilant, cautious, perceptive and governed by generally sound judgement.

(8) **Duplicate Assistance.** Applicants may apply for assistance from any of the public assistance low income programs, but may receive CASH ASSISTANCE from only one. Anyone receiving AFDC CASH ASSISTANCE from another state is ineligible for AFDC CASH ASSISTANCE from Guam, as long as assistance from another state continues.

(9) **Right to Appeal.** An explanation of the right to appeal any action or failure to act by the Division will be given to each applicant. (See Chapter IV, section 400, Fair Hearing)

(10) **Cooperation with the Investigation and Recovery Office (IRO) of the Bureau of Management Support (BMS), Child Support Enforcement Unit (SEU).** Applicants will be advised that the ES must refer the case to the Office of Child Support Enforcement upon approval, and that cooperation of the applicant with the Office of Child Support Enforcement is a requirement for continuing eligibility. Clients will not be required to cooperate when a determination of good cause for non-cooperation is pending or established. The client must

submit a written request for a good cause determination to the ES and provide requested verification.

(11) **Client's Responsibility.** It is the applicant's/client's responsibility to report any of the following changes in household within 10 days after the change occurred:

(A) New address or change in mailing address.

(B) New rental amount and rental decreases/increases.

(C) The number of people in the household (if someone moves in or out of home).

(D) Changes in resources.

(E) Changes in household's income if it increases, decreases or ceases.

(F) Changes in utilities or dependent care

(12) **Non-Discrimination.** No person will be subjected to discrimination (such as race, sex, color, national origin, handicap, age, etc.) for any reason under any program of the Guam Public Welfare Division according to Federal Rules and Regulations.

The Assistance Payment Worker (APW) must inform applicants and recipients for their right to file a complaint with the Division, the Federal Agency, or both, if they believe discrimination is being practiced.

(c) **Securing Essential Information.** Before approval and at each redetermination, all verifications necessary to determine eligibility must be completed.

Applicants and/or recipients are the primary source of information. If a client is unable to obtain information, the APW will assist.

If a third party refuses to supply information without an individual permission, and Authorization to Release of Information (APS Form) must be signed by the applicant/recipient. Lack of third party cooperation must be verified/documented.

(d) **Time Limits on Processing.** Applicants must be determined eligible or ineligible within 30 days (no later than 45 days) from the date of application. The applicant

must be notified via mail, Notice of Approval or Denial, whichever is appropriate.

(e) Disposition of Application.

(1) **Denial.** Applications are denied when:

(A) Ineligibility is established by the department;

(B) Applicant fails to provide information essential to determine eligibility; and

(C) The agency loses contact with the applicant before eligibility is determined. Documentation in the case file is necessary.

(2) **Withdrawal.** Applications are withdrawn when the client initiates a voluntary request. The reason for withdrawal must be documented in the casefile.

(3) **Approval.** When eligibility requirements are met, assistance is approved.

§1703. Eligibility Criteria. An individual shall be considered for General Assistance after he/she has applied for the federally funded Public Assistance programs and has been determined to be ineligible.

(a) **Citizenship Requirements.** A recipient must be a U.S. citizen or an Alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. under color of law (PRUCOL).

The agency shall allow the applicant thirty (30) days to obtain proofs of citizenship. After the thirty (30) days and the applicant has not provided the agency with proofs of citizenship the agency shall take action to deny the applicant's Application for General Assistance.

Verification (any of the following is acceptable)
Certified copy of birth Certificate (U.S. or its possession):

- Passport
- Certificate of citizenship with official seal
- Certificate of identity
- Voters' registration card
- Naturalization paper
- Permanent Resident or Resident Alien Card (Green Card)
- Vital statistics records from off-island

The agency shall assist the applicant by:

(1) Providing the applicant with the name and address of the appropriate vital statistics office.

(2) Informing the applicant of the fee(s) charged to obtain a copy of the birth record.

The name, address and fees for vital statistic offices may be obtained from the "WHERE TO WRITE FOR VITAL RECORDS" handout issued by the Department of Health and Human Services. A copy of this handout is on file with certification case managers and district supervisors.

The applicant shall be responsible for mailing the request and appropriate fee(s) to the Vital Statistics Office.

