

104A - INDIVIDUAL CRIMINAL VIOLATIONS

Change #7-98

July 1, 1998

I. AN INDIVIDUAL'S NEEDS CAN NOT BE INCLUDED IN THE NEED STANDARD WHEN THE INDIVIDUAL IS:

- A.** Fleeing to avoid prosecution of a felony (or a high misdemeanor in New Jersey); **or**
- B.** Fleeing to avoid custody either before or after conviction of a crime that is a felony (or a high misdemeanor in New Jersey); **or**
- C.** Violating a condition of probation or parole under federal or State law as determined by a court. Once the individual has satisfied the conditions of his probation or parole, his needs can be included in the need standard for the family; **or**
- D.** Convicted on or after August 23, 1996, under federal or State law of any offense committed on or after August 23, 1996, which is classified as a felony by the jurisdiction involved and has as an element the possession, use, or distribution of a controlled substance. This does not apply to individuals convicted of Class H or I controlled substance abuse felony offenses in North Carolina. See III. below for instructions on how to treat these individuals.

II. BENEFIT CALCULATION

- A.** Reduce the family's need standard by one for each individual that meets one of the criteria in I. above.

EXAMPLE: A family consists of four members, one of which has been convicted of a felony drug offense. Use the need standard for a family of three to determine the family's benefits. Since the individual is included in the case, continue to count all of his income and resources. See Income and Needs and Resources.

- B.** Terminate or deny the *Work First Family Assistance* benefits if there is only one individual in the case and that individual meets one of the criteria in I. above. Evaluate the individual for Medicaid.

EXAMPLE: A family consists of a mother and her child who receives SSI. The mother is currently in violation of her probation. Terminate or deny the *Work First Family Assistance* benefits.

III. TREATMENT OF INDIVIDUALS CONVICTED OF CLASS H OR I CONTROLLED SUBSTANCE ABUSE FELONY OFFENSES

A. Requirement

Individuals who have been convicted of a Class H or I controlled substance felony in North Carolina may be eligible for Work First under the following conditions.

1. The individual may be eligible six (6) months after release from custody or if the individual was never committed to custody, six months after the date of conviction, if there has been no additional controlled substance felony conviction, **and**
2. The individual has successfully completed, or has continuously participated in a required substance abuse treatment program determined appropriate by the area mental health authority.

If the area mental health authority determines treatment is appropriate and funds and programs are available, individuals eligible for Work First because of this rule are required to undergo substance abuse treatment as a condition for receiving Work First.

B. Application of Requirement

1. At application (or the next review if not done at application), evaluate whether each individual has been convicted of a controlled substance felony offense on or after August 23, 1996. Use the DSS-8213A.
2. Those individuals who have been convicted of a controlled substance felony class *other than* H or I or who have been convicted *outside* of North Carolina continue to be ineligible for Work First. See I. and II. above.
3. For those who have been convicted **in North Carolina**, determine the classification of the controlled substance felony by using information that may be available on the Department of Corrections inquiry screens. If not available there, a contact the individual's parole or probation officer may be helpful. In some circumstances, the Clerk of Court in the county of conviction can provide a criminal record's check with the full name of the individual; however, there may be a fee charged for this service.
4. Verification must be obtained about whether the individual has been *convicted* of any other substance abuse felony offense during his six month period of ineligibility. During the individual's six month period of ineligibility, calculate the payment as outlined in II. above.
5. Those individuals who have been convicted of a Class H or I felony in North Carolina may be eligible if the criteria outlined in A. above have been met.

WORK FIRST

ASSESSMENT FOR WORK FIRST FAMILY ASSISTANCE

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Individual Criminal Violations

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- (a) Refer each of these individuals to the Qualified Substance Abuse Professional (QSAP) assigned to the county DSS or local area mental health authority for assessment. Qualified staff at the mental health authority determines what treatment program is appropriate for the individual or determines treatment is not warranted. Coordination with the QSAP or local area mental health authority to work out a referral and communication process should be developed.
- (b) The consent form is completed and signed so that the substance abuse professional can notify the county DSS of the individual's progress with his treatment plan. The individual is not eligible for six months after release from custody or six months from conviction if he was never confined. This is true **even** if he is participating in a treatment plan.

The individual is ineligible for assistance if he fails to comply with his required treatment, refuses to sign a consent form, or fails to keep his assessment appointment with the local area mental health authority. (Urine toxicology results obtained as a part of a treatment plan are to be used to measure the effectiveness of treatment.)

If the individual is ineligible because of one of the reasons listed above, calculate his Work First payment as outlined in II. above.

IV. DOCUMENTATION

Except for verification of an individual's status as a Class H or I controlled substance felon, accept the family's written statement at application and review to verify that no family members meet one of the conditions listed in I. above. If there is a reason to doubt the family's written statement and resources are available in your county, you may verify whether a family member meets one of the conditions listed in I. above. (The Clerk of Court can provide a criminal records check with the full name of the individual; however, there may be a fee charged.)