

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 203.000: TRANSITIONAL AID TO FAMILIES WITH DEPENDENT CHILDREN -
NONFINANCIAL ELIGIBILITY

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203.000: Overview of Nonfinancial Requirements

In order to receive TAFDC, an applicant or recipient must meet all of the applicable eligibility requirements. These requirements are of two types: financial and nonfinancial.

The nonfinancial requirements for TAFDC eligibility are:

- (A) Exemptions from Time-limited Benefits and Reduced Need and Payment Standards, 106 CMR 203.100;
- (B) Time-limited Benefits, 106 CMR 203.200;
- (C) Family Cap and Child of Record, 106 CMR 203.300;

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- (D) Work Program, 106 CMR 203.400;
- (E) Dependent Child, 106 CMR 203.560;
- (F) Relationship and Living Arrangement, 106 CMR 203.580;
- (G) Residence, 106 CMR 203.650;
- (H) Citizens, Noncitizens and Canadian-born Indians, 106 CMR 203.665;
- (I) Social Security Number, 106 CMR 701.230: *Social Security Numbers*; and
- (J) Cooperation with Child Support Enforcement Efforts, 106 CMR 203.700.

203.100: Exemptions from Time-limited Benefits and Reduced Need and Payment Standards

(A) Requirements.

(1) An assistance unit is exempt from the reduced Need and Payment Standards specified in 106 CMR 204.415: *Table of Need Standards - Nonexempt Assistance Units* and 204.425: *Table of Payment Standards - Nonexempt Assistance Units* if the grantee meets one of the following exemptions and a grantee is exempt from the time-limited benefits restrictions specified in 106 CMR 203.200 if he or she meets one of the following exemptions:

- (a) a disabled grantee as defined in 106 CMR 203.530. A recipient who requests an exemption under 16 CMR 203.100 shall, as a condition of continued eligibility, apply for Social Security Disability benefits (RSDI/SSI) and, if requested by the Department, appeal a denial of Social Security Disability benefits at the Social Security Administration as specified in 106 CMR 203.530. Recipients who do not comply with the Department's request to apply for Social Security Disability benefits or appeal a decision shall not be granted a work exemption under 106 CMR 203.100;
- (b) a grantee who is essential to the care of one of the following disabled persons living in the home:
 - 1. a child;
 - 2. the grantee's spouse; or
 - 3. the child's other parent.

A recipient who requests this exemption shall either apply for Social Security Disability benefits on behalf of the disabled child or spouse or the disabled spouse must apply for benefits on his or her own behalf. Verification of such required social security disability benefits applications must be provided.

- (c) recipients in their 33rd week or later of pregnancy or recipients in their third trimester of pregnancy who have submitted documentation signed by a primary care provider or an obstetrician, gynecologist, nurse-midwife or family practitioner that the recipient has a pregnancy-related medical condition that prevents the recipient from working;
- (d) a grantee whose youngest child living in the home is under age two and in the assistance unit or is not in the assistance unit in accordance with 106 CMR 204.305(E)(1), (2), or (3) because the child:
 - 1. receives SSI;
 - 2. is provided with a state and/or federal foster care maintenance payment; or
 - 3. is provided with state and/or federal adoption assistance.

A grantee may not claim this exemption for a teen parent's dependent child if that child's parent is living in the home;

- (e) a grantee whose child living in the home is under the age of three months and not included in the assistance unit;
- (f) a teen parent younger than 20 years old who is meeting the living arrangement requirements specified in 106 CMR 203.600 and attending school, not beyond high school, full time; or a combination of a full-time GED program and participation in an approved training or employment-related activity for a total of 20 hours per week; or if living in a teen structured living program, meeting the requirements specified in 106 CMR 203.630;
- (g) an ineligible grantee, except that an ineligible grantee who has a legal obligation to support his or her dependent child(ren) in the assistance unit shall not be exempt unless he or she meets one of the exemptions specified in 106 CMR 203.100(A)(1)(a) through (f) or (h); or he or she cannot work for pay due to his or her alien status; or

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(h) a grantee who is 66 years of age or older or a grantee between 60 and 66 years of age, who is the primary caregiver for the child and retired prior to applying for TAFDC benefits.

(2) In a two-parent household, both grantees must qualify for one of the exemptions specified in 106 CMR 203.100(A)(1)(a) through (f) or (h) for the assistance unit to be exempt from the reduced Need and Payment Standards specified in 106 CMR 204.415: *Table of Need Standards - Nonexempt Assistance Units* and 204.425: *Table of Payment Standards - Nonexempt Assistance Units*;

(3) In a two-parent family, only one parent may claim an exemption at 106 CMR 203.100(A)(1)(b), (d), or (e). In addition, in a two-parent family, if one parent claims an exemption under:

(a) 106 CMR 203.100(A)(1)(a) as a disabled grantee, the other parent may not claim an exemption under 106 CMR 203.100(A)(1)(b)1., (d), or (e) unless there is medical documentation that the disabled grantee is unable to provide care for the person(s) listed in 106 CMR 203.100(A)(1)(b)1., (d), or (e); and/or

(b) 106 CMR 203.100(A)(1)(c) as a pregnant woman, the other parent may not claim an exemption under 106 CMR 203.100(A)(1)(b)1., (d), or (e) unless there is medical documentation that the pregnant woman is unable to provide care for the person(s) listed in 106 CMR 203.100(A)(1)(b)1., (d), or (e).

(4) A grantee who is determined to be exempt shall remain exempt until the grantee no longer meets the criteria for an exemption. A grantee must inform the Department as soon as his or her circumstances change in a way that may affect his or her exemption status.

(5) A grantee(s) who is determined to be nonexempt may appeal this nonexempt status determination. However, if the grantee(s) is found to be nonexempt as a result of the fair hearing, the period during which the appeal decision was pending shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.

(6) In the event that a grantee claims an exemption but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.

(7) For a grantee who claims an exemption for disability on or after February 1, 1998 but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 203.200.

(B) Verification. A grantee who is claiming an exemption pursuant to 106 CMR 203.100(A)(1) must provide the appropriate exemption verification specified in 106 CMR 203.100(B)(1) through (7):

(1) A disabled grantee must provide the verification(s) specified in 106 CMR 203.530 for the Disability Exemption Process.

(2) A grantee who claims to be exempt under 106 CMR 203.100(A)(1)(b)1. must demonstrate that he or she is prevented from seeking, obtaining or maintaining full-time employment because the child's disabilities make the grantee essential to the care of the child. In order to determine if the grantee meets the above criteria the following verifications must be provided to the Department:

(a) Verification that the disabled child is a recipient of Supplemental Security Income; or written verification of the disability from the disabled child's competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*. This verification must be on a form prescribed by the Department; and

(b) On the form referenced in 106 CMR 203.100(B)(2)(a), a statement that specifies the severity of the child's disability and the extent of the care the disabled child requires; and

(c) If the child attends school full time, or is otherwise out of the home, documentation that the child has disability-related needs during the day and/or night, which require care by the grantee and which prevent the grantee from seeking, obtaining or maintaining full-time employment. Documentation may be provided on the form referenced in 106 CMR 203.100(B)(2)(a), or by a statement from the grantee, that is supported by another document(s) or third party source(s).

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- (3) A grantee who claims to be essential to the care of one of the persons listed in 106 CMR 203.100(A)(1)(b)2., 3., or 4. must provide the verifications in both 106 CMR 203.100(B)(3)(a) and (b):
- (a) verification that the disabled person:
 1. is a recipient of Supplemental Security Income for disability, or Social Security for disability; or
 2. if a recipient of TAFDC, meets the requirements for the Disability Exemption Process as specified in 106 CMR 203.530; or
 3. if not a recipient of TAFDC, has written verification of the disability on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*; and
 - (b) written documentation on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* that specifies the severity of the disability, the reason that the grantee is essential to the care of the disabled person, and that the grantee is unable to be employed because he or she must be in the home to care for the disabled person.
- (4) A teen parent younger than 20 years old who is claiming an exemption must provide verification that he or she meets the requirements of 106 CMR 203.600.
- (5) An ineligible grantee who has a legal obligation to support his or her dependent child(ren) in the assistance unit must provide the applicable verification(s) specified in 106 CMR 203.100(B)(1) through (4) for the exemption being claimed or verification specified in 106 CMR 203.675 concerning his or her alien status if he or she is claiming to be exempt because he or she is unable to work for pay due to his or her alien status.
- (6) Verification of pregnancy shall be in accordance with 106 CMR 203.565.
- (7) Verification that a grantee is age 60 or older shall be in accordance with 106 CMR 203.570(B). Written documentation of date of retirement, if applicable, must also be provided.

203.110: Good Cause Waivers Due to Domestic Violence

- (A) Definition of Domestic Violence. The following acts perpetrated by a current or former intimate partner, relative, or household member shall be considered to be domestic violence:
- (1) physical acts that resulted in, or threatened to result in, physical injury;
 - (2) sexual abuse;
 - (3) sexual activity involving a dependent child;
 - (4) being forced to engage in nonconsensual sexual acts or activities;
 - (5) threats of, or attempts at, physical or sexual abuse;
 - (6) mental or emotional abuse which would significantly reduce the victim's capacity to care for himself or herself or his or her child or significantly reduce his or her capacity to perform essential activities of daily living;
 - (7) neglect or deprivation of medical care; or
 - (8) stalking.
- (B) Requirements.
- (1) The Department shall notify all applicants or recipients that referrals to community-based programs are available to past and present victims of domestic violence, and that such individuals may be eligible for waivers of certain program requirements for good cause due to domestic violence. Notification shall take place at application and at eligibility review when appropriate, and any time the Department receives information indicating that the applicant or recipient may have a history of domestic violence.
 - (2) The Department shall make available written information about domestic violence including how to contact community-based domestic violence programs, and the applicant's or recipient's rights with regard to confidentiality. The Department shall also inform applicants and recipients that community-based domestic violence programs may be able to assist them in requesting waivers and documenting the need for such waivers.
 - (3) If requested, the Department shall assist any applicant or recipient to identify or locate a community-based program for domestic violence services.

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(4) At any time, an applicant or recipient may request a waiver of certain TAFDC program requirements for good cause due to domestic violence.

Such requirements include:

- (a) the work program requirement;
- (b) the 24-month time limit;
- (c) the family cap; and
- (d) teen parent school attendance requirements.

Waivers for good cause due to domestic violence may be granted on a case by case basis by the Department, and may be temporary or permanent, as determined by the Department. Temporary waivers shall be granted for a period not to exceed six months. At the time of the expiration of the waiver, the continued need for the waiver shall be reviewed.

The burden of producing evidence to establish good cause due to domestic violence shall be on the applicant or recipient; however, the assistance of the worker may be requested in obtaining evidence. The applicant or recipient may be required to produce evidence to document the continued need for a good cause waiver if requested to do so by the Department, and at such time may be required to demonstrate that he or she is currently participating in a domestic violence program, or has otherwise begun to address the domestic violence issue which led to the granting of the waiver.

