

TRIBAL NEW MEMORANDUM OF UNDERSTANDING

Effective February 1, 2023

This Memorandum of Understanding (MOU) has been made and entered into by and between the Standing Rock Sioux Tribe, Spirit Lake Sioux Tribe, and Turtle Mountain Band of Chippewa, hereafter referred to collectively as "TRIBE", and the State of North Dakota acting through its North Dakota Department of Health and Human Services (NDDHHS) Office of Economic Assistance for the purpose of defining the responsibilities of the parties with respect to the administration and coordination of the State's Temporary Assistance for Needy Families Program (TANF) and the Tribal Native Employment Works (Tribal NEW) program.

WHEREAS, NDDHHS is the state agency responsible for the administration of the TANF program in accordance with North Dakota Century Code Chapter 50-09; and

WHEREAS, 42 USC 607 establishes the work requirements and participation rates that are mandated for each state TANF program; and

WHEREAS, 42 USC 612 allows federally-recognized tribes to receive a grant for the purpose of operating a Tribal NEW program to make work activities available to the members of those tribes; and

WHEREAS, NDDHHS seeks to meet the federal requirements for work participation by TANF clients; and

WHEREAS, TRIBE seeks to identify eligible TANF clients who would qualify for participation in the Tribal NEW program; and

WHEREAS, most TANF clients are limited to sixty months of benefits in a lifetime creating an urgency for those clients to become trained for and engaged in meaningful work activities; and

WHEREAS, TRIBE and NDDHHS seek to promote efficiency, coordination, and cooperation in the implementation of welfare reform changes; and

NOW, THEREFORE, it is hereby agreed that, for and in consideration of the mutual promises and benefits to be conferred upon each other as stated above, TRIBE and NDDHHS agree to perform, within fiscal constraints, the following duties to ensure that the administration and coordination of TANF and the Tribal NEW program are accomplished to meet the requirements legislated by state and federal statutes.

TERMS OF AGREEMENT

1. Tribal NEW Program Service Population:

Tribal NEW programs in North Dakota shall serve Native American TANF clients from their own Tribe as well as any other federally-recognized Tribe as defined in Addendums A, B and C.

2. Work Participation Rate:

Based on C.F.R 45 § 261.25 DEPARTMENT may, at its option, choose to include TANF families that are referred to a Tribal NEW program when calculating NDDHHS work participation rates.

3. Referral Process:

- A. TRIBE in coordination with NDDHHS, shall determine referral criteria for the Tribal NEW program.
- B. Clients meeting the referral criteria outlined in this document may be referred to a Tribal NEW program based on the availability of funds and service capacity.
- C. Referred clients will be allowed up to seven calendar days (as noted by the deadline date in the comments section of the Referral Notice) in which to contact TRIBE and schedule an appointment to begin involvement in Tribal NEW program.
- D. TANF eligibility worker shall immediately inform TRIBE of the client's referral and specific deadline date for contacting TRIBE by either calling Tribal NEW staff or by faxing a copy of the Referral Notice.
- E. Tribal NEW staff shall immediately contact TANF eligibility worker, by phone or email, when a TANF client has contacted TRIBE and scheduled an appointment to begin involvement in Tribal NEW program.
- F. If a referred client fails to contact TRIBE prior to the deadline shown in the comments section of the Referral Notice, Tribal NEW staff shall immediately notify the appropriate TANF eligibility worker via email or by faxing a copy of the client's Referral Notice to the TANF eligibility worker with a notation that the client failed to make contact as required. A TANF client's failure to comply with this requirement may result either in the denial of the individual's TANF application, if the TANF upfront eligibility requirement applies, or a sanction against the TANF client if good cause is not shown.
- G. TANF eligibility worker must contact TRIBE to inform them whether the client's application will be denied, or a sanction will be imposed against the TANF client. TANF eligibility worker must notify TRIBE when a client's TANF application has

been denied for failing to comply with the child support enforcement portion of the TANF upfront eligibility requirement.

- H. If a TANF client is not accepted for enrollment in the Tribal NEW program, Tribal NEW staff shall immediately notify the referring TANF eligibility worker, and the TANF client must be referred to the Job Opportunity and Basic Skills (JOBS) program by TANF, as appropriate.
- I. TANF clients who are initially referred to the JOBS program are to remain with the JOBS Program until the TANF case to which they are assigned has closed **unless** TRIBE, TANF and JOBS staff determine that a referral to Tribal NEW program for education would be in the best interest of the client.

For example: Involvement in a Tribal NEW program to pursue education would increase the client's potential to obtain employment with a wage enough to help his or her *family* become self-sufficient.

