

WORK ISSUES FOR IMMIGRANTS WHO GET CASH ASSISTANCE IN FLORIDA

The information given here is based on current Florida law. Please remember that the law changes often. Talk to the Legal Services or Legal Aid office near you to make sure the law has not changed. You can locate your local Legal Services or Legal Aid program by looking in your phone book or asking directory assistance.

Who Has to Work in Florida for Cash Assistance

★ **ALL ELIGIBLE PERSONS APPLYING FOR CASH ASSISTANCE MUST MEET WORK REQUIREMENTS IF THEY ARE NOT IN ONE OF THE FOLLOWING GROUPS WHO ARE EXEMPT FROM WORK** (Fla. Stat. §§ 414.065(2), (3))

- ◆ Minor children under 16
- ◆ People getting SSI or SSDI (benefits for age, disability, or blindness)
- ◆ One custodial parent of a child under 3 months
- ◆ Adults who are not included in a “child-only” case

★ **CHILD-ONLY CASES INCLUDE FAMILIES WHERE THE ONLY PARENT IN A SINGLE-PARENT HOUSEHOLD OR BOTH PARENTS IN A TWO-PARENT HOUSEHOLD ARE INELIGIBLE FOR CASH ASSISTANCE DUE TO IMMIGRATION STATUS** (§414.045(b)4., Florida Statutes)

★ **HOWEVER, INELIGIBLE IMMIGRANT PARENTS WHO ARE AUTHORIZED TO WORK IN THE U.S., MUST NEVERTHELESS COMPLY WITH PROGRAM WORK REQUIREMENTS** (§414.095(3)(b), Florida Statutes)

- ◆ This type of child-only case is not eligible to get support services, such as child care or transportation, even if needed by the parent to work (414.045(b)4., Florida Statutes)
- ◆ Example: asylum applicant parent with work authorization (non-Cuban/Haitian) who works while her citizen child gets cash assistance can not get subsidized child care from the cash assistance program (but note: child-only cases are not time-limited §414.105(9))

Note the Contradiction for Ineligible Immigrants

GENERALLY, ADULTS WHO ARE NOT INCLUDED IN THE CALCULATION OF CASH ASSISTANCE IN CHILD-ONLY CASES, LIKE NON-PARENT CARETAKER RELATIVES, ARE EXEMPT FROM PARTICIPATING IN WORK REQUIREMENTS. SEC. 414.065(3)(C), FLORIDA STATUTES.

THIS PROVISION SEEMS CONSISTENT WITH SEC. 414.045(B)4. (DENYING WORK SUPPORTS TO INELIGIBLE IMMIGRANT-PARENTS IN CHILD-ONLY CASES), BUT IS NOT CONSISTENT WITH SEC. 414.095(3)(B) WHICH IMPOSES A WORK REQUIREMENT ON INELIGIBLE IMMIGRANT PARENTS WHO HAVE WORK PERMISSION (SUCH AS PAROLEES FOR LESS THAN ONE YEAR).

Nevertheless, it appears that such a family, if sanctioned for failure to participate in work activities, could assert as good cause the lack of support services which are needed to comply with work requirements.

“Lack of provision of support services may be considered as a factor in determining whether good cause exists for failing to comply with a work activity requirement but does not automatically constitute good cause...” Sec. 414.20 , Florida Statutes

A finding that lack of support services constitutes good cause for not doing a work activity is thus not absolutely precluded even for families headed by ineligible immigrants who are specifically prohibited from getting child care and other work-related supports from the WAGES cash assistance program.