(5) The Department shall determine whether a waiver for good cause due to domestic violence shall be granted, the type of waiver to be granted, if any, and the length of the waiver granted. If a waiver for good cause due to domestic violence is granted, the Department may require that the applicant or recipient speak with a professional who is trained in the field of domestic violence.

(6) The Department may also reassess the Employment Development Plan (EDP) of an applicant or recipient who the Department determines cannot meet the requirements of such plan due to domestic violence.

(7) A victim of domestic violence may also have good cause for failure to cooperate with child support requirements. Regulations pertaining to good cause for failure to cooperate with child support requirements are found at 106 CMR 203.740 through 203.775.

(C) Grounds for Good Cause Due to Domestic Violence. Grounds for a waiver for good cause due to domestic violence shall exist in any of the following circumstances:

(1) Imposition of the specific requirement for which a waiver is requested may place the applicant or recipient or his or her child at risk of domestic violence which may result in serious harm or emotional impairment to the applicant or recipient or his or her child. A serious emotional impairment is one of such severity that it would significantly reduce the applicant's or recipient's capacity to care for himself or herself or significantly reduce his or her capacity to perform essential activities of daily living.

(2) Compliance with the specific requirement for which a waiver is requested may:

- (a) make it more difficult for the applicant or recipient or his or her child to escape domestic violence; or
- (b) unfairly penalize the applicant or recipient or his or her child as a current or former victim of domestic violence, or as a person who is at risk of further domestic violence.

(D) Verification of Good Cause Due to Domestic Violence.

(1) Evidence that documents the existence of domestic violence alone is not sufficient to document the need for a waiver for good cause due to domestic violence. The evidence must also meet the criteria for grounds for a waiver of good cause due to domestic violence as specified in 106 CMR 203.110(C).

The Department shall consider any credible evidence that is relevant to the claim of good cause. The Department shall determine what evidence is credible and the weight to be given to that evidence.

(2) An applicant or recipient must verify a claim of good cause due to domestic violence by submitting the following documentary evidence:

- (a) a signed statement which must include the following:
 1. the specific grounds for the good cause claim as specified in 106 CMR 203.110(C);

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2. the reason he or she believes imposition of the specific requirement may place him or her or his or her child at risk of domestic violence which may result in serious harm or emotional impairment, or may unfairly penalize him or her, or make it more difficult for him or her or his or her child to escape domestic violence; and
 3. a detailed description of any incidents which may have led him or her to believe this is true, and the approximate dates of such incidents; and
- (b) court, medical, criminal, child protective service, psychological, law enforcement records or school records; or
 - (c) documents demonstrating that he or she has obtained an order of protection under M.G.L. c. 209A or has taken other legal steps to end the domestic violence, evidence that he or she has sought safe-haven in a domestic violence shelter or similar refuge, documentation of injuries such as medical records or photographs; or
 - (d) if neither 106 CMR 203.110(D)(2)(b) or (c) is available or conclusive, a sworn statement from him or her and at least one other individual with knowledge of the circumstances that sets forth with specificity a history of domestic violence, rape or incest and other facts which support his or her good cause claim.

203.200: Time-limited Benefits

(A) A nonexempt grantee and all members of his or her assistance unit are subject to the following provisions: A nonexempt grantee(s), including each grantee in a two-parent family, who is receiving assistance or who would be receiving assistance but for a TAFDC program sanction, shall be limited to receipt of TAFDC assistance for a maximum of a cumulative 24-months in a continuous 60-month period. The ineligibility shall apply to all members of the assistance unit.

- (1) The initial continuous 60-month period begins on December 1, 1996 for those receiving assistance on that date, or the date that an assistance unit first becomes eligible for TAFDC. The maximum cumulative 24-month period in a continuous 60-month period begins on December 1, 1996 for a nonexempt grantee receiving assistance on that date, including a nonexempt grantee(s) who would be receiving assistance except for a sanction, or on the date that an exempt grantee becomes nonexempt, or the date a nonexempt grantee first becomes eligible for TAFDC, whichever is later.
- (2) An assistance unit shall be considered to be receiving TAFDC if it:
 - (a) receives a TAFDC cash grant;
 - (b) has a grantee(s) participating in the Full Employment Program or supported work; or
 - (c) Receives all TAFDC cash benefits through vendor payments.
- (3) The calculation of a nonexempt grantee's cumulative 24-month period shall be suspended when:
 - (a) the entire assistance unit is ineligible, including ineligibility as the result of a sanction;
 - (b) the grantee(s) becomes exempt as specified in 106 CMR 203.100; or
 - (c) the assistance unit voluntarily withdraws from TAFDC.

The calculation of the cumulative 24-month period resumes when the condition that caused the suspension no longer exists or the grantee(s) becomes nonexempt for another reason, provided it is during the same continuous 60-month period.
- (4) A nonexempt grantee's cumulative 24-month period shall not be suspended when there is a sanction period imposed upon a member(s) of the assistance unit, except as in 106 CMR 203.200(A)(3)(a);
- (5) The calculation of the 60-month period is never suspended;
- (6) If aid to the assistance unit has been terminated because of the expiration of the cumulative 24-month period, the assistance unit may establish eligibility for TAFDC before the end of the continuous 60-month period if the grantee(s) who had reached the 24-month limit meets an exemption specified in 106 CMR 203.100; and
- (7) At the end of a continuous 60-month period, a nonexempt grantee may reapply for TAFDC and establish a new cumulative maximum 24-month eligibility period and a new continuous 60-month period.

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(8) In a two-parent household, both parents shall have the same 60-month period. If, because of a prior period of assistance, both parents do not share the same start date of their 60-month period, the earliest date shall apply.

(B) Exception.

(1) A teen parent as specified in 106 CMR 203.600 who received assistance as a member of another TAFDC assistance unit may reapply for TAFDC assistance, provided he or she meets the requirements for teen parents as specified in 106 CMR 203.600; and:

- (a) he or she is no longer eligible for inclusion in another assistance unit; or
- (b) the other TAFDC case is closed.

(2) At the time of the reapplication, the worker shall determine if the teen parent meets an exemption specified in 106 CMR 203.100; and

- (a) if the teen parent meets an exemption specified in 106 CMR 203.100, the assistance unit is exempt from the time-limited benefits specified in 106 CMR 203.200(A); or
- (b) if the teen parent does not meet an exemption specified in 106 CMR 203.100, the teen parent is nonexempt and the time-limited benefits specified in 106 CMR 203.200(A) apply.

(C) Waiver of the 24-month Period. The Commissioner or designee may waive the 24-month time-limited benefit period for a dependent child when that dependent child, who has been ineligible because of the provisions of 106 CMR 203.200, is no longer able to live with his or her custodial parent(s) because of one or more of the following reasons. In a two parent family both parents must each meet one of the following reasons:

- (1) the death of the child's custodial parent(s);
- (2) the incapacity of the child's custodial parent(s), such that the parent(s) cannot care for the child, and such incapacity and inability to care for the child is documented by a physician;
- (3) the custody or guardianship of the child has been legally transferred to the other parent or a relative;
- (4) the incarceration of the custodial parent(s), except that the child shall not receive assistance if the parent is released from his or her incarceration and is living with the child; or
- (5) the custodial parent(s) is institutionalized in a mental health facility or hospital provided the institutionalization is expected to last for more than 30 days, except that the child shall not receive assistance if the custodial parent is released from the institution and is living with the child.

(D) Verification Required for a Waiver of the 24-month Period. The appropriate verification(s) for the waiver of the 24-month period must be provided as follows:

(1) The preferred source of verification of death is the death certificate. If the death certificate cannot be obtained, death is verified by a signed statement from the funeral director or a newspaper death notice. If these are not available, death is verified by the following:

- (a) Veterans Administration (VA) records;
- (b) Hospital records;
- (c) Records of other medical or long-term care institutions;
- (d) Military service records;
- (e) Police records; or
- (f) Social Security Survivor's Benefits (RSDI).

(2) a written report from a physician that verifies the incapacity of the child's custodial parent(s) and the inability of such parent(s) to care for the child;

(3) a copy of the appropriate legal document verifying that the legal custody or guardianship of the child(ren) has been transferred to the other parent or a relative;

(4) written documentation from the appropriate penal institution verifying the incarceration of the custodial parent(s) as well as the date of incarceration and expected date of release from incarceration, if any; or

(5) written documentation from the institution where the custodial parent(s) is institutionalized as well as the date of admission and expected date of discharge, if any.

203.210: Extension of Benefits Beyond the 24-month Period

The Commissioner or designee may extend benefits beyond the 24-month period under certain circumstances. A nonexempt grantee granted an extension must otherwise comply with all program requirements. Requests for extensions will be reviewed and determined on a case-by-case basis. Extensions which have been granted may be reviewed and revised as the Commissioner or designee deems appropriate.

An individual may request an extension of benefits beyond the 24-month period by submitting a written request to the Office of the Commissioner documenting the reason the extension is being requested. Extensions may be requested after a nonexempt grantee has used 22 months of time-limited benefits or for an individual who has received 24 months of time-limited benefits at any time provided it is within the same continuous 60-month period as specified in 106 CMR 203.200(A).

(A) Requirements.

(1) Before determining whether or not to approve an extension, the Commissioner shall consider appropriate criteria including the following:

- (a) the degree to which a nonexempt grantee has cooperated, and is cooperating, with the Department in work-related activities, as deemed appropriate by the Department. Work-related activities are those which will lead to full-time employment;
- (b) whether the nonexempt grantee has been sanctioned or has otherwise failed to cooperate with the Department's rules and regulations;
- (c) whether the nonexempt grantee received and/or rejected offers of employment, reduced his or her hours of employment or quit a job without good cause as specified in 106 CMR 701.380: *Good Cause Criteria*, or has been fired for cause;
- (d) whether appropriate job opportunities exist locally at that time. A job opportunity is appropriate when the nonexempt grantee meets the minimum requirements for a particular job;
- (e) whether suitable state-standard child care is unavailable during the grantee's hours of employment and commuting time. This includes the unavailability of suitable special needs child care; and
- (f) whether the recipient demonstrated a good faith effort to meet his or her economic independence goals. If a recipient has not demonstrated a good faith effort, but may otherwise be found appropriate for an extension under 106 CMR 203.210(A), the Commissioner, in his or her discretion, may continue to provide benefits on behalf of any dependent children.

(2) A nonexempt grantee who is actively participating in an approved education or training activity at the end of the 24-month period shall be granted a three month extension to complete the activity. If necessary, a second three month extension may be granted to complete the activity.

(3) A nonexempt grantee who requests an extension and is working full time (35 hours per week) and is otherwise eligible shall be granted an extension.

(B) Conditions of Extension. If an extension of benefits beyond the 24-month time period is granted, the following conditions must also be met:

- (1) Each extension is limited to a period of up to three months.
- (2) In addition to the requirements specified in 106 CMR 203.210, all other financial and nonfinancial eligibility requirements for TAFDC must be met before an assistance unit may qualify for and continue to receive an extension of benefits beyond the 24-month period.
- (3) There is no limit to the number of extensions for which an assistance unit may qualify.