- J. If TRIBE, TANF and JOBS staff determine that referral of a state JOBS participant to Tribal NEW program would be in the client's best interest, as described above, JOBS staff may refer the individual back to TANF with a recommendation that the TANF client be referred to Tribal NEW program.
- K. Direct referrals to the various Tribal NEW programs may be initiated by any TANF eligibility worker in the state as outlined in this document.
- L. TANF clients who are referred initially to a Tribal NEW program are to remain with the Tribal NEW program until the TANF case to which they are assigned has closed or until the client has completed the educational goals identified in the client's Tribal NEW employability plan; or the client is no longer participating in the education; or the educational goals of Tribal NEW employability plan are no longer applicable.

4. Tribal NEW Participant Employability Plans:

- A. Activities for each Tribal NEW participant will be identified in a Tribal NEW employability plan (EP).
- B. Tribal NEW shall provide the appropriate TANF eligibility worker with a copy of each TANF Tribal NEW participant's initial EP as soon as possible after completion. Since the EP identifies a participant's need for child care and transportation assistance, which may be provided through TANF, it is important that TANF receive a copy of a participant's EP as soon as possible.
- C. Tribal NEW staff shall provide updated copies of all ongoing TANF Tribal NEW participants' EPs to the appropriate TANF eligibility worker as follows:
 - 1 For a participant in educational activities, a copy of the participant's initial and updated EP must be provided by the Tribal NEW coordinator to the referring

TANF eligibility worker at the start of the educational activity, in the month prior to the first month of each school term or the beginning of each school term; and

- 2 For existing TANF Tribal NEW participants who are moving from one area of the state to another; Tribal NEW staff shall send a copy of the participant's revised EP to the new TANF eligibility worker prior to the participant's relocation. TANF is required to create a new referral to the appropriate Tribal NEW program and the participant is expected to continue their involvement in Tribal NEW. If the participant's EP is not provided to TANF prior to the relocation, TANF shall contact the appropriate Tribal NEW office to verify that Tribal NEW is still willing to work with this participant and to request a copy of the participant's EP.

- D. All EPs must identify the TANF Tribal NEW participant's approved activity or activities, scheduled hours, start date for each activity, the expected completion date for each activity, anticipated supportive services provided by Tribal NEW, requests for state child care and transportation assistance along with written documentation of the participant's need for any supportive services provided through TANF.

5. Supportive Services:

NDDHHS shall provide child care assistance and transportation assistance to TANF Tribal NEW participants in approved educational activities, consistent with the rules governing the Child Care Assistance (CCAP) and JOBS program. The Tribal NEW program staff shall use the participant's EP to describe the participant's need for state child care and transportation assistance. The calculation for transportation must be documented on the EP.

6. Good Cause Determination and Sanctions:

- A. If a referred TANF client fails to contact Tribal NEW prior to the deadline shown on the Referral Notice, Tribal NEW shall immediately return the referral to TANF. TANF shall determine if the client's TANF application should be denied or if the good cause determination process should be initiated against the TANF client and a sanction imposed if good cause is not shown.
- B. If a referred TANF client makes the initial contact prior to the deadline shown on the Referral Notice but fails to keep a scheduled appointment to begin involvement in the Tribal NEW program, Tribal NEW coordinator shall immediately return the referral to TANF along with a notation that the TANF client failed to keep the initial appointment. TANF shall initiate the good cause determination process and deny the application or impose a sanction, if good cause is not shown.
- C. Once a referred TANF client keeps the initial appointment with Tribal NEW, the TANF client will be considered a Tribal NEW participant. If the participant then fails to

comply with the requirements of the Tribal NEW employability plan, Tribal NEW staff shall determine if the participant had good cause or an acceptable reason for failure to comply.

- D. If Tribal NEW determines the participant had good cause for the failure to comply, a recommendation for sanction will not be made and the participant will be expected to continue the participant's involvement in Tribal NEW.

If Tribal NEW determines that the participant did not have good cause for the failure to comply, Tribal NEW shall recommend that TANF impose a sanction against the participant. Tribal NEW shall include a written chronological history of the participant's noncompliance when recommending that TANF impose a sanction against the TANF Tribal NEW participant.

A sanction recommended by Tribal NEW has the same impact on a participant and will be processed by TANF in the same manner, as a sanction recommended by the state JOBS program.