(b) **Residency Requirements.** To be eligible for assistance, applicants must be living in Guam with the intention of making Guam their home. Applicants must provide verification of residency. Any of the following is acceptable:

Verifications (any of the following is acceptable)

- (1) Rent/Mortgage Receipt
- (2) Landlord Statement
- (3) Guam Driver's License
- (4) Guam Vehicle Registration
- (5) Voter Registration
- (6) Utility Bills/Receipts
- (7) Employer Statement
- (8) Village Mayor's statement
- (9) School verification

(c) Applicants must furnish the agency with their Social Security numbers. The EW shall assist an applicant without Social Security number to apply for one at the Social Security Administration.

(d) **Age Requirement.** Applicants must be 18 years of age or older, or an emancipated minor. Any one of the following is acceptable verification:

(1) A Birth Certificate from Vital Statistics, or from the hospital.

(2) A statement from school records showing the date of birth

(3) Naturalization Record. The worker should note the naturalization number(s) and the names and birth date(s) of the child(ren) and parents.

(4) Immigration Papers or Government Record of Immigration

(5) Passport. Record the date issued, full name, and age of the client

(6) Adoption Decree

(7) Newspaper Notices. A newspaper clipping is acceptable if it gives the name of the child and parents along with the date of birth.

(8) Marriage certificate.

(9) Court documents verifying emancipation rights

(e) **Income Requirement.** Income, generally, is any benefit in cash or in kind which is currently available to the individual or is received by him as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations or assistance agencies.

To qualify for the General Assistance Program, an applicant or recipient must have zero (0) income, and the following types of income shall be excluded in determination eligibility:

(1) Income of children below 18 years of age who are attending school full-time, including employment income during summer break;

(2) Disaster related assistance;

(3) Income from the Senior Community Employment Program (SCEP) (Title V of the Older American Act Program);

(4) Any allowances or stipends for meals, transportation and child care from any government agency or non-profit organization;

(5) GHURA utility subsidy.

(f) **Resource Requirement.** To qualify for the General Assistance Program, an applicant or recipient's liquid and non-liquid resources other than those specifically excluded in Section 300.80 of this manual shall not exceed \$100.

(1) Resources, personal and real properties are counted toward the resource reserve limit, for all persons included in the assistance unit. Property of the natural, legally liable, or an adoptive parent, with whom the children are living, is also included in the assistance unit's property reserve. Properties are evaluated at market value less encumbrances. The following are considered real property: Land, houses, mobile homes, and immovable property attached to the land; personal property is all assets other than real property. When the reserve limits are exceeded, the assistance unit is ineligible.

(2) Client is representative payee or legal guardian for managing someone else's funds. These funds are not included in the client's personal property reserve when they are kept in an account separate and apart from the client's monies and can be identified as being received and designated for someone other than the client.

(g) Types of Personal Property

(1) Cash on hand

(2) Stocks, bonds, notes, mortgages and deed of trust. Evaluate at current retail market value less encumbrances.

Verifications
Stock report
Copy of bond or maturity schedule
Copies of receipt
Copy of the note, mortgage or deed

(3) Checking and/or Savings Accounts. Any amount in the accounts is considered a resource.

Verifications
Copy of current bank statement
Copy of bank passbook/checkbook

(4) Life Insurance. If the client is the OWNER of a policy, the cash value is applied to the property reserve.

Verifications
Insurance policy
Written statement from insurance company

(5) Vehicles, Applicants are allowed one vehicle regardless of the value.

Verifications

Client's statement regarding the number of vehicles owned, ownership status and availability is acceptable.

Possible sources of verification are:

Kelly Blue Book
Copy of bill of sale
Copy of vehicle registration
Estimate from auto dealer
Cars not in the Kelly Blue Book, worker's assessments

(6) Farm Machinery/Equipment. The wholesale value of machinery and equipment is placed in the property reserve.

Verifications

Written dealer's estimate

Written estimate from agricultural agent

(7) Trust Funds. Trust funds are referred to the Attorney General's Office for a decision on availability.

(8) Individual and Family Grant (IFG)

(9) Income Tax Refunds

(10) Other Real Property. Any property, other than that where the family resides will be considered a resource.

Verifications

Signed and dated statement from a licensed real estate broker

Tax lists

Copy of mortgage papers

Copy of deed

Certificate of Title

(11) Lump Sum Income (Earned and Unearned).
Examples of nonrecurring lump sum income:

(A) Payment in the nature of a windfall, such as, but not limited to, lottery winnings, inheritances, poker winnings, etc.

