



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Transitional Assistance
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Field Operations Memo 99-2F
October 3, 2000

To: Transitional Assistance Office Staff
From: Joyce Sampson, Assistant Commissioner for Field Operations
Re: *Thibault v. Department of Transitional Assistance* Lawsuit

Background

Field Operations Memos 99-2 and 99-2B through E informed Transitional Assistance Office Staff about the *Thibault v. DTA* lawsuit. A preliminary injunction issued on December 29, 1998 and a supplemental preliminary injunction issued on February 27, 1999 stated that the Department could not reduce or terminate TAFDC cases affected by the lawsuit due to the 24-month time limit or for failure to meet Work Program requirements, until the recipient's last disability exemption request, handled by HealthPro, was reviewed by DES.

The *Thibault* preliminary injunctions affect all applicants or recipients who:

- from November 1, 1995 until July 1, 1998, requested a disability exemption;
- had those exemption requests sent to HealthPro for processing;
- were sent an Initial Appointment for Medical Treatment (IAMT) letter; and
- for the sole reason of not complying with the IAMT letter, were determined not to be disabled.

Cases affected by the *Thibault* lawsuit were identified on the RECD Screen with code 99 in the STATEHSHLD Block. The code 99 prevents the system from accepting negative actions taken on these cases due to the 24-month time limit or failure to meet Work Program requirements.

Overview

The purpose of this memo is to inform AU Managers of the actions that will be taken on Thibault-related cases.

DES is reviewing and making disability determinations (approvals and denials) on Thibault-related cases. Approved disability decisions will date back to the HealthPro disability application date or the disability onset date, whichever is later.

DES will notify Central Office of Thibault-related disability determinations as decisions are made. Local Office Quality Control (LOQC) will be responsible for reviewing and determining the case actions to be completed by AU Managers. LOQC will forward a Thibault Processing Document (see Attachment A) informing the Director/Designee of the case actions to be performed along with the DES letter explaining the approval or denial of the disability request, and a special Department notice(s) to notify the recipient of the actions taken on his or her case. The AU Manager is responsible for completing the casework activities outlined by LOQC on the Thibault Processing Document, mailing the recipient the DES letter, any special Department notices forwarded by LOQC and a Disability Supplement, if applicable, and answering questions from any recipient impacted by these actions.

LOQC

LOQC will take the following actions when a Thibault-related disability request is **approved** by DES:

- review the case status (dates opened and closed, exempt and nonexempt) back to the disability determination date;
- based on the findings above, review the PRISM II State Clock Tab to determine how many months of the 24-month clock were used during the disability duration;
- send the TAO Director or Designee the actions to be taken on the case using the Thibault Processing Document (see Attachment A). The Thibault Processing Document will indicate:
 - ✓ the number of months, if any, to be subtracted from the 24-month clock;
 - ✓ the amount of the Q payment to be issued, if any, for any money owed to a case which was in a nonexempt status during any period of the disability duration or which had a grantee sanctioned for AR 27 at the time of the injunction;

Note: This Q payment is noncountable income for Food Stamp purposes as it is a one-time nonrecurring payment.

LOQC (continued)

- ✓ any changes that need to be made in the exempt/nonexempt status, action reason and program code; and
 - ✓ the EP code to be entered in Block 40 of the PID, if the disability duration has not expired.
- send the TAO Director or Designee the following forms **to be mailed to the recipient**:
 1. the DES disability approval letter stating the disability determination;
 2. the original and a recipient copy of the Notice of Disability Approval (see Attachment B) designed specifically for Thibault-related cases informing the recipient of the actions taken on his or her case. This notice will state the months, if any, that were subtracted from the 24-month clock, the amount of the Q payment, if any, if a change in the exempt/nonexempt status was made and if a new Disability Supplement is enclosed;
 3. a new Disability Supplement and Returning an Up-To-Date Disability Supplement Notice (see Attachment C), if the disability duration has expired; and
 4. a Transitional Assistance Multilingual Card.

Note: The individual will have 10 days to return the Disability Supplement. The AU Manager must sign and date it and enter his or her phone number. The Disability Supplement due date must be tracked.

The Notice of Disability Approval, the Disability Supplement and the Returning an Up-To-Date Disability Supplement Notice will be in English for all cases with a language code of 1 on PACES and in Spanish for all cases listed on PACES with a language code of 2. All other language codes will be sent the English versions. The multilingual card will be enclosed with all notices.