(C) Extension Activities. The Department will determine in which activities the nonexempt grantee should participate to obtain full-time employment. These activities may include one or more of the following:

- (1) a vocational evaluation;
- (2) referral, enrollment and participation in a vocational program specified by the Department or employment subsidized through the nonexempt grantee's TAFDC grant;
- (3) job search or structured job search; and
- (4) other activity as deemed appropriate by the Department.

In a two-parent assistance unit each nonexempt grantee must participate in the above activities.

203.300: Family Cap and Child of Record

(A) Definitions.

(1) The Child of Record is the youngest child of a grantee or an ineligible grantee with a legal obligation to support his or her dependent children as specified in 106 CMR 701.600: *Definition of Terms* or of a dependent child who is a parent, even if the grantee is not receiving assistance for his or her own children when the Family Cap date is established.

(2) The Family Cap date is:

(a) for a grantee or an ineligible grantee as specified in 106 CMR 203.300(A)(1), including a grantee for a dependent child(ren) who is not his or her own natural or adoptive child(ren),

1. who was transitioned to TAFDC on November 1, 1995, ten months following November 1, 1995; or

2. who was receiving AFDC on June 30, 1997, ten months following the date of the TAFDC transition review; or

3. except as specified in 106 CMR 203.300(A)(2)(a)1. or 2., ten months following the date a grantee first applies for TAFDC; and

(b) for a dependent child:

1. who was a parent or who was pregnant and was transitioned to TAFDC on 11/1/95, ten months following 11/1/95, or

2. who was a parent or who was pregnant and receiving AFDC assistance on 6/30/97, ten months following the date of the TAFDC transition review, or

3. who was a parent or who was pregnant at the time of application except as specified in 106 CMR 203.300(A)(2)(b)1. or 2., ten months following the date of application, or

4. who was neither a parent nor pregnant as specified in 106 CMR 203.300(A)(2)(b)1., 2. or 3., the birth date of his or her first dependent child.

The Family Cap date is established for simplicity of administration in identifying those children born after the child of record.

(B) Requirements.

(1) A TAFDC assistance unit shall not be eligible for an increase in TAFDC assistance for a child born after the assistance unit's Family Cap date except as specified in 106 CMR 203.300 (C) or (D).

In the instance of a dependent child who has had his or her own Family Cap date established as specified in 106 CMR 203.300(A)(2)(b), no TAFDC benefits will be provided for any additional child(ren) the dependent child may have even if he or she is no longer a dependent child but establishes eligibility as a grantee, except as specified in 106 CMR 203.300(C) or (D).

(2) A TAFDC assistance unit shall be considered to be receiving TAFDC assistance if it:

(a) receives a TAFDC cash grant, including a Full Employment Program supplement, or is participating in Supported Work;

(b) has been determined eligible for a TAFDC grant but the benefit amount is less than \$10;

(c) has a grantee(s) who is participating in the Full Employment Program and it is not receiving a supplement; or

(d) is subject to Monthly Reporting and is suspended for one month due to a regular and periodic extra paycheck from a recurring income source.

(3) The child(ren) born after the Family Cap date shall be:

(a) determined eligible for MassHealth and Food Stamps in accordance with MassHealth and Food Stamp regulations;

(b) considered a member(s) of the filing unit; and

(c) ineligible for inclusion in the assistance unit or any other assistance unit unless an exception or waiver of the Family Cap provision as specified in 106 CMR 203.300(C) or (D) is granted.

(4) Unless an exception or waiver to the Family Cap provision as specified in 106 CMR 203.300(C) or (D) is granted, no additional children born after the Family Cap date may be included in the assistance unit even if:

(a) subsequent child(ren) are born to the parent(s); or

(b) the assistance unit's benefits are terminated and the assistance unit reapplies for TAFDC.

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(5) The first \$90 of any monthly countable income, including child support, received by or on behalf of each child(ren) ineligible for assistance due to the Family Cap shall be noncountable to the TAFDC assistance unit. Any countable income in excess of the \$90 shall be counted in determining the eligibility and grant amount of the assistance unit. The assets of the child(ren) are countable unless the asset is noncountable as specified in 106 CMR 204.140: *Noncountable Assets*.

(C) Exceptions to the Family Cap.

(1) An ineligible grantee, as defined in 106 CMR 701.600: *Definition of Terms*, shall not have a Family Cap date established until he or she applies for assistance as a grantee, as defined in 106 CMR 701.600: *Definition of Terms*, either for his or her own children or for other eligible dependent children unless the ineligible grantee has a legal obligation to support his or her dependent children, such as an SSI parent. In this instance, the Family Cap date shall be ten months following the date the ineligible grantee becomes a grantee.

(2) A child of a grantee with a Family Cap date is not subject to the Family Cap if:

- (a) the child is born at least 20 months after the date that a grantee's eligibility for TAFDC has ended; and
- (b) the grantee remained ineligible for at least 12 consecutive months from the closing date; and
- (c) the grantee received TAFDC for no more than ten consecutive months immediately preceding the child's birth.

A child born prematurely from its expected verified due date will be granted an exception if the due date was at least 20 months after the recipient's TAFDC eligibility ended and the recipient received TAFDC for no more than ten consecutive months immediately from the child's verified due date.

(3) A child born as a result of rape, sexual assault or incest shall not be subject to the provisions of the Family Cap.

(D) Waiver of the Family Cap.

(1) The Commissioner or his or her designee shall waive the Family Cap provision in situations where a dependent child who is ineligible due to the Family Cap provisions is no longer able to live with his or her custodial parents for one or more of the following reasons (in a two-parent family both parents must each meet one of the reasons):

- (a) the death of the child's custodial parent(s);
- (b) the incapacity of the child's custodial parents, such that the parent cannot care for the child, and such incapacity and inability to care for the child is documented by a physician;
- (c) the custody or guardianship of the child has been legally transferred to another parent, relative or custodian;
- (d) the incarceration of the custodial parent(s), except that the child shall not receive assistance if the parent is released and is living with the child; or
- (e) the custodial parent(s) is institutionalized in a mental health facility or hospital provided the institutionalization is expected to last for more than 30 days, except that the child shall not receive assistance if the custodial parent is released from the institution and is living with the child.

(2) The Commissioner or his or her designee may waive the Family Cap provision if none of the above criteria apply and a TAFDC applicant or recipient makes a written request to the Commissioner or his or her designee explaining the extraordinary circumstances why a waiver should be granted. A waiver may be granted under the following circumstances:

- (a) the death of the child of record, if the grantee has no other living children and a subsequent child is born; provided, however, if the grantee(s) is responsible for such death, no waiver shall be granted;
- (b) a failed tubal ligation or other failed surgical procedure intended to prevent future pregnancies; or
- (c) other extraordinary circumstances as determined by the Commissioner.

If a waiver of the Family Cap provision is granted, the additional child(ren) shall be included in the filing unit and assistance unit and all of his or her income and assets shall be considered in determining the eligibility and grant amount for the assistance unit.

203.300: continued

(E) Verifications. The appropriate verification(s) for an exception to, or waiver of, the Family Cap provision must be provided by the assistance unit.

(1) The expected due date shall be verified by a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*.

(2) Rape, sexual assault or incest shall be verified by a birth certificate or medical or law enforcement records that indicate that a child was conceived as a result of rape, sexual assault or incest. Acceptable medical records shall include records reflecting the judgment of a disinterested third party including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception was the result of rape, sexual assault or incest. When none of the above is present or conclusive, verification shall be a sworn statement from the grantee and at least one other individual with knowledge of the rape, sexual assault or incest.

(3) The death of a child's custodial parent(s) shall be verified by a death certificate or other acceptable verification of death in accordance with 106 CMR 203.200(D)(1).

(4) The incapacity of the child's custodial parent(s) and such parent's inability to care for such child is verified by a written report from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*.

(5) That the legal custody or guardianship of the child(ren) has been transferred to another parent, relative or guardian is verified by a copy of the appropriate court document.

(6) The incarceration of the custodial parent is verified by written documentation from the appropriate penal institution.

(7) Institutionalization of a custodial parent(s) is verified by written documentation from the institution where the custodial parent(s) is institutionalized as well as the date of admission and expected date of discharge, if any.

203.400: Work Program

(A) Requirements.

(1) A grantee who has received assistance for 60 days must work the required hours per week as specified in 106 CMR 203.400(A)(5) unless:

(a) the grantee is exempt as specified in 106 CMR 203.100;

(b) the grantee is caring for, or receives into placement, a foster child who is under age two;

(c) a grantee is caring for, or receives into placement, a foster child whose needs exceed a standard level of care (DSS tiers 2, 3 and 4) as determined by the Commissioner of DSS or his or her designee. A waiver of work requirements may be granted by the DTA Commissioner for other foster parent grantees at the request of the DSS Commissioner based on the needs of the foster child; or

(d) the grantee has good cause as specified in 106 CMR 701.380: *Good Cause Criteria*.

In a two-parent household, each parent is required to meet the work program requirements for the required hours per week as specified in 106 CMR 203.400(A)(5) unless that parent meets the requirements of 106 CMR 203.400(A)(1) except that 106 CMR 203.400(A)(1)(b) and (c) may apply to only one parent.

(2) A nonexempt grantee meets the work program requirements by:

(a) working in a job for which compensation is paid for at least the required hours per week as specified in 106 CMR 203.400(A)(5);

(b) working full-time in a position in the Full Employment Program as specified in 106 CMR 207.180: *Full Employment Program* or participating in an approved Supported Work Program as specified in 106 CMR 207.160: *Supported Work Component*;

(c) participating in community service for the required hours per week as specified in 106 CMR 203.400(A)(5), or participating in the Job Search/Job Readiness component, as specified in 106 CMR 207.130, or a Department approved activity for the required hours per week as specified in 106 CMR 203.400(A)(5) that is expected to result in employment. The maximum number of hours a grantee can participate in a community service program is limited by the federal Fair Labor Standards Act (FLSA). A grantee who cannot meet the required hours of work program participation through community service alone because of the FLSA must participate in an additional allowable work activity so that the required hours can be met;

203.400: continued

- (d) combining the hours of work, other work program activities that meet the requirement and community service hours to total the required hours per week as specified in 106 CMR 203.400(A)(5). The number of hours of community service and/or other work program activities required each week will be the difference between the required hours per week as specified in 106 CMR 203.400(A)(5) and the number of hours worked;
- (e) participating in the substance abuse treatment program while in a substance abuse shelter;
- (f) participating the required hours per week as specified in 106 CMR 203.400(A)(5) in an unpaid work study or internship program;
- (g) providing child care to a teen parent's dependent child enabling the teen parent of the child to fulfill the school attendance requirements, provided that both the teen parent and his or her dependent child are living with the grantee; or
- (h) participating in a Department-approved Employer-based Program with a commitment from the employer to hire participant upon successfully completing the program.
- (i) participating in an education or training activity including a certificate or degree program from a four-year degree granting higher education institute, community college or a certificate program (up to a bachelor's degree) for up to the required hours per week as specified in 106 CMR 203.400(A)(5). If the education or training activity is less than the required hours per week as specified in 106 CMR 203.400(A)(5), the grantee must perform other work program activities in 106 CMR 203.400(A)(2) to total the required hours per week as specified in 106 CMR 203.400(A)(5). For purposes of meeting the work program requirement, an education or training activity cannot exceed 24 months. The Department may extend this duration if it is determined that the recipient is making substantial progress towards completion of a certificate or degree program;
- (j) participating in a vocational educational program not to exceed 12 months. The Department may extend this duration if it is determined that the recipient is making substantial progress towards completion of a certificate or degree program in vocational education; or
- (k) if residing in an emergency shelter, complying with his or her housing search requirements.