(B) Personal injury awards, workman's compensation awards (to the extent it is not earmarked and used for the purpose for which it is paid, i.e. monies for back medical bills).

(C) Social Security retroactive payments, and other retroactive monthly benefits.

(h) Excluded Property.

(1) Clothing, personal items, furniture, household equipment, food for personal use.

(2) One vehicle is excluded as a resource. Any additional vehicle is counted as available resource.

(3) One burial plot and one funeral agreement per family member.

(4) Real Property is excluded when the property is a home, including any surrounding land in which a client lives and owns or is buying. Land is contiguous to the home when not separated by property owned by another person.

(i) **Transfer of Resources.** The applicant/recipient shall not have transferred property with intent to qualify for assistance.

(j) **Job Search Requirement.** Able bodied individuals between the ages of 18 and 54 shall be required to comply with the Job Search requirements.

(1) **Initial Application.** Upon initial application, applicant must show proof that he/she had satisfied the following requirements:

(A) Applicant shall be registered with the Department of Labor and,

(B) He/she has sought employment from a minimum of three prospective places of employment immediately prior to scheduled interview.

(2) **On-Going.** In order to satisfy the requirement of seeking work, an eligible individual in the GA program shall furnish to the Department, a minimum of one written statement per week from prospective employers substantiating his/her attempts to obtain employment. In addition, each eligible individual shall be required to visit the Department of Labor on a monthly basis to inquire into employment opportunities and to maintain active employment registration status.

Applicants/Recipients may be permitted to obtain verification of employment search through use of Department's form. However, other valid written statements from the prospective employer substantiating the recipient's effort to obtain

employment may be acceptable in lieu of the Department's form.

A client shall be afforded a grace period up to two (2) work days in the week following in which to submit job search verifications for any given week.

(3) Job Search Exemptions.

(A) 55 years and over and has need for assistance

(B) Mentally or physically impaired whether temporarily or permanently as medically verified.

(4) Non-Compliance with Job Search or Refusal to Accept Bona-fide Job Offer. A refusal or failure to accept and pursue a referral for employment by any member of the assistance unit, without good cause, shall disqualify the entire household from the program for a period of two (2) months. The household may not be reinstated into the program until the two (2) months disqualification period has been served.

(A) The effective date of the disqualification will begin on the first month following the Notice of Adverse Action.

(B) **Voluntary Quit.** If an individual voluntarily quits a job without good cause as defined in Section 301.50, such individual and all other members of the assistance unit shall be disqualified for a period of three (3) months, beginning from the date the individual quit.

(k) Definition of *Good Cause* for Refusing Job Offer or Leaving Employment/Work Training.

(1) It is the responsibility of the individual to provide the necessary verification to establish his good cause for refusing or leaving his employment/work training. The Department may contact the applicant/recipient's last employer or prospective employer to corroborate good cause.

(2) Good cause for refusing or leaving employment/work training, when substantiated with written verification or documentation exists when:

(A) The applicant has filed a charge of discrimination against the employer based upon age, race, sex, handicap, religious belief, national origin, or political affiliation, with the appropriate state or federal agencies administering equal employment opportunity practices.

(B) Conditions of employment or training violated health and safety laws or regulations. Such violation must cause actual detriment to the individual's health or safety.

(3) The wages offered were less than or reduced to below the prevailing minimum wage in Guam, or in occupations where set minimum wage has been established.

(4) he applicant has filed a charge with the Department of Labor stating that the conditions or demands of employment violate applicable laws, rules or regulations; and DPH&SS determines that such charge is valid.

(5) The individual left his job to accept a definite and firm offer of employment elsewhere, as evidenced by letter of confirmation, and such employment does not materialize because of circumstances beyond his control. The letter of confirmation must specify the following:

(A) Name of employer and or representative of employer who made the offer.

(B) Address and/or telephone number of employer.

(C) Statement of actual job offer.

(6) The resignation of the individual is recognized by the employer as retirement.

(7) The employment or training is beyond the individual's mental or physical capacity, as mutually determined by the employer and individual. If the individual was determined as physically capable of doing the work by the employer, but the individual disagrees, he must provide documentation to verify his physical inability to do the job.

(8) There is severe illness in the individual's immediate family (spouse and children) which requires his presence at home and no other care arrangements were feasible. The existence of such illness is subject to the verification of a medical doctor or physician.

§1704. Fair Hearing. (a) Availability of Hearings.