- send the TAO Director or Designee a copy of the DES TRACKING FORM FOR THIBAUT LAWSUIT CASES (see Attachment D) and copy of the Notice of Disability Approval. These forms must be filed in the case record.

LOQC (continued) LOQC will take the following actions when a Thibault-related disability request is **denied** by DES:

- review the case status (dates opened and closed, exempt and nonexempt) back to the disability determination date;
- based on the findings above, review the PRISM II State Clock Tab to determine how many months of the 24-month clock should have been used during the disability determination period;
- send the TAO Director or Designee the actions to be taken on the case using a Thibault Processing Document. The Thibault Processing Document will indicate:
 - ✓ the months, if any, to be added to the recipient's 24-month clock; and
 - ✓ any changes that need to be made in the exempt/nonexempt status, action reason and program code.
- send the TAO Director or Designee the following forms **to be mailed to the recipient**:
 1. the DES letter explaining the reason for the denial of the disability request;
 2. the original and a recipient copy of the Notice of Disability Denial (see Attachment E) designed specifically for Thibault-related cases informing the recipient of the actions taken on the case. This notice will state if any months have been added to the 24-month clock and if the exempt/nonexempt case status has changed; and
 3. a Transitional Assistance Multilingual Card.

Note: These notices will be in English for all cases with a language code of 1 on PACES and in Spanish for all cases listed on PACES with a language code of 2. All other language codes will be sent the English version. The multilingual card will be enclosed with all notices.

- send the TAO Director or Designee a copy of the DES TRACKING FORM FOR THIBAUTL LAWSUIT CASES and copy of the Notice of Disability Denial. These forms must be filed in the case record.

**Transitional
Assistance Office
Responsibilities**

It is up to the TAO Director to decide who in the office does which of the following activities for this special project. One person can be assigned to complete all Thibault-related activities or the Director can divide the casework activities between the AU Manager, Supervisor and Assistant Director.

AU Managers must:

- review the Thibault Processing Document and perform the case actions determined by LOQC for the specific case (i.e., issue a Q payment, change exempt/nonexempt status, add/subtract months from the 24-month clock, enter the EP code, etc.). Each action is case specific. Some cases may require more changes than others. These case actions should be completed within 10 days of receiving the Thibault Processing Document;
- on the day following the case actions above, change code 99 on the PACES RECD Screen to code 98 so that cases can be terminated for all action reasons. This is done by entering a "T" in block 40 (EP code) of the PID;

Note: The code 98 will be in place to continue identifying these Thibault cases in the future.

- sign, date and send the notices forwarded from LOQC to the recipient informing him or her of the actions taken on the case, including a new Disability Supplement with the Returning an Up-To-Date Disability Supplement Notice, if applicable; and

Important: AU Managers must sign, date and enter his or her phone number on each form before mailing it to the recipient. If sending the Returning an Up-To-Date Disability Supplement Notice, AU Managers must fill in the 10-day return date and track this due date.

- see specific instructions for Denied Disability Requests on page 6 or for Approved Disability Requests on page 7.

**Denied Disability
Requests**

For all disability denials, the AU Manager must send an appointment letter for an eligibility review.

At the eligibility review appointment:

- ✓ **inform the recipient that he or she can apply at any time for another disability exemption, any other exemption listed in 106 CMR 203.100 or for good cause waivers due to domestic violence listed in 106 CMR 203.110;**
 - ☞ If the AU Manager is told or has reason to believe that an individual has a physical or mental condition which prevents him or her from completing and/or returning Department forms, the AU Manager should take steps to follow up, for example, call or send the individual a letter offering your assistance. If the AU Manager is not sure what to do in this situation to accommodate the individual, contact Judith Subanny, Director of Equal Opportunity at (617) 348-8490. Refer to Field Operations Memo 98-50 for further details.
 - ☞ If the recipient needs an interpreter, interpretation services must be made available to recipients who do not speak English, whose primary language is not English, or who are ASL users. Refer to Field Operations Memo 99-31 for more information.
- ✓ if a nonexempt household's 24-month time limit has expired, conduct an exit conference using the Final Transition Plan (TAFDC-FTP);
 - ☞ *If an extension is requested*, follow the Department's extension request guidelines.
 - ☞ *If an extension is not requested*, submit the case closing using AR 52 and inform the recipient that he or she can apply anytime for an extension.
- ✓ if a nonexempt household's 24-month time limit has not expired and the recipient is Work Program-required and not meeting the Work Program requirements, give the recipient 10 days from the eligibility review date to begin meeting the Work Program requirements. If not meeting the Work Program Requirements by day 10, refer the recipient to a specific community service site where an opening has been verified at the time of the referral. If the recipient still fails to meet the Work Program requirement, explore the good cause requirements found in 106 CMR 207.190 for not meeting the Work Program requirements.