A grantee shall be granted an initial period of up to 60 days for receiving assistance while not meeting the work program requirement. During this initial period, the grantee is responsible for seeking self-initiated employment or the grantee may find employment through the Full Employment Program.

A grantee who fails to meet the requirements of the Work Program as specified in 106 CMR 203.400(A)(2) within the 60 days shall be required to participate in the Community Service Program as specified in 106 CMR 207.170: *Community Service Component*, unless the grantee is scheduled to begin participation in the Full Employment Program as specified in 106 CMR 207.180: *Full Employment Program*.

- (3) A categorically ineligible noncitizen, who is exempt from the reduced Need and Payment Standards as specified in 106 CMR 203.100 because of his or her noncitizen status, he or she is unable to work in a paying job, is required to participate in Community Service program for the required hours per week as specified in 106 CMR 203.400(A)(5), unless:
 - (a) the grantee is exempt as specified in 106 CMR 203.100;
 - (b) he or she is caring for, or receives into placement, a foster child who is under age two;
 - (c) a grantee is caring for, or receives into placement, a foster child whose needs exceed a standard level of care (DSS tiers 2, 3 and 4) as determined by the Commissioner of DSS or his or her designee. A waiver of work requirements may be granted for other foster parent grantees at the request of the DSS Commissioner based on the needs of the foster child; or
 - (d) he or she has good cause as specified in 106 CMR 701.380: *Good Cause Criteria*.

The individual shall be granted an initial period of up to 60 days to secure a Community Service placement. The individual who fails to begin a Community Service placement within the 60 days shall be mandated to participate in Community Service.

203.400: continued

(4) At Reapplication. If the cash assistance is terminated and the grantee reapplies for assistance any time within a continuous 60-month period, the grantee, unless otherwise exempt, must meet the work program requirements to be eligible for assistance. If the grantee is not working, he or she shall not be granted another 60-day period to look for work.

If the 60-month period has expired when the grantee reapplies for assistance, and the grantee is not employed, the grantee, unless otherwise exempt, shall be granted another period of up to 60 days to look for employment before having to meet the work program requirement.

(5) For purposes of 106 CMR 203.400(A), the required hours per week are defined as:

(a) 20 hours if the youngest child in the assistance unit (or who is not in the assistance unit in accordance with 106 CMR 204.305(E)(1), (2) or (3)) is between the ages of two and mandatory full-time school age (as defined in 106 CMR 701.600(F)); and

(b) 30 hours if the youngest child in the assistance unit (or who is not in the assistance unit in accordance with 106 CMR 204.305(E)(1), (2) or (3)) is mandatory full-time school age (as defined in 106 CMR 701.600: *Definitions of Terms*) or older.

If the only child is ineligible in accordance with 106 CMR 204.305(E)(7), the required hours per week are: 20 hours from the time the child is three months old until the child is mandatory full-time school age (as defined in 106 CMR 701.600: *Definitions of Terms*), and 30 hours from the time the child is mandatory full-time school age or older.

In a two-parent household where both parents are work program required, each parent must meet the required hours per week based on the age of the youngest child in the assistance unit (or who is not in the assistance unit in accordance with 106 CMR 204.305(E)(1), (2), or (3)).

(B) Verification. Unless otherwise specified, verification of participation in an Employment Services Program component shall be submitted on a form prescribed by the Department in accordance with the participation criteria for that component. See 106 CMR 207.000: *Transitional Aid to Families with Dependent Children: Employment Services Program*. The form shall be signed under the penalties of perjury.

203.530: Disability Exemption Process

(A) Requirements.

(1) For a parent to be considered disabled for TAFDC purposes, his or her medical impairment(s) must meet the Social Security Disability standards in accordance with 20 CFR Part 416, Subpart I (the Social Security Disability standard), or meet the Social Security Disability standard except that the medical impairment must only have lasted or be expected to last for a continuous period of between 90 days and 12 months.

(2) The applicant or recipient must apply for Social Security Disability benefits in accordance with 106 CMR 702.710: *SSI Benefits* and appeal any denials at the Social Security Administration, if requested by the Department.

(B) Disability Determination Process. The determination of whether a parent(s) meets the definition of disability as defined in 106 CMR 203.530(A) shall be made by the agency or organization under contract/agreement with the Department to provide disability evaluation services.

(C) Cooperation in the Disability Determination Process.

(1) An applicant or recipient is responsible for establishing that he or she is disabled. The Department shall assist the applicant or recipient in obtaining the necessary information and may require the applicant or recipient to attend an exam required by the agency or organization under contract/agreement with the Department to provide disability evaluation services.

(a) The applicant or recipient must provide the Department with:

1. a description of his or her impairment(s) and a list of his or her medical providers; and
2. information regarding various vocational factors used in determining the Social Security Disability Standard.

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(b) If an applicant or recipient, without good cause, does not appear for a scheduled medical examination, fails to provide required medical releases, or otherwise fails to cooperate in the disability determination process, the agency or organization under contract/agreement with the Department to provide disability evaluation services shall make a determination of disability based on such information as it has received from the applicant or recipient and other available sources.

Religious or personal reasons opposing medical examinations or tests do not constitute good cause.

(2) The Department and, if applicable, its agents, shall take reasonable steps to assist applicants and recipients in obtaining the information that is necessary to make a disability determination.

(a) The worker and/or agent of the Department is responsible for assisting the applicant or recipient in completing the Disability Supplement when, after inquiry by the worker, such assistance is requested by the applicant or recipient.

(b) The agency or organization under contract/agreement with the Department to provide disability evaluation services is responsible for:

1. gathering the information needed to make a disability determination by contacting any physician, psychologist, and/or hospital identified by the applicant or recipient, to obtain information on any impairment that may potentially affect the applicant's or recipient's ability to work provided such impairment(s) has been identified by the applicant or recipient or is otherwise evident in the record; and

2. arranging for a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* to examine the applicant or recipient to obtain additional information or tests, as necessary, to clarify the incomplete or ambiguous clinical and/or vocational information that has been submitted to the Department by and/or obtained by the agency or organization under contract/agreement with the Department to provide disability evaluation services from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*.

(D) When the agency or organization under contract/agreement with the Department to provide disability evaluation services is required to make a disability determination, the agency or organization shall determine whether the applicant or recipient has an impairment or combination of impairments that meets or is equivalent to the disability standards specified in 106 CMR 203.530(A).

(E) The agency or organization under contract/agreement with the Department to provide disability evaluation services shall make a determination that an applicant or recipient is not disabled only if:

(1) the agency or organization has considered all clinical and/or vocational evidence submitted by the applicant or recipient and/or obtained by the Department. The Department shall consider a test and diagnosis done more than 30 days prior to the completion of the applicant's or recipient's Disability Supplement if such evidence is still relevant to the applicant's or recipient's current impairment(s); and

(2) the clinical information available establishes that one or more of the findings required to meet the applicable medical standard is not satisfied and additional clinical information would not enable the applicant or recipient to meet such medical standard;

(F) When an applicant or recipient requests his or her first claim of disability for an exemption pursuant to 106 CMR 203.100 within a continuous 60-month period specified in 106 CMR 203.200, disability is presumed and the applicant or recipient will be exempt under 106 CMR 203.100 until or unless the decision of the agency or organization under contract/agreement with the Department to provide disability evaluation services determines the applicant or recipient is not disabled.

(G) When an applicant, who has previously been denied by the agency or organization under contract/agreement with the Department to provide disability evaluation services, makes another claim of disability within a continuous 60-month period specified in 106 CMR 203.200; and

(1) the claim of disability is pursuant to 106 CMR 203.100 and the applicant has used 24 months of time-limited benefits as specified in 106 CMR 203.210, eligibility must be established using the verification described in 106 CMR 701.380(B)(7).

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(a) If the applicant is requesting a time-limited benefits extension specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may also be used to excuse the applicant from meeting the work activities related to qualifying for a time-limited benefits extension.

(b) If the applicant is not requesting a time-limited benefits extension, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the applicant from meeting the work program requirement specified in 106 CMR 203.400, if applicable; or

(2) the claim of disability is pursuant to 106 CMR 203.100 and the applicant has not used 24 months of time-limited benefits specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the applicant from meeting the work program requirement specified in 106 CMR 203.400, if applicable.

If the verification described in 106 CMR 701.380(B)(7) is provided in accordance with 106 CMR 203.530(G)(1), eligibility for TAFDC will be presumed but the applicant will not be exempt under 106 CMR 203.100. The final disability determination will be made when the agency or organization providing disability evaluation services renders a decision on this disability claim. The length of the good cause period will be determined by the specified verification until the final disability determination is made by the agency or organization providing disability evaluation services.

If the verification described in 106 CMR 701.380(B)(7) is provided in accordance with 106 CMR 203.530(G)(2) the applicant will not be exempt under 106 CMR 203.100. The final disability determination will be made when the agency or organization providing disability evaluation services renders a decision on this disability claim. The length of the good cause period will be determined by the specified verification until the final disability determination is made by the agency or organization providing disability evaluation services.

(H) When a recipient, who has been previously denied by the agency or organization under contract/agreement with the Department to provide disability evaluation services, makes another claim of disability within a continuous 60-month period specified in 106 CMR 203.200; and

(1) the claim of disability is pursuant to 106 CMR 203.100 and the recipient has used 24 months of time-limited benefits as specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the recipient from meeting the work activities related to qualifying for a time-limited benefits extension; or

(2) the claim of disability is pursuant to 106 CMR 203.100 and the recipient has not used 24 months of time-limited benefits specified in 106 CMR 203.210, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the recipient from meeting the work program requirement specified in 106 CMR 203.400, if applicable.

If the verification described in 106 CMR 701.380(B)(7) is provided in accordance with 106 CMR 203.530(H)(1) or (2), the recipient will not be exempt under 106 CMR 203.100. The final disability determination will be made when the agency or organization providing disability evaluation services renders a decision on this disability claim. The length of the good cause period will be determined by the specified verification until the final disability determination is made by the agency or organization providing disability evaluation services.

(I) The decision of the agency or organization under contract/agreement with the Department to provide disability evaluation services as to whether an applicant or recipient is disabled shall be the decision of the Department. A Department hearings referee may affirm, modify or reverse the finding of the agency or organization providing disability evaluation services.

203.560: Dependent Child

The primary nonfinancial requirement is the presence of a dependent child. A dependent child is a child who is younger than 18 years old; or younger than 19 years old if the child is a full-time student in grade 12 or below, in a school not beyond the secondary level or a vocational or technical training program of the equivalent level designed to lead to gainful employment, and the child is expected to graduate or complete the course of study or training before his or her 19th birthday.