7. Proof of Performance and Curing Sanctions:

- A. If a TANF Tribal NEW participant is sanctioned and Tribal NEW program is willing to continue working with the participant, the participant shall cure (correct) the sanction by completing a Proof of Performance (compliance for a minimum of ten days is required) by the end of the sanction penalty month. If the sanction is not cured (corrected) as required, the participant's entire TANF case will be closed at the end of the sanction penalty month and both the sanctioned participant and the participant's household will be ineligible for TANF in the month following the sanction penalty month.
- B. If a TANF Tribal NEW participant is sanctioned and Tribal NEW program is not willing to continue working with the participant, the participant must be referred to the JOBS program. The sanctioned participant shall cure (correct) the sanction by completing a Proof of Performance (compliance for a minimum of ten days is required) by the end of the sanction penalty month. If the sanction is not corrected as required, the participant's entire TANF case must be closed and both the sanctioned participant and the participant's household will be ineligible for TANF in the month following the sanction penalty month.
- C. If it has been determined that a JOBS participant should be referred to Tribal NEW and the participant needs to cure a sanction, the participant may complete the Proof of Performance in the Tribal NEW program.

8. Meetings:

- A. NDDHHS and TRIBE shall review and discuss issues related to the administration of the TANF/JOBS and Tribal NEW programs upon request of either NDDHHS or TRIBE. TANF representatives will be invited to participate in these meetings as appropriate.

B. TRIBE, NDDHHS , and TANF are encouraged to meet, quarterly with the JOBS contractors to discuss common issues and concerns.

9. Program Specific Referral Criteria:

The Tribal NEW Programs shall provide services to Native American TANF clients as described in this agreement, and in accordance with the criteria set forth for each Tribal NEW Program included in:

- Addendum A for Standing Rock Sioux Tribe, Tribal NEW Program,
- Addendum B for Spirit Lake Sioux Tribe, Tribal NEW Program,
- Addendum C for Turtle Mountain Band of Chippewa, Tribal NEW Program.

Changes may be made to criteria listed in each Tribal NEW Program's specified Addendum as agreed upon between the TRIBE and NDDHHS.

EFFECTIVE DATE

This Memorandum of Understanding, including Addendums A through C, is effective February 1, 2023, and shall remain in effect until one or more of the parties provide written notification of termination. Such notice must be given to all parties involved at least 30 days in advance of the termination date.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and Addendums A thru C:

Director, NDDHHS - Economic Assistance Division

Date

Addendum A

Standing Rock Sioux Tribe, Tribal NEW Program

Standing Rock Tribal NEW shall provide services to Native American TANF clients from the Standing Rock Sioux Tribe as well as those who are from out-of-state (federally recognized) tribes residing in Sioux County, Morton County or Burleigh County who are:

- attending or planning to attend either post-secondary or vocational education; or
- who have completed high school or a General Educational Development (GED) and wish to pursue advanced education; or
- who are age twenty or older and have not completed high school or a GED and wish to pursue GED.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum A:

Chairman, Standing Rock Sioux Tribe

Date

Addendum B

Spirit Lake Sioux Tribe, Tribal NEW Program

Spirit Lake Tribal NEW program shall provide services to Native American TANF clients from the Spirit Lake Sioux tribe as well as those who are from out-of-state (federally recognized) tribes residing in North Dakota wishing to pursue advanced education and are attending or planning to attend post-secondary or vocational education in Devils Lake, Ellendale, Jamestown, Ft. Totten, Fargo, Valley City, or Wahpeton, should be referred to the Spirit Lake Tribal NEW program.

Spirit Lake Tribal NEW program shall provide services to Native American TANF clients from the Spirit Lake Sioux tribe residing in the service area who are age twenty or older and have not completed high school or a GED.

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum B:

Coordinator, Spirit Lake Tribal NEW

Date

Addendum C

Turtle Mountain Band of Chippewa, Tribal NEW Program

Turtle Mountain Band of Chippewa (TMBC) Tribal NEW program shall provide services to enrolled TMBC Native American TANF clients residing on or off the Turtle Mountain Band of Chippewa reservation who are attending or planning to attend post-secondary or vocational education. TMBC shall provide services to Native American TANF clients from a federally recognized tribe residing on the Turtle Mountain Band of Chippewa reservation.

TMBC shall serve Native American TANF clients residing within Rolette County:

- A child, over the age of 16, who has dropped out of school and is a dependent of a Tribal NEW participant.
- All Native American TANF caretakers residing within Rolette County, who are age 25 or older, have not completed high school or a General Educational Development (GED) and wish to pursue completion of a high school diploma or General Educational Development (GED);

IN WITNESS WHEREOF, the parties hereunto have executed this agreement and this Addendum C:

Coordinator, Turtle Mountain Band of
Chippewa – Tribal NEW Program

Date