**Denied Disability
Requests
(continued)**

The recipient must be advised that the sanctioning process will begin if he or she fails to comply or does not meet the **good cause** requirements. Refer to *Transitions Update* No. 9, dated September 17, 1999, for more information on **good cause**;

Note: If the recipient is claiming an exacerbation of the original disability or a subsequent disability and has proof that he or she is unable to perform the Work Program requirements because of it, good cause for not meeting the Work Program Requirements should be granted in accordance with guidelines in *Transitions Update* No. 9.

- ✓ if the household's deprivation factor is incapacity and neither parent meets the unemployment deprivation factor, close the case using AR 45;
- ✓ if the recipient fails to show for the eligibility appointment, regular procedures should be followed using AR 41 to close the case;
- ✓ fill in the dates the case actions were completed on the Thibault Processing Document, have the supervisor review it and forward to the Director or designee who will fax the completed copy to Central Office within 30 days of receiving it at (617) 727-7697; and
- ✓ file the Thibault Processing Document, the DES TRACKING FORM FOR THIBAUT LAWSUIT CASES and copies of the special notices sent to the recipient in the case record.

**Approved
Disability
Requests**

Approved disability requests will be treated as exempt even if their disability determination period has already expired, until a determination is made on the new disability request. The AU Manager must:

- track the date the new Disability Supplement is due back;
- ✓ If the recipient fails to return the new Disability Supplement within 10 days, the AU Manager should contact the recipient by phone to remind them that the Disability Supplement is due and ask if assistance is needed in completing it. The date, time and conversation must be documented in the case record.

**Approved
Disability
Requests
(continued)**

- ✓ If the AU Manager is told or has reason to believe that an individual has a physical or mental condition which prevents him or her from completing and/or returning the Disability Supplement, the AU Manager should take steps to follow up. If the AU Manager is not sure what to do in this situation to accommodate the individual, contact Judith Subanny, Director of Equal Opportunity at (617) 348-8490. Refer to Field Operations Memo 98-50 for further details.
- ✓ If the recipient needs an interpreter, interpretation services must be made available to applicants and recipients who do not speak English, whose primary language is not English, or who are ASL users. Refer to Field Operations Memo 99-31 for more information.
- if the recipient fails to return the Disability Supplement within 10 days from the date of contact, the AU Manager must schedule an eligibility review with the recipient;
 - ✓ If the recipient completes a new Disability Supplement at the eligibility review, forward it to DES following the procedures outlined in the *Disability Determination Guide*.
 - ✓ If the recipient states that he or she is no longer disabled and chooses not to complete the Disability Supplement, explain to the recipient that the case status will change to nonexempt (unless the case meets another exemption) and that the case is subject to the reduced Need and Payment Standard and time-limited benefits.
 - ✓ If the recipient fails to show for the eligibility review, regular procedures should be followed using AR 41 to close the case.
- fill in the dates the case actions were completed on the Thibault Processing Document, have the supervisor review it and forward to the Director or designee who will fax the completed copy to Central Office within 30 days of receiving it at (617) 727-7697; and
- file the Thibault Processing Document, the DES TRACKING FORM FOR THIBAUT LAWSUIT CASES and copies of the special notices sent to the recipient in the case record.

**Thibault-Related
Appeals**

If a recipient appeals the actions taken on the case, LOQC will be informed of the appeal by Central Office Division of Hearings. Representatives from LOQC, DES and the AU Manager will take part in the hearing.

Questions

Policy-related questions should be directed by the Hotline designee to the Policy Hotline at (617) 348-8478. Systems-related questions should be directed to Customer Service at (617) 348-5290.