Protections for Florida Workers
in the Cash Assistance Program

ANTI-DISCRIMINATION

- ★ **EACH PARTICIPANT IS SUBJECT TO THE SAME HEALTH, SAFETY, AND NONDISCRIMINATION STANDARDS ESTABLISHED UNDER FEDERAL, STATE, OR LOCAL LAW THAT OTHERWISE APPLY TO OTHER INDIVIDUALS ENGAGED IN SIMILAR ACTIVITIES WHO ARE NOT PARTICIPANTS IN THE CASH ASSISTANCE PROGRAM** (§414.065(11), Florida Statutes)

NON-DISPLACEMENT

- ★ **AN EMPLOYED WORKER MAY NOT BE DISPLACED, EITHER COMPLETELY OR PARTIALLY, BY A CASH ASSISTANCE PARTICIPANT; NOR MAY A CASH ASSISTANCE PARTICIPANT BE ASSIGNED TO AN ACTIVITY OR EMPLOYED IN A POSITION WHERE THE EMPLOYER CREATED THE VACANCY OR TERMINATED AN EXISTING EMPLOYEE WITHOUT GOOD CAUSE IN ORDER TO FILL THE JOB WITH A CASH ASSISTANCE PARTICIPANT** (§414.065(12), Florida Statutes)

Florida Work Activities of Particular Interest to Immigrants

☆ **ORIENTATION AND OVERVIEW**

- ◆ Unclear what the content difference is between orientation and overview, but benefits are being processed under time standards while the applicant/participant attends
- ◆ It is possible to be sanctioned for failure to attend either or both of these before getting even one dollar of benefits
- ◆ There could be an illegal delay in receipt of benefits and/or an unjustifiable sanction interrupting or denying benefits if translated orientation and/or overview sessions are not offered or timely scheduled in a language the participant can understand

☆ **INDIVIDUAL SERVICE STRATEGY (I.S.S.) DOCUMENT**

- ◆ “Plan of action” checklist to assess barriers to work
- ◆ Does not, per se, screen for language literacy or proficiency
- ◆ Has a space for assessing training and education barriers to achieving basic work skills
- ◆ So this document is flexible enough to list a need for language literacy or proficiency instruction

☆ **JOB SKILLS TRAINING** (§414.065(1)(h))

- ◆ A “countable” activity
- ◆ Customized training to meet the needs of a specific employer or industry
- ◆ “Shall” include literacy instruction
- ◆ “May” include English or Spanish proficiency instruction if needed to perform the job or if it

enhances employment opportunities in a particular community

English for Speakers of other Languages as a Work Activity in Florida

☆ **ASIDE FROM JOB SKILLS TRAINING, THERE ARE ONLY SCATTERED PROVISIONS WHICH ALLUDE TO ESOL AS A WORK ACTIVITY FOR THOSE GETTING CASH ASSISTANCE**

- ◆ Participants may be required to enroll in literacy instruction in addition to the regularly assigned “countable” work activity if the two together do not exceed 40 hours weekly (§414.065(2)(a), Florida Statutes)
- ◆ The 12 month limit on vocational education (voc ed is a countable activity if engaged in for no more than 12 months by no more than 20% of the case load) does not apply to remediation, such as English language proficiency, which might be necessary before one enters vocational education. Such remediation must be completed before the participant is referred to vocational education (§414.065(1)(g)1., Florida Statutes)
- ◆ Participants may engage in “extended education and training”. Extended education and training means educational activities that exceed or are not included elsewhere in the program and that do not comply with federal work participation limits. This activity is allowed if the federal work participation rate requirements are being exceeded by the state. A local Coalition must seek State Board approval to set this up. (§414.065(i)(1), Florida Statutes)
- ◆ The cash assistance program may use program funds to support the efforts of participants who want to enroll or continue in adult general education or career education (§414.065(2)(b), Florida Statutes)

☆ **AS OF JANUARY 20, 2000, THERE WERE 37 PARTICIPANTS ENROLLED IN ESOL STATEWIDE; IN 1999 THERE WERE 404**

PARTICIPANTS ENROLLED IN ESOL STATEWIDE

Language as a Barrier to Justify
More Time on Florida Cash Assistance

- ☆ **CASH ASSISTANCE PARTICIPANTS ARE LIMITED TO 24 MONTHS OF ASSISTANCE IN A FIVE YEAR PERIOD (OR 36 MONTHS IN A 6 YEAR PERIOD) AND 48 MONTHS OF CASH ASSISTANCE IN A LIFETIME**

- ☆ **PARTICIPANTS CAN GET UP TO 12 MONTHS OF ADDITIONAL TIME BASED ON HARDSHIP, BUT NEVER MORE THAN 48 MONTHS TOTAL IN A LIFETIME**