203.565: Dependent Child: Pregnancy

- (A) Requirements. Assistance may be authorized for an otherwise eligible pregnant woman:
- (1) when it has been verified that the child is expected to be born within 120 days of the date of application, or, if the pregnant woman is a teen parent as defined in 106 CMR 701.600: *Definitions of Terms*, at any time during her pregnancy if she is meeting the school attendance requirements found in 106 CMR 203.610; and
 - (2) if such child had been born and was living with her, the child would meet the nonfinancial and financial requirements of TAFDC.
See 106 CMR 204.235(C): *Income Deemed to a Pregnant Woman* for the determination of financial eligibility for the pregnant woman.
- (B) Verification. Pregnancy and the date the child is expected to be born must be verified by a statement from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*.

203.570: Dependent Child: Younger than 18 Years Old

- (A) Requirements. Except as specified in 106 CMR 203.900, school attendance is not required for a child younger than 18 years old as a condition of TAFDC eligibility. A child between the 16 and 18 years of age who is not attending school, however, must be participating in the ESP program.
- (B) Verification.
- (1) Age must be verified. Age is verified by a birth certificate, or a baptismal certificate. If the applicant or recipient does not have and cannot obtain a birth or baptismal certificate, age is verified by one of the following:
 - (a) Family Bible or genealogical records;
 - (b) Passport;
 - (c) Hospital birth record or Notification of Birth Form (NOB-1) signed by appropriate hospital official;
 - (d) United States Census records;
 - (e) Social Security (RSDI) benefit records;
 - (f) Immigration and Naturalization records;
 - (g) Court records (*e.g.*, adoption, separate support, adjudication of paternity); or
 - (h) An affidavit of a third person, if the applicant or recipient has demonstrated that he or she has tried to obtain an appropriate document. *See* 106 CMR 702.340(B): *Collateral Contact*.
 - (2) Any of the following, provided they are dated at least six months prior to the date of application and provided they contain evidence of the age of the child, are also acceptable verification:
 - (a) School record;
 - (b) Insurance policies;
 - (c) Employment records;
 - (d) Newspaper records and local histories;
 - (e) Indian agency records;
 - (f) Child Welfare service records;
 - (g) Voluntary social service records;
 - (h) Church records;
 - (i) Head Start Program records;
 - (j) day care center records; or
 - (k) other governmental records.

203.575: Dependent Child: 18 Years of Age

- (A) Requirements. In order to remain eligible as a dependent child, a child who has reached his or her 18th birthday shall:
- (1) Be a full-time student in grade 12 or below in a school not beyond the secondary level or in a full-time vocational or technical training program of the equivalent level designed to lead to gainful employment; and

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- (2) Be reasonably expected to graduate or complete the course of studies or training before reaching his or her 19th birthday.
Eligibility shall continue through the end of the month in which the student graduates.

(B) Student Status.

- (1) Requirements. A child 18 years of age is a student if he or she is attending a full-time course of training or study.
- (2) Definition of Full-time. Full-time school attendance is defined as 30 hours per week or the full-time schedule determined by the school.
- (3) Verification.
- (a) Verification of full-time student status is mandatory and is verified by one of the following:
1. a letter from a school authority;
 2. a notice of grades for the current semester, provided the notice is dated within 45 days of the application date or eligibility review interview date; or
 3. any other document from the school and/or instructor.
- (b) During the summer months, if the documentary evidence listed in 106 CMR 203.575(B)(3)(a) is unavailable, full-time student status is verified by one of the following:
1. a report card from the last semester of the previous school year; or
 2. a course schedule or other notice of attendance for the next school year.
- If the above-listed documents are unavailable, and if the worker is unable to obtain documentation through collateral contact, the self-declaration of the student shall be sufficient evidence.

(C) Gainful Employment.

- (1) Requirements. A course of study is considered to prepare a student for gainful employment if the school, institution or program is accredited or approved and the course leads to a certificate or diploma.
- (a) If in a primary or secondary school, the student must be in a program of supervised educational or vocational training approved by the authorities of the school district or by the Massachusetts Department of Education. The program may be part of the regular school program or one specially arranged for the individual child's educational or vocational needs.
- (b) If in a vocational or technical training program, the program must be approved by the Massachusetts Department of Education.
- (2) Verification. If verification is necessary, the accreditation or approval of the school, institution or program is verified by school or institution documents or other appropriate material.

- (D) Date of Expected Graduation. The requirement that a dependent child who is 18 years of age can reasonably be expected to graduate or finish the course of study or training before his or her 19th birthday shall be verified by a statement from the appropriate school authority giving the child's expected date of graduation or completion of the course.

203.580 Relationship and Living Arrangement

To be eligible, the dependent child must live with a relative responsible for his or her day-to-day care in a place of residence maintained as a home.

Assistance may not be denied either because of the conditions of the home or because the home is considered unsuitable.

203.585: Relationship

(A) Requirements.

- (1) The grantee must be related to the dependent child in one of the following ways:
- (a) A blood relative, including a mother, father, sister, brother, niece, nephew, aunt, uncle, first cousin, first cousin once removed (second or third cousins are not included under this definition), or any of these relatives of the preceding generation as denoted by prefixes of grand, great, great-great, or great-great-great-grandparents; blood relatives include those of half-blood;

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- (b) A stepfather, stepmother, stepbrother, or stepsister;
 - (c) A parent by legal adoption or any of the adopting parent's blood relatives as defined above, natural children, or adopted children; or
 - (d) A spouse of any person named above, even if the marriage has been terminated by death or divorce.
- (2) To determine whether or not the grantee or the spouse of the grantee may be included in the assistance unit, *see* 106 CMR 204.300: *Membership in the Assistance Unit and Filing Unit* through 204.325: *Eligibility of the Spouse of the Grantee*.
- (B) Verification. Relationship must be verified. Relationship is verified by:
- (1) Birth certificate showing the name(s) of the parent(s); or
 - (2) For school-aged children, school records showing the address of the child and the name and relationship of the relative responsible for the child.
- If neither of the above is available, or for children for whom school records are not available, relationship is verified in the same manner as age. *See* 106 CMR 203.570(B).
- Marital relationship is verified by a license or certificate of marriage.

203.590: Establishment of Paternity

- (A) Requirements. Paternity is established for purposes of TAFDC eligibility when the alleged father of a child:
- (1) Is legally married to the mother (or was legally married to her at the time of the conception or birth of the child);
 - (2) Has entered into a common-law marriage with the mother in a state or county in which the common-law marriage is valid. Common-law marriage cannot be legally entered into in Massachusetts;
 - (3) Has been found to be the father in adjudication by a court;
 - (4) Has completed a legally binding agreement acknowledging paternity and his obligation to support the child and the agreement has been signed by both the father and the mother; or
 - (5) Has completed a voluntary acknowledgment of paternity with the Child Support Enforcement Unit (CSEU).
- (B) Verification. If verification is necessary, the establishment of paternity is verified by:
- (1) The child's birth certificate showing the name of the father;
 - (2) Marriage or court records; or
 - (3) A copy of the acknowledgment of paternity from the Child Support Enforcement Unit.

203.595: Living Arrangement

- (A) Requirements. A dependent child must be living with his or her relative (as specified in 106 CMR 203.585) in a place of residence maintained by such relative as a home. This requirement is met if:
- (1) The child is physically present in the home and the grantee exercises responsibility for the day-to-day care and control of the child, even if the child is under the jurisdiction of a court (for example, receiving probation services or protective supervision) or if legal custody of the child is held by a public or private agency; or
 - (2) The child spends time with a second parent as a result of a shared custody agreement. Regardless of a shared custody arrangement, only one of the child's natural or adoptive parents may be the eligible grantee for that child at any one time; or
 - (3) The child is temporarily absent from the home except as specified in 106 CMR 203.595(A)(5); and
 - (a) the temporary absence of the child is not expected to last more than 120 consecutive days; or
 - (b) the temporary absence meets a good cause exception specified in 106 CMR 203.595(A)(6).
- Absences that are considered temporary in nature for a child include attendance at educational institutions or specialized schools, hospitalization, employment, visits, a voluntary placement with the Department of Social Services and similar situations of a temporary nature. During such temporary absences, only one relative may be the eligible grantee for that child at any one time.

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- (4) The grantee is temporarily absent from the home; and
- (a) the temporary absence of the grantee is not expected to last more than 120 consecutive days; or
 - (b) the temporary absence meets a good cause exception specified in 106 CMR 203.595(A)(6).

Absences that are considered temporary in nature for a grantee include hospitalization, employment, visits and similar situations of a temporary nature. During such temporary absences, only one relative may be the eligible grantee for that child at any one time.

- (5) The living arrangement requirement is not met if the temporary absence from the home is because:

- (a) the child has been removed from the household pursuant to a court order after a care and protection hearing; or
- (b) the only child(ren) in the grantee's assistance unit has been temporarily removed by the Department of Social Services in accordance with Department of Social Services procedures.

- (6) Good cause for an absence to exceed 120 consecutive days shall exist when the grantee has regular contact with the child and continues to exercise care and control of the child; and

- (a) the child or grantee is hospitalized;
- (b) the child is attending a residential school from which the child returns to the home for visits or such reasons as vacations or holidays; or
- (c) there is a family crisis situation which is temporary in nature.

The Commissioner or his or her designee must authorize a temporary absence based on a family crisis.

- (7) The provisions concerning temporary absence of a child shall apply to a child who leaves his or her home on or after the effective date of 106 CMR 203.595. For a child who was temporarily absent from his or her home before the effective date of 106 CMR 203.595, the first day of the 120-consecutive-day period shall commence on the effective date of 106 CMR 203.595.

- (8) Failure by the grantee to notify the Department within five calendar days of the date he or she learns that the temporary absence of the child will exceed 120 consecutive days shall result in the ineligibility of the grantee.

(B) Verification

- (1) If verification is necessary, living arrangement is verified by school records showing the address of the child and the name of the relative who is responsible for the child. If this information is not available, living arrangement is verified by one of the following:

- (a) Hospital or clinical records;
- (b) Public Housing Authority records;
- (c) Court support orders;
- (d) Signed physician's statement;
- (e) Juvenile court records;
- (f) Child Welfare records;
- (g) Voluntary social service agency records;
- (h) Head Start Program records;
- (i) Day care center records; or
- (j) Worker observation during a home visit.

- (2) The grantee must provide written verification of the temporary absence from the home as determined by the Department. The verification must specify:

- (a) the temporary nature of the absence; and
- (b) the start date and expected end date of the temporary absence; and
- (c) if the grantee is claiming good cause for the temporary absence to exceed the 120 consecutive days, the grantee must also provide documentation from the appropriate agency or organization that verifies that the grantee has regular contact with the child and continues to exercise care and control of the child.