(1) An opportunity for a hearing shall be granted to any applicant who requests a hearing because his or her claim for financial assistance or medical assistance is denied or is not acted upon with reasonable promptness.

(2) A hearing shall be granted by any agency action resulting in suspension, reduction, discontinuance, or termination of assistance or determination that a protective, vendor or two-party payment should be made or continued.

(3) A hearing need not be granted when either the local or Federal law require automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation.

(b) **Request for Hearing.** A request for hearing is defined as a clear expression by the claimant (applicant or recipient) or his/her authorized representative acting for him/her to the effect that he/she wants the opportunity to present his/her case to higher authority. The claimant shall complete form APS-27D Request for Fair Hearing. The APW will request the claimant to clarify its grievance if the request is unclear. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

The claimant shall be provided reasonable time, not to exceed 90 days in which to appeal an agency decision.

(c) Agency may Deny or Dismiss a Request for Hearing. The agency may deny or dismiss a request for a hearing: a) where it has been withdrawn by the claimant in writing; b) where the sole issue is one of local or Federal Law requiring automatic grant adjustments for classes of recipients; c) where a decision has been rendered after a WIN hearing before the Department of Labor that a participant has, without good cause, refused to accept employment or participate in WIN Program or has failed to request such a hearing after notice of intended action for such refusal or d) where it is abandoned. Abandonment may be deemed to have occurred if the claimant, without good cause therefore, fails to appear by himself or by authorized representative at the hearing scheduled for such claimant.

(d) Agency Actions Pending a Hearing Decision. If the recipient requests a hearing within the timely notice period:

(1) Assistance shall not be suspended, reduced, discontinued or terminated, (but is subject to recovery by the Agency if its action is sustained), nor may the manner or form of payment be changed to a protective, vendor or two-party payment until a decision is rendered after a hearing, unless:

(A) A determination is made at the hearing that the sole issue is one of local or Federal law or policy, or change in local and Federal law and not one of incorrect grant computation; or

(B) A change affecting the recipient's grant occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of change; or

(C) The recipient specifically requests that assistance not be continued pending the hearing decision.

(2) The agency shall promptly inform the claimant in writing the option for assistance to be continued or discontinued pending the hearing decision; and

(3) The agency may provide that:

(A) A hearing request made after the date of action (but during a period not in excess of 10 days following such date) shall result in reinstatement of assistance to be continued until the hearing decision, unless at the hearing it is determined that the sole issue is one of local or federal law or policy.

(B) If the claimant requests a hearing within 10 days of the mailing of the notice, and the agency determines that the action resulted from other than the application of local and Federal law or policy or a change in local or Federal law, assistance shall be reinstated and continued unless the recipient specifically requests that continued assistance not be paid pending the hearing decision.

(e) **Agency Conference.** The agency shall offer an agency conference to claimant who wish to appeal an action. The agency shall advise applicants and recipients that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process. The agency conference shall be attended by the program supervisor and the applicant or recipient and/or the representative.

An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless claimant makes a written withdrawal of its request for a hearing. The withdrawal of Request for a Fair Hearing form APS-27B must be completed and submitted to the agency.

(f) **Consolidated Hearings.** The agency may respond to a series of individual request for hearing by conducting a single group hearing. The agency may consolidate only cases in which the sole issue involved is one of Local or Federal law. In all group hearings, the policies governing hearing must be followed. Each individual claimant shall

be permitted to present his own case or be represented by his/her authorized representative.

(f) **Notification of Right to Request Hearing.** At the time of application, each claimant shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that his/her case may be presented by a representative, such as a legal counsel, a relative, a friend or other persons. In addition, at any time the claimant express to the APW that he/she disagrees with an action he/she shall be reminded of the right to request a fair hearing. The claimant shall also be informed of the availability of any free legal representation.

(g) **Time Period for Requesting Hearing.** A claimant shall be allowed to request a hearing on any action by the agency which occurred in the prior 90 days. In addition, at any time within a certification period a claimant may request a fair hearing to dispute its current level of benefits.

(h) **Agency Responsibilities on Hearing Requests.** Upon request, the agency shall make available without charge the specific materials necessary for a claimant or its representative to determine whether a hearing should be requested or to prepare for a hearing. If the individual making the request speaks a language other than English, the agency shall provide bilingual staff or interpreters who speak the appropriate language, and shall insure that the hearing procedures are verbally explained in that language. Upon request, the agency shall also help a claimant with its hearing request. If a claimant makes an oral request for a hearing, the APW shall complete the procedures necessary to start the hearing process. The claimant shall be advised of any legal services available that can provide representation at the hearing.