- ☆ **HARDSHIP CRITERIA DO NOT SPECIFICALLY INCLUDE LACK OF LITERACY OR LANGUAGE PROFICIENCY BUT DO INCLUDE, AMONG OTHER CRITERIA:**
 - ◆ Diligent participation combined with an inability to obtain employment
 - ◆ Diligent participation combined with extraordinary barriers to employment such as the kind of conditions which might exempt one from work activities
 - ◆ Significant barriers to employment combined with a need for more time

- ☆ **PARTICIPANTS WHO ARE DENIED HARDSHIP EXTENSIONS MAY APPEAL AND HAVE A RIGHT TO A DCAF FAIR HEARING WHEN CASH ASSISTANCE IS TERMINATED (DUE TO TIME LIMITS AND LACK OF APPROVAL OF A HARDSHIP TIME EXTENSION)**

- ☆ **NOTE: FAMILIES HEADED BY INELIGIBLE IMMIGRANT PARENTS, I.E. CHILD-ONLY CASES, ARE NOT TIME-LIMITED; THE CHILDREN CAN GET CASH ASSISTANCE UP TO AGE 18 OR, IF IN SCHOOL, UP TO AGE 19**

Advocacy Opportunities

- ★ **MAKE SURE THAT LEP (LIMITED ENGLISH PROFICIENT) PARTICIPANTS GET NOTICES, FORMS, ASSISTANCE, SERVICES IN A LANGUAGE THEY CAN UNDERSTAND.**
 - ◆ Title VI requires this for any program funded by TANF
 - ◆ Advocate with your local Coalition
 - ◆ File an administrative complaint with the Office of Civil Rights Compliance of the federal Department of Health and Human Services (HHS) if LEP clients are deprived of program information or services due to language barriers

- ★ **MAKE SURE THAT LEP PARTICIPANTS HAVE LANGUAGE PROFICIENCY INCLUDED IN THEIR I.S.S. AND MADE PART OF THEIR EMPLOYMENT PLAN.**

- ★ **MAKE SURE THAT LEP PARTICIPANTS WHO NEED LANGUAGE PROFICIENCY OR LITERACY INSTRUCTION, GET IT (FREE OF CHARGE) - EVEN IF IT DOES NOT COUNT TOWARD THE FIRST 20 HOURS OF THE THIRTY HOURS NEEDED TO MEET WORK PARTICIPATION REQUIREMENTS.**

- ★ **MAKE SURE THAT LEP PARTICIPANTS ARE NOT STEERED TO LESS DESIRABLE ACTIVITIES WHICH DO NOT MEET THEIR EMPLOYMENT GOALS.**

- ★ **DO OUTREACH IN YOUR COMMUNITY TO LET IMMIGRANTS KNOW THEIR RIGHTS WHILE**

PARTICIPATING IN THE CASH ASSISTANCE PROGRAM.

Appeals

☆ **APPEAL WITHIN DEADLINES**

- ◆ 10 days for “aid paid pending”
- ◆ or by 90th day of adverse action notice

☆ **REQUEST A FAIR HEARING FOR THESE REASONS (AS WELL AS OTHERS...)**

- ◆ If the Individual Service Strategy document (I.S.S.) does not accurately reflect what the client wants and/or needs to become economically self-sufficient
- ◆ if the work activities to which your client is assigned do not match the goals listed in the I.S.S.
- ◆ If it takes too long for your client to get referred to or enrolled in promised activities - delay effectively equals denial (remember, the clock is ticking the entire time the family gets cash assistance)
- ◆ If your client is denied or unduly delayed services like payment of expenses, fees, tools, and supplies that the client needs to support a work activity and become self-sufficient
- ◆ If your client is denied a referral to a particular (reasonable) activity or assignment that the client has asked for and which will help the client work and become self-sufficient
- ◆ If your client gets sanctioned for not doing something that the client did not know about or was only informed of in a language they could not understand
- ◆ If your client needs more time due to language barriers yet is denied a hardship extension to their time limits