203.600: Teen Parent Eligibility

Requirements. The Department shall only provide benefits to a teen parent and his or her dependent child, when the teen parent:

- (1) has graduated from high school or received a GED; or is enrolled and attending full time a school not beyond high school; or is attending a full-time GED program and participating in an approved training or employment-related activity for a total of 20 hours per week, or if living in a teen structured living program is meeting the requirements specified in 106 CMR 203.630(A)(3), in accordance with 106 CMR 203.610; and
- (2) resides in one of the following living arrangements:
 - (a) with one of the following responsible adults:
 1. his or her parent(s);
 2. an adult 20 years of age or older who meets the relationship requirement of 106 CMR 203.585 for the teen parent;
 3. an adult 20 years of age or older who meets the relationship requirement of 106 CMR 203.585 for the dependent child, except that in the case of an unmarried teen parent, the other parent of the dependent child shall not meet the requirements of 106 CMR 203.585.
 4. an approved foster parent; or
 5. a legal guardian who is not the other parent of the dependent child; or
 - (b) in a teen structured living program in accordance with 106 CMR 203.630; or
 - (c) on his or her own when the Department determines he or she has achieved necessary educational and vocational goals and acquired sufficient independent living skills and parenting skills in accordance with 106 CMR 203.640.

The provisions of 106 CMR 203.600 apply whether the teen parent is a grantee, a dependent child, or excluded from the assistance unit in accordance with 106 CMR 204.305(E).

203.610: Teen Parent School Attendance

(A) Requirements.

- (1) A teen parent must meet one of the following school attendance requirements:
 - (a) be a high school graduate; or
 - (b) be a graduate of a High School Equivalency Testing (HiSET) program; or
 - (c) be a full-time student not beyond high school (which may include an approved alternative education program); or
 - (d) be a full-time student in a HiSET program and participate in an approved training or employment-related activity for a total of 20 hours per week; or, if living in a teen structured living program, meeting the requirements specified in 106 CMR 203.630(A)(3).
- (2) A teen parent described in 106 CMR 203.610(A)(1)(c) or (d) must meet the component requirements of the Employment Services Program as specified in 106 CMR 207.110: *Completion of an Employment Development Plan (EDP)* and 207.140: *Educational Component*.
- (3) A teen parent unable to find suitable alternative child care arrangements shall be provided with child care by the Department, if available. If child care is not available, the teen parent is exempt from 106 CMR 203.610(A)(1).
- (4) Failure by a teen parent to comply with the attendance requirements will result in a sanction for the teen parent and his or her dependent child unless good cause exists in accordance with 106 CMR 701.380: *Good Cause Criteria*.
 - (a) For the first instance of noncompliance the assistance grant will be reduced by an amount equal to the teen parent's portion of the grant.
 - (b) If the noncompliance continues beyond 30 days and for subsequent instances of noncompliance the teen parent and his or her dependent child will be ineligible.
 1. If the teen parent and his or her dependent child(ren) are sanctioned, the child(ren)'s other parent, living with the teen parent and child(ren), may constitute an assistance unit of one if otherwise eligible.
 2. If a teen parent and his or her dependent child(ren) are sanctioned, the grantee, living with the teen parent and his or her dependent child(ren), may constitute an assistance unit of one if otherwise eligible.

203.610: continued

(5) A teen parent who has been determined ineligible in accordance with 106 CMR 203.610(A)(4) may have his or her TAFDC benefits restored as specified in 106 CMR 207.205: *Restoration of TAFDC Benefits and ESP Participation* provided he or she is otherwise eligible.

(6) A teen parent is not subject to the requirements of 106 CMR 203.610 for three months following the birth of her child.

(B) Verifications. The following verifications are mandatory.

(1) Verification of school attendance and frequency shall be a method specified by the Department.

(2) Verification of high school graduation shall be a copy of a high school graduation diploma or a written statement from the appropriate high school authority giving the date of graduation.

(3) Verification of graduation from a HiSET program shall be a copy of the HiSET certificate or a written statement on letterhead from the educational provider stating that the HiSET requirements have been met and when the certificate will be issued.

(4) Verification of full-time participation in a HiSET program shall be a written statement from the educational provider stating that the program will lead to a high school diploma or the equivalency and verifying the teen parent's full-time attendance.

(5) Verification of participation in an approved training or employment-related activity shall be by a method specified by the Department.

203.620: Teen Parent Living with Responsible Adult

(A) Requirements.

(1) Except as stated in 106 CMR 203.630 and 203.640, a teen parent and his or her dependent child must reside with one of the following;

(a) his or her parent(s);

(b) an adult 20 years of age or older who meets the relationship requirement of 106 CMR 203.585 for the teen parent;

(c) an adult 20 years of age or older who meets the relationship requirement of 106 CMR 203.585 for the dependent child, except that in the case of an unmarried teen parent, the other parent of the dependent child shall not meet the requirements of 106 CMR 203.585.

(d) an approved foster parent; or

(e) a legal guardian who is not the other parent of the dependent child; or

(2) A teen parent under 18 years of age:

(a) must be included in the assistance unit of his or her parent(s) when the parent(s) is receiving TAFDC for siblings and/or half siblings of the teen parent; and

(b) will have his or her financial eligibility determined in accordance with 106 CMR 204.236.

(B) Verifications. The following verifications are mandatory.

(1) Verification of relationship shall be in accordance with 106 CMR 203.585.

(2) Verification of the living arrangement with an adult relative 20 years of age or older or a legal guardian shall be a written statement from the adult relative or legal guardian.

(3) Verification of legal guardianship shall be a copy of the appropriate legal document that verifies the arrangement.

(4) Verification of an approved foster care placement shall be a written statement from the appropriate social service agency.

203.630: Teen Parent Structured Living Program

(A) Requirements.

(1) A teen parent must reside in a teen structured living program, as specified by the Department, when the following conditions exist:

203.630: continued

- (a) the teen parent asserts that he or she cannot live in the home of his or her parent(s) because abuse, neglect, addiction to substances, or some other extraordinary circumstance is present and this has been confirmed by the Department and the Department of Social Services (DSS) or its agent(s); and
- (b) there is no adult relative 20 years of age or older with whom he or she can live as required in 106 CMR 203.620;
- (c) there is no legal guardian with whom he or she can live as required in 106 CMR 203.620; and
- (d) the teen parent has failed to achieve sufficient independent living skills and parenting skills necessary to live on his or her own as required in 106 CMR 203.640 and there is an available teen structured living program.

The pregnant teen may reside in a teen structured living program at any time during her pregnancy.

(2) A teen parent placed in a teen structured living program must pay a portion of his or her assistance grant for program fees. The amount is determined by the teen structured living program.

(3) The minimum obligations of a teen structured living program are as follows:

- (a) require a teen parent to enroll and make acceptable progress in a school not beyond high school or a GED program unless he or she has a high school diploma or a GED certificate;
- (b) require a teen parent to participate in basic parenting skills, basic life skills classes, and pregnancy prevention classes;
- (c) provide necessary rules and regulations to promote stability; and
- (d) provide regular counseling sessions to enhance the teen parent's self-esteem.

(B) Verification. Verification of the presence of abuse, neglect, addiction to substances, or other extraordinary circumstance shall be a written statement from DSS.

203.640: Teen Parent Living Independently

(A) Requirements. The Department may determine in accordance with the criteria listed below that a teen parent may reside on his or her own if he or she is considered to have achieved necessary educational and vocational goals and acquired sufficient independent living skills. A teen parent who meets the following criteria will be determined appropriate to reside independently:

- (1) married and living with his or her spouse; or
- (2) unmarried, or married and living apart from his or her spouse; and
 - (a) if under 18 years of age, the Department of Social Services (DSS) has confirmed that there is no known reason the teen parent cannot live independently, and the teen parent is:
 - 1. a graduate of a DSS independent living program; and
 - 2. a graduate of high school; or
 - 3. a graduate of a GED program; or
 - 4. attending school full-time not beyond high school; or
 - 5. attending a full-time GED program and participating in an approved training or employment-related activity for a total of 20 hours per week.

or

- (b) if 18 or 19 years of age,
 - 1. is a graduate of high school;
 - 2. is a graduate of a GED program;
 - 3. attending school full-time not beyond high school; or
 - 4. attending a full-time GED program and participating in an approved training or employment-related activity for a total of 20 hours per week; or
- (c) if 17 years of age, DSS or a DSS vendor has completed an assessment of the home of the teen's parent(s) and of the teen parent's current living situation and states that the teen parent cannot return to the home of his or her parent(s), and the current living environment poses no apparent health or safety risks to the teen parent or his or her dependent child(ren).

DSS shall make this determination based on the following requirements:

203.640: continued

1. the principal of the school or the executive director of the GED program states that the teen parent is making satisfactory progress toward completion of the requirements for a diploma or certificate, or is a high school graduate or a graduate of a GED program;
2. if the teen parent is the subject of an open DSS case, the DSS case worker states that the teen parent should be permitted to live on his or her own rather than in a structured living program;
3. the teen parent has an established, stable, quality child care arrangement; and
4. the teen parent has an established relationship with a teen parenting program and the program supports that the teen parent be permitted to continue living on his or her own.

The Commissioner of the Department of Transitional Assistance or his or her designee will review the recommendation of the Department of Social Services and approve or deny the independent living arrangement of the teen parent.

(B) Verifications. The following verifications are mandatory.

- (1) Verification of marriage shall be a license or certificate of marriage.
- (2) Verification that there is no known reason the teen parent under 18 years of age cannot live independently and graduation from a DSS independent living program shall be a written statement from DSS.
- (3) Verification of school attendance and graduation from high school shall be in accordance with 106 CMR 203.610.
- (4) Verification of graduation from a GED program shall be a copy of the certificate attesting to completion of the GED program.
- (5) Verification of participation in an approved training or employment-related activity shall be by a method determined by the Department.
- (6) Verification of the requirements of 106 CMR 203.640(A)(2)(c) is the responsibility of DSS. DSS must submit, to the Commissioner of DTA or his or her designee, written statements from:
 - (a) the principal of the school or the executive director of the GED program that state that the teen parent is making satisfactory progress toward completion of the requirements for a diploma or certificate, or that the teen parent is a high school graduate or a graduate of a GED program;
 - (b) the DSS case worker, if the teen parent is an open DSS case, that the teen parent should be permitted to live on his or her own rather than in a structured living program;
 - (c) DSS that the teen parent has an established, stable, quality child care arrangement; and
 - (d) the teen parenting program that the teen parent has an established relationship with the teen parenting program and that the teen parenting program supports that the teen parent be permitted to continue living on his or her own.

203.650: Residence(A) Requirements.

- (1) To be eligible for TAFDC, an applicant or recipient must meet one of the two following residency requirements:
 - (a) the child and the relative are living in the Commonwealth, with the intention of making their home in the Commonwealth, but are not required to maintain a permanent residence or fixed address; or
 - (b) the child and relative are living in the Commonwealth temporarily, are not receiving assistance from another state, and the reason for entering the Commonwealth was to fulfill a job commitment or seek employment.
- (2) An applicant or recipient does not meet the residency requirements when he or she is entering and residing in the Commonwealth for a temporary purpose other than fulfilling a job commitment for temporary work or seeking such work, and he or she plans to leave the Commonwealth upon completion of this purpose; or
- (3) There is a rebuttable presumption that an applicant or recipient does not meet the residency requirements when he or she is entering and residing in the Commonwealth for the purpose of school attendance by a filing unit member.