(i) **Agency Responsibilities on Hearing Requests.** The time, date and place of the hearing shall be arranged so that the hearing is accessible to the claimant. At least 10 days prior to the hearing, advance written notice shall be provided to all parties involved to permit adequate preparation of the case. However, the claimant may request less advance notice to expedite the scheduling of the hearing. The notice shall:

(1) Inform claimant of the time, date, and place of the hearing.

(2) Advise the claimant or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the claimant to attend the scheduled hearing.

(3) Specify that the agency will dismiss the hearing request if the claimant or its representative fails to appear for the hearing without good cause.

(4) Explain that the claimant or representative may examine the case file prior to the hearing.

(5) Advise the availability of any legal services.

(k) **Hearing Official.** Hearing shall be conducted by an impartial official(s) who: does not have any personal stake or involvement in the case; was not directly involved in the initial determination of the action which is being contested; and was not the immediate supervisor of the eligibility worker who took the action.

(l) **Designation of Hearing Official.** The hearing official shall be the designee of the Director of the Department of Public Health and Social Services. Power and duties.

The hearing official shall:

(1) Administer required oaths or affirmations;

(2) Insure that all relevant issues are considered;

(3) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

(5) Order, when the hearing involves medical issues, an independent medical assessment or professional evaluation from a source other than that

of the person or persons involved in making the original decision. This evaluation or assessment shall be at agency's expense;

(6) Provide a hearing record and recommendation for final decision by the hearing authority;

(m) Hearing Authority.

(1) The hearing authority shall be the Director of the Department, or some other agency official designated by the Director to render the final administrative decision in a hearing. The same person may act as both the hearing official and the hearing authority.

(2) In respect to Title IV-C, when the appeal has been taken on the basis of a disputed WIN registration requirement, exemption determination or finding of failure to appear for an appraisal interview, a representative of the local WIN Manpower agency shall, where appropriate, participate in the conduct of the hearing.

(n) Attendance at Hearing. The hearing shall be attended by a representative of the agency and by the claimant and/or its representative. The hearing may also be attended by friends or relatives of the claimant if the claimant so chooses. The hearing official shall be the authority to limit the number of persons in attendance at the hearing if space limitations exist.

(o) Claimant's Rights. The claimant may not be familiar with the rules or order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the claimant feel most at ease. The claimant or its representative must be given adequate opportunity to:

(1) Examine the contents of his/her casefile to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing.

(2) Present his/her case or with the aid of an authorized representative.

(3) Bring witnesses.

(4) Advance any arguments without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(p) Hearing Decisions.

(1) Decisions of the hearing authority shall comply with Federal law and regulations and shall be based on the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the hearing authority. This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

(2) A decision by the hearing authority shall be binding on the agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent Federal regulations. The decision shall become a part of the record.

(3) The claimant shall be notified in writing of the decision and the reasons for the decision; the available appeal rights; and that the claimant's benefits will be issued or terminated as decided by the hearing authority. The notice shall also state that an appeal may result in a reversal of the decision.

(4) After a hearing decision which upholds the agency action, the claimant shall be notified of the right to pursue judicial review of the decision.

(q) Implementation of Final Hearing Decisions.

(1) Prompt definition and final administrative action shall be taken within 90 days from the date of the request for a hearing.

(2) When the hearing authority upholds the agency's action, a claim against the claimant for any overpayments shall be prepared.

(3) When the hearing decision is favorable to the claimant or when the agency decides in favor of claimant prior to the hearing, the agency shall promptly make corrective payments retroactively to the date the incorrect action was taken.

(r) All agency hearing decisions shall be accessible to the public (subject to provisions of safeguarding public assistance information).

§1705. Need Standard. (a) **Overview.** Public Law 20-76 "AN ACT TO REVISE THE STANDARDS OF ASSISTANCE" authorizes the Department of Public Health and Social Services to implement the revisions recommended in the Standards of Assistance Study issued by the Department in June, 1983.

The Department of Public Health and Social Services shall perform a Standard of Assistance Study every five (5) years and transmit the results to the Guam Legislature. The first study shall be completed on (1) year after the effective date of P.L. 20-76 (September 14, 1989);

By virtue of the foregoing, the attached rules and regulations entitled "Standards of Assistance" are hereby approved and promulgated and shall be in force and effect. All prior rules and regulations are superseded herein.