203.650: continued

(4) Under 106 CMR 203.650(A)(1)(a), the primary determination of residency is intent. Except as specified in 106 CMR 203.650(A)(2) or (3), the applicant or recipient meets the residency requirements if he or she has no present intent to leave the Commonwealth, although not necessarily intending to remain in the Commonwealth permanently.

(5) Under 106 CMR 203.650(A)(1)(b), the primary determination of residency is the purpose for which the relative entered the Commonwealth. Except as specified in 106 CMR 203.650(A)(2), the applicant or recipient meets the residency requirements if he or she entered the Commonwealth with a specific job commitment or to seek work with no immediate intent to leave the Commonwealth at the end of the job commitment.

(B) Verification. If verification is necessary, the method of verifying residence depends on the residency requirement the applicant or recipient claims to have met.

(1) If the applicant or recipient claims intent to make his or her home in the Commonwealth, or if the noncitizen applicant claims to have lived in the Commonwealth for at least six months, residence is verified by one of the following:

- (a) a signed statement from a landlord to the applicant or recipient specifying the rental arrangement;
- (b) a deed or other evidence of ownership of the property used as the home;
- (c) postal service records;
- (d) church or religious institution records;
- (e) utility company records;
- (f) voter registration records;
- (g) motor vehicle license or registration; or
- (h) employment records.

(2) If the applicant or recipient is homeless and if documentary evidence is not available, residence is verified by one of the following:

- (a) a collateral contact with a person who can verify that the applicant or recipient lives in the area covered by the office in which he or she applied; or
- (b) a written statement signed by the household or by a person known to the household stating the household lives in the area covered by the office in which he or she applied; or
- (c) a home visit.

(3) If the applicant or recipient claims that he or she is living in the Commonwealth, is not receiving assistance in another state and entered the Commonwealth with a job commitment or is seeking employment in the Commonwealth, residence is verified by:

- (a) a signed statement from the employer making the job commitment; or
- (b) a current employment registration card.

(4) Verification that a filing unit is no longer receiving public assistance in another state and the date of termination of such public assistance must be provided by the filing unit when the filing unit:

- (a) has moved into the Commonwealth within six months prior to the date of application; and
- (b) states that one or more of its members was receiving public assistance in another state.

If one or more members of the filing unit was receiving public assistance in another state, the earliest eligibility date in the Commonwealth is specified in 106 CMR 702.150: *Date Assistance Begins*.

203.655: Disqualifying Absences

An applicant or recipient is not eligible while:

- (A) a patient in a mental institution;
- (B) an inmate of a penal or other public institution;
- (C) absent from the United States and such absence does not qualify as a temporary absence as specified in 106 CMR 203.660; or
- (D) permanently residing outside the Commonwealth.

203.660: Temporary Absence

(A) Requirements. Temporary absences from the Commonwealth, with subsequent returns to the Commonwealth, or intent to return when the purposes of the absence may have been accomplished, do not interrupt continuity of residence. Temporary absences include those for such reasons as health, business, school, or family commitments.

An absence in excess of 30 calendar days or 90 days in aggregate over the course of a calendar year shall create a rebuttable presumption that Massachusetts residency has been abandoned and that eligibility for assistance has ceased. The recipient may rebut this presumption by meeting one of the following requirements:

(1) Submission of verification prior to the start of the absence, or during the first 30 calendar days of the absence, that it will exceed 30 calendar days. Verification of intent to retain residency must also be submitted. Evidence to substantiate intent to retain residency may include the documents listed in 106 CMR 706.400(C)(1)(b).

(2) A Fair Hearing officer finds that there is/was:

(a) a need for the absence in excess of 30 consecutive calendar days or 90 days in aggregate over the course of a calendar year; and

(b) that Massachusetts residency has not been abandoned.

If a recipient is unable to appear at the Fair Hearing for medical reasons, he or she shall submit a signed and dated statement from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* verifying that the recipient is unable, for medical reasons, to travel to Massachusetts or appear at the hearing. In this situation the recipient must also submit written testimony verifying the need for the absence to exceed 30 consecutive calendar days or 90 days in aggregate over the course of a calendar year and verification of the intent to retain residency in Massachusetts.

203.660: continued

(B) Absence in Excess of 30 Days. If a recipient is absent for more than 30 calendar days, and continues to receive assistance, the worker shall notify the appropriate state agency in the state where the recipient is temporarily residing. Such notice shall include the recipient's name, Social Security Number, previous Massachusetts address, current address, if known, and anticipated length of the absence.

(C) Verification. The temporary nature of an absence must be verified (*See* 106 CMR 702.300: *Verification*). Evidence of the temporary nature of an absence may include but is not limited to medical documentation, or a short-term business contract. Evidence presented to substantiate intent to retain residency may include any of the documents listed in 106 CMR 706.400(C)(1)(b).

203.665: Citizens, Noncitizens and Canadian-born Indians

To be eligible for assistance, the applicant or recipient must be:

(A) A citizen of the United States, defined as an individual born in one of the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, or Guam; or meets the citizen requirements as specified in 106 CMR 203.670;

(B) A noncitizen who meets one of the requirements of 106 CMR 203.675; or

(C) An American Indian born in Canada.

A statement certifying under penalty of perjury to the truth of the information contained in the application of the citizenship status of each member in the assistance unit must be completed. Failure to comply with these requirements shall result in an individual's ineligibility as specified in 106 CMR 204.315: *Failure to Cooperate*.

When a relative is ineligible for assistance because of his or her noncitizen status, he or she must be excluded from the assistance unit but may be an ineligible grantee for those children who do meet the requirements. If such relative is an ineligible grantee who has a legal obligation to support his or her child(ren), he or she is subject to other TAFDC provisions, including but not limited to, the Family Cap specified in 106 CMR 203.300 and community service as specified in 106 CMR 203.400, if applicable.

203.670: Citizens

(A) Persons Born in the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands or Guam. Citizenship must be verified when the information on the application is questionable. If verification is necessary, citizenship is verified by the sources listed in 106 CMR 203.570 that indicate place of birth or citizenship.

(B) Person Born outside the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands or Guam. Citizenship is verified by one of the following:

- (1) U.S. Passport;
- (2) Naturalization certificate;
- (3) Military service papers;
- (4) U.S. Citizen Identity Card (Form I-179);
- (5) U.S. Citizen Resident's Card (Form I-197);
- (6) Proof that at least one natural or adoptive parent(s) was:
 - (a) a U.S. citizen at the time of the person's birth, and
 - (b) that the parent had resided in the U.S. before the birth of this person;

203.670: continued

- (7) Proof that:
 - (a) both parents became naturalized citizens before this person either turned age 18 or married while under age 18; and
 - (b) at the time the second parent or surviving parent was naturalized, this person:
 - 1. was residing in the U.S. with lawful admission for permanent resident status or
 - 2. began to reside permanently in the U.S. while under age 18;
- (8) Proof that at least one parent is a U.S. citizen by birth or naturalization and the foreign-born child, including an adopted child:
 - (a) is under 18 years of age;
 - (b) is currently residing permanently in the U. S. in the legal and physical custody of the United States citizen parent; and
 - (c) is a lawful permanent resident; or
- (9) Proof that one parent was a citizen of the U.S. at the time of the person's birth and proof that such parent resided in the U.S. for more than five years, two years of which were after the age of 14.

203.675: Noncitizens

An individual included as a member of the filing unit as a noncitizen must verify that he or she is present in the United States under one of the eligible noncitizen statuses as described in 106 CMR 203.675(A). The status of a noncitizen included in the assistance unit must be verified at application, at eligibility reviews or whenever the status of the noncitizen changes or is questionable. Verification of an eligible noncitizen status must be presented prior to the determination of TAFDC eligibility for that individual.

When a noncitizen applying for TAFDC indicates an inability or unwillingness to provide information about or acceptable verification of an eligible noncitizen status that individual shall be ineligible. In such cases the Department shall not continue efforts to obtain documentation or ask additional questions. Likewise, if a noncitizen applying for TAFDC indicates an inability or unwillingness to provide, or apply for, a Social Security Number due to immigration status that individual shall be ineligible. The Department shall not continue efforts to obtain documentation. TAFDC eligibility will be determined in accordance with 106 CMR 204.330 for the remaining members of the assistance unit who verify an eligible noncitizen status.

The Commissioner or designee is required to report to the Immigration and Naturalization Service information about noncitizens known to be in the U.S. unlawfully. Known to be in the U.S. unlawfully means that the Department or Department representative has seen a Final Order of Deportation.

(A) Eligible Noncitizen Status. A noncitizen's eligibility for TAFDC depends on the section of the Immigration and Nationality Act (INA) under which the noncitizen is present in the United States, the date that status was granted, and the meeting of additional criteria. Eligible noncitizen statuses for TAFDC are:

- (1) Veterans and Active Duty Personnel. A noncitizen lawfully residing in the United States is an eligible noncitizen when he or she is:
 - (a) a veteran of the United States Armed Forces with honorable discharge not related to his or her noncitizen status;
 - (b) a person on active duty in the United States Armed Forces, other than active duty for training, who fulfills the minimum active-duty service requirement of 24 months or the period for which the person was called to active duty;
 - (c) a spouse of the veteran or person who died during active duty if:
 - 1. the spouse has not remarried; and
 - 2. the couple was married for at least one year or for any period if a child was born of the marriage or was born before the marriage;
 - (d) a spouse or unmarried dependent child of the veteran or person on active duty described in 106 CMR 203.675(A)(1)(a) or (b). For purposes of 106 CMR 203.675, an unmarried dependent child is a child who is or could be claimed as a deduction on the veteran's tax return and who meets the definition of a dependent child as specified in 106 CMR 203.560(B);
 - (e) a Hmong or other Highland Lao veteran who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and has been lawfully admitted to the United States for permanent residence; or