(b) **Purpose.** The purpose of these rules and regulations is to revise standards of assistance in connection with the administration of Social Services under 10 GCA Chapter 2.

(c) **Definitions.**

(1) **Standards of Assistance:** The Standards of Assistance consist of quality, quantity or cost of food, clothing, household supplies, personal needs and

other needs established by the Department of Public Health and Social Services for payment to eligible recipients of the Public Assistance programs.

(2) **Basic Requirements:** The basic requirements consist of necessities, such as food, clothing, personal needs, household supplies (Comprise those items which are necessary for the day-to-day maintenance of a household such as soap, cleaning supplies, brooms, etc.) which are common to all individuals which must be included in the budget of all recipients.

(c) Standard Monthly Schedule for Basic Individual Requirements.

FAMILY MEMBERS IN ASSISTANCE UNIT	FOOD	CLOTHING	PERSONAL	HOUSEHOLD	TOTAL
1	94.00	33.00	7.00	17.00	151.00
2	187.00	41.00	9.00	21.00	258.00
3	246.00	49.00	10.00	25.00	330.00
4	312.00	61.00	13.00	31.00	417.00
5	371.00	73.00	16.00	37.00	497.00
6	445.00	85.00	19.00	43.00	592.00
7	492.00	96.00	21.00	49.00	658.00
8	562.00	107.00	23.00	54.00	746.00
9	633.00	117.00	25.00	59.00	834.00
10	703.00	126.00	27.00	64.00	920.00
11	773.00	136.00	29.00	70.00	1,008.00
12	843.00	146.00	31.00	76.00	1,096.00
13	913.00	156.00	33.00	82.00	1,184.00
14	983.00	166.00	35.00	88.00	1,272.00
15	1,053.00	176.00	37.00	94.00	1,360.00
For each additional member add...	+70.00	+10.00	+ 2.00	+ 6.00	+ 88.00

NOTE: Recipients who are institutionalized will be provided \$40.00 only for clothing and personal needs in lieu of the above standards.

(e) Other Needs.

(1) Shelter.

Number of Persons in Assistance Unit	Maximum Monthly Allowance
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1 - 2	\$ 200.00
3 - 6	250.00
7 and over	325.00

Shelter payments may be authorized for rental/mortgage payments based on the actual cost up to the maximum allowance for each family size, when proper verification is provided. In no event shall payment exceed the maximum standard.

For shared households, the shelter and utility allowance shall be budgeted on the prorata share of the expenses for the assistance unit up to the maximum standard. A shelter allowance shall be provided only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter allowance, even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not provided for, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

For GHURA rental contracts, the EW shall at the time of new application, recertification, or reapplication, use the contract to determine what rental amount the recipient is responsible for paying. If the recipient has not yet paid for rent, he shall be required to obtain from the landlord, a statement indicating the rental amount due from the recipient for the month.

(2) **Utility Allowance:** Utility allowance shall be provided in the budget for the actual costs incurred, up to the maximum amount authorized by the agency, for each family size. In no event shall payment exceed the maximum standard.

Utility allowance shall be given only in the month the utility is billed or otherwise becomes due, regardless of when the household intends to pay the bill. For example, a utility such as power which is due each month shall be included in the household's utility

allowance even if the household has not yet paid the bill. Amounts carried forward from past billing periods are not provided for, even if included with the most recent billing and actually paid by the household. In any event, a particular utility bill may only be provided with the allowance once.

When any of the utility needs are subsidized by the Guam Housing and Urban Renewal Authority (GHURA), the EW shall include the subsidy amount as unearned income and give the allowances for utility needs when determining need and amount of the public assistance grant.

For Example:

Mr. Cruz, a recipient, has a power expense of \$45.00, and water/sewer expense of \$12.00 and \$8.00 respectively. When computing Mr. Cruz's total needs, the EW shall provide:

BASIC NEEDS:	\$151.00
POWER ALLOWANCE	35.00
WATER ALLOWANCE	8.00
SEWER ALLOWANCE	8.00
TOTAL NEEDS	<u>\$202.00</u>

NOTE: Because actual power and water expenses are greater than the maximum standard for a household size of one (1), the maximum amount was provided to Mr. Cruz.

(1) **POWER** (Electricity):

Number of persons in Assistance Unit	Maximum Monthly Allowance
<u>1</u>	<u>\$ 35.00</u>
2	43.00
3	51.00
4	64.00
5	77.00
6	89.00
7	101.00
8	112.00
9	122.00
10	132.00
11	142.00

12 152.00
 * For each additional member (add) 10.00

(2) Water:

Number of persons in Assistance Unit	Maximum Monthly Allowance
1	\$ 8.00
2	10.00
3	12.00
4	15.00
5	18.00
6	21.00
7	24.00
8	27.00
9	29.00
10	31.00
11	34.00
12	37.00

* For each additional member add \$3.00

(3) Gas:

Number of persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	\$ 6.00
3 - 4	10.00
5	12.00
6 - 7	13.00
8 and over	21.00

Gas allowance shall only be provided to households which do not claim power costs. If gas is used, there is a savings in power costs, thus reducing the need for a power allowance. The client has the option to choose between the allowance for power or the allowance for gas, when both expenses are incurred.

(4) Telephone: The basic (flat) rate for a single-line telephone is \$12.00. This shall be the allowance provided to all households which have this expense. Any additional expenses which exceed the basic rate for telephone is not provided.

(5) Sewer: The basic (flat) rate for this utility is \$8.00. This shall be provided only to households

which claim and present verification for this expense. Any additional expenses which exceed the basic rate for sewer is not provided.

NOTE: When living arrangements are shared with non-assistance units, only the recipients' actual share of cost (up to the maximum allowance for each household size) will be provided.

(f) Other Needs Allowance Table.

Household Size	Power	Water (Elec.)	Sewer	Gas	Telephone	Shelter
01	35.00	8.00	8.00	6.00	12.00	200.00
02	43.00	10.00	8.00	6.00	12.00	200.00
03	51.00	12.00	8.00	10.00	12.00	250.00
04	64.00	15.00	8.00	10.00	12.00	250.00
05	77.00	18.00	8.00	12.00	12.00	250.00
06	89.00	21.00	8.00	13.00	12.00	250.00
07	101.00	24.00	8.00	13.00	12.00	325.00
08	112.00	27.00	8.00	21.00	12.00	325.00
09	122.00	29.00	8.00	21.00	12.00	325.00
10	132.00	31.00	8.00	21.00	12.00	325.00
11	142.00	34.00	8.00	21.00	12.00	325.00
12	152.00	37.00	8.00	21.00	12.00	325.00
For each additional member add:						
	+ 10.00	+ 3.00	+ 0.00	+ 0.00	+ 0.00	+ 0.00

NOTE: For shared households, the shelter and utility allowance shall be budgeted based on the prorata share of the expenses for the assistance unit up to the maximum standard.

§1706. Recoupment and Correction of Payments.

Recoupment of overpayment and correction of underpayments are applied uniformly throughout the Territory of Guam. The recovery of an overpayment can be waived when it can be reasonably assumed that the cost to collect will exceed the amount owed. Except in fraud cases, the amount of less than \$35.00 will be waived from recoupment to former recipients. In fraud cases the amount will be collected.

(a) **Recoupment of Overpayments.** Overpayment is the amount of difference between what the assistance unit received and what it should have received.

(1) All attempts must be made to recoup all overpayments regardless if the overpayment is a result of IPV or non-IPV.

(2) Recoupment will be made in such a way that available income, resources, and the assistance payment equal to 90 percent of the amount payable to an assistance unit of the same composition with no other income. If recoupment is made from current assistance payment only, 90% of the payment will be made available to client.

(3) Where a former recipient with an outstanding overpayment reapplies and is found to be eligible, the agency must recover the overpayment considering the current income, resources, and assistance payment of the recipient in determining the monthly recovery amount.

(4) All terminated cases with an overpayment must be referred to Investigation and Recovery Unit for collection. The EW shall determine the amount of overpayment and the period the overpayment existed.

(5) All other recoupment cases must be reported to Investigation and Recovery Office (IRO).

(6) For cases in which overpayments resulted due to Intentional Program Violation, refer to Chapter VII, Section 707.12 of this Manual.

(b) **Corrected Payments of Underpayments.**

(1) Payment of underpayments is not considered as income or resources in the month paid nor in the following months.

(2) All underpayments must be paid to current recipients.

(3) If an assistance unit has both an outstanding overpayment and an underpayment, the agency may

offset one against the other before adjusting the
incorrect payment.