203.675: continued

- (f) a member of the organized military forces of the Government of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order dated July 26, 1941, including organized guerilla forces under commanders organized by the United States Army for service prior to July 1, 1946.
- (2) Legal Permanent Resident. A noncitizen present in the United States as a legal permanent resident is an eligible noncitizen as specified in 106 CMR 203.675(A)(2)(a) through (d).
- (a) The legal permanent resident status was granted before August 22, 1996;
 - (b) The legal permanent resident status is granted on or after August 22, 1996 and five consecutive years have elapsed from the date the legal permanent resident status was granted;
 - (c) The legal permanent resident status, regardless of the date the legal permanent status was granted, was a status adjustment by INS and prior to the status adjustment the noncitizen was:
 1. a refugee under section 207 of the INA;
 2. an asylee under section 208 of the INA;
 3. a noncitizen whose deportation was being withheld under section 243(h) or 241(b)(3) of the INA;
 4. a Cuban/Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980 or under section 212(d)(5) of the INA; or
 5. an Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988; or
 - (d) The noncitizen, who entered the United States before August 22, 1996, whose legal permanent resident status was granted on or after August 22, 1996, and who has been continuously present in the United States from the latest date of entry prior to August 22, 1996 until the legal permanent resident status was granted. Continuous presence is interrupted by a single absence from the United States of more than 30 days or a total of aggregated absences of more than 90 days.
- (3) Refugee. A noncitizen present in the United States as a refugee under section 207 of the INA is an eligible noncitizen.
- (4) Asylee. A noncitizen present in the United States as an asylee under section 208 of the INA is an eligible noncitizen.
- (5) Withholding of Deportation Noncitizen. A noncitizen whose deportation is being withheld under section 243(h) or 241(b)(3) of the INA is an eligible noncitizen.
- (6) Parolee. A noncitizen present in the United States as a parolee under section 212(d)(5) of the INA is an eligible noncitizen as specified in 106 CMR 203.675(A)(6)(a) through (c).
- (a) The parolee status was granted before August 22, 1996 and the noncitizen is being paroled for a period of at least one; or
 - (b) The parolee status is granted on or after August 22, 1996, the noncitizen is eligible after five consecutive years have elapsed from the date the parolee status was granted; or
 - (c) The noncitizen who entered the United State before August 22, 1996, whose parolee status was granted on or after August 22, 1996, and who has been continuously present in the United States from the latest date of entry prior to August 22, 1996 until the parolee status was granted is an eligible noncitizen. Continuous presence is interrupted by a single absence from the United States of more than 30 days or a total of aggregated absences of more than 90 days.
- (7) Conditional Entrant. A noncitizen present in the United States as a conditional entrant under section 203(a)(7) of the INA as in effect prior to April 1, 1980 is an eligible noncitizen as specified in 106 CMR 203.675(A)(7)(a) through (c).
- (a) The conditional entrant status was granted before August 22, 1996; or
 - (b) The conditional entrant status is granted on or after August 22, 1996, the noncitizen is eligible after five consecutive years have elapsed from the date the conditional entrant status was granted; or
 - (c) The noncitizen who entered the United States before August 22, 1996, whose conditional entrant status was granted on or after August 22, 1996, and who has been continuously present in the United States from the latest date of entry prior to August 22, 1996 until the conditional entrant status was granted. Continuous presence is interrupted by a single absence from the United States of more than 30 days or a total of aggregated absences of more than 90 days.

203.675: continued

(8) Battered Noncitizens. A noncitizen is an eligible noncitizen if while lawfully residing in the United States the noncitizen or his or her minor child

(a) has been battered or subjected to extreme cruelty in the United States by:

1. a spouse or a parent, or a member of the spouse's or parent's family residing in the same household as the noncitizen; and
2. the spouse or parent consented or did not intervene to stop such battery or cruelty. A noncitizen who actively participated in the battery or cruelty toward his or her child is ineligible; and

(b) the individual responsible for the battery or cruelty is no longer residing in the same household as the noncitizen or minor child subjected to the battery or cruelty; and

(c) the noncitizen has been approved or has a pending petition for

1. status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the INA;
2. classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the INA;
3. suspension of deportation and adjustment of status pursuant to section 244(a)(3) of the INA; or
4. status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the INA, or classification pursuant to clause (i) of section 204(a)(1)(B) of the INA.

(9) Cuban/Haitian Entrants. A noncitizen present in the United States as a Cuban/Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980 or under section 212(d)(5) of the INA is an eligible noncitizen.

(10) Amerasian. A noncitizen from Vietnam who is present in the United States as an Amerasian immigrant (as defined in section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988) is an eligible noncitizen.

(11) Victims of Severe Forms of Trafficking. A noncitizen who is present in the United States having been issued a letter of certification by the United States Department of Health and Human Services (HHS) as proof of the victim of severe forms of trafficking status as defined in the Trafficking Victims Protection Act of 2000, is an eligible noncitizen.

(B) Verification of Noncitizen Status. The noncitizen INS status shall be verified in accordance with Department procedures.

The applicant or recipient must submit verification of the noncitizen status and the date the status was granted for each member of the filing unit at application, at eligibility reviews or whenever the status of the noncitizen changes or is questionable. A noncitizen veteran, spouse or dependent child must verify military discharge, active duty, death certificate for the veteran and/or relationship. A battered noncitizen must verify the battery or cruelty and the applicable approved or pending petition status.

The legal permanent resident, parolee or conditional entrant noncitizen who entered the United States before August 22, 1996 must submit verification of entering the United States before August 22, 1996 and being continuously present in the United States from the latest date of entry prior to August 22, 1996 until the status was granted. The continuous presence is interrupted by a single absence of more than 30 days or a total of aggregated absences of more than 90 days.

(C) Ineligible Noncitizen Status. An individual present in the United States under conditions or sections of the INA not described in 106 CMR 203.675 is ineligible for TAFDC.

203.685: American Indian Born in Canada

(A) Requirements. A person with at least 50% Indian blood who was born in Canada and who has maintained residence in the United States since his or her entry must be regarded as having been lawfully admitted for permanent residence.

Persons with less than 50% Indian blood must satisfy the requirements of 106 CMR 203.675: *Noncitizen Status*, and, if appropriate, 106 CMR 203.680: *Deeming of Income and Assets for a Noncitizen Sponsored with an Affidavit of Support Effective Before December 19, 1997* and 106 CMR 203.681: *Deeming of Income and Assets for a Noncitizen Sponsored with an Affidavit of Support Effective on or After December 19, 1997*.

(B) Verifications. This status must be verified. Canada-born Indian status is verified by one of the following:

- (1) a "band card" issued by the band council of a Canadian Indian reserve;
- (2) birth or baptism records;
- (3) a provincial Union of Indians card (such as a Union of Nova Scotia Indians card); or
- (4) an affidavit from a tribal official or other person knowledgeable about the applicant's or recipient's family ancestry.

203.700: Cooperation with Child Support Requirements

(A) Requirements. A grantee, or a teen parent who is not the grantee, must meet the following requirements for a dependent child for whom he or she is applying or receiving assistance:

- (1) assign to the Department of Transitional Assistance (DTA) any rights that he or she may have to child or spousal support or child support from any other person in accordance with 106 CMR 203.710;
- (2) cooperate and continue to cooperate with DTA, and the Child Support Enforcement Division of the Department of Revenue (DOR) to:
 - (a) make reasonable efforts to furnish identifying information about the noncustodial parent(s);
 - (b) establish parentage;
 - (c) establish, modify or enforce a child support order for each dependent child; and
 - (d) pay to DOR any child and spousal support payments received from the noncustodial parent(s) after an assignment has been made; and
- (3) identify and provide information that would assist DTA in pursuing any third-party liability for medical expenses.

(B) A grantee, or a teen parent who is not the grantee, is not required to cooperate when there is good cause for noncooperation as specified in 106 CMR 203.745. DTA determines if there is good cause for noncooperation.

(C) When a grantee refuses to assign any rights that he or she may have to child or spousal support from any other person in accordance with 106 CMR 203.710, the entire assistance unit is ineligible and assistance shall be denied or terminated until such time as the requirements of 106 CMR 203.710 are met.

(D) When a teen parent who is not the grantee refuses to assign any rights that he or she has to child or spousal support from any other person in accordance with 106 CMR 203.710, the teen parent and his or her dependent child are ineligible and assistance shall be denied or terminated until such time as the requirements of 106 CMR 203.710 are met.

(E) When a grantee (including an ineligible grantee or a teen parent who is not the grantee), fails without good cause to cooperate, then he or she will be sanctioned by DTA:

- (1) by the reduction of cash benefits by:
 - (a) an amount equal to his or her portion of the assistance grant, if applicable; and
 - (b) an additional reduction that together equal a reduction of not less than 25% of the Payment Standard for the current assistance unit size until such time as the requirements of 106 CMR 203.710 are met; and
- (2) if it is the grantee who will not cooperate, by the establishment of vendor payments to the extent possible for any assistance for which the remaining members of the assistance unit are eligible.

203.710: Assignment of Right to Support

(A) Requirements.

(1) The grantee, or a teen parent who is not the grantee, must assign to DTA any rights of spousal and child support and medical insurance benefits that he or she may have for a dependent child, that accrue during the period that assistance is received. The assignment of support rights applies to any rights:

- (a) on the grantee's own behalf unless he or she is an ineligible grantee;
- (b) on behalf of the teen parent who is not the grantee; or
- (c) on behalf of any family member for whom he or she is applying or receiving assistance.

(2) The grantee, or a teen parent who is not the grantee, must assign to DTA any rights of medical insurance benefits for the child born after the Family Cap date as defined in 106 CMR 203.300.

(3) When a grantee refuses to assign any rights of spousal and child support and medical insurance benefits in accordance with 106 CMR 203.710(A)(1), the entire assistance unit is subject to the sanction stated in 106 CMR 203.700(C).

(4) When a teen parent who is not the grantee refuses to assign any rights of spousal and child support and medical insurance benefits in accordance with 106 CMR 203.710(A)(1), the teen parent and his or her dependent child are subject to the sanction stated in 106 CMR 203.700(D).

(5) Refusal of the grantee, or a teen parent who is not the grantee, to assign his or her rights does not abrogate the right of DOR to collect support for the amount of assistance provided.

(B) Verification. The assignment of rights is made by completing a form prescribed by DTA.

203.740: Establishment of Good Cause

The grantee, or a teen parent who is not the grantee, may claim good cause for noncooperation with the Child Support Requirements at any time. At application, the good cause claim must be investigated before the case is referred to the Child Support Enforcement Division of DOR. When the grantee, or a teen parent who is not the grantee, informs DTA or DOR of facts that may constitute good cause and wants to claim good cause after the case was referred to DOR, DOR will cease all child support enforcement efforts until DTA determines good cause.

(A) It is the responsibility of the grantee, or the teen parent who is not the grantee, to:

- (1) specify the circumstances under which good cause is claimed; and
- (2) provide corroborative evidence substantiating the good cause claim.

The burden of producing evidence to establish good cause is upon the grantee, or the teen parent who is not the grantee; however, the assistance of the worker may be requested in obtaining evidence.

(B) It is the responsibility of the DTA worker to:

- (1) determine whether there is good cause for not cooperating with the child support requirements;
- (2) determine whether DOR could proceed without risk of harm to the child or the relative with whom the child resides if the enforcement or collection activities did not involve the cooperation or participation of the relative or the child; and
- (3) notify DOR when the recipient has claimed good cause.

203.745: Grounds for Good Cause

Good cause is present if at least one of the following circumstance exists:

(A) The child was conceived as a result of incest or forcible rape;

(B) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction;

(C) The grantee, or a teen parent who is not the grantee, is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him or her for adoption, and discussions have not lasted for more than three months; or

203.745: continued

(D) Cooperation would result in serious harm or emotional impairment to the child or the relative with whom the child resides.

(See 106 CMR 203.750 for verification(s)).

203.750: Circumstances Under Which Cooperation May Be Against the Best Interests of the Child

(A) Requirements.

(1) Cooperation in establishing paternity and securing support is against the best interests of the child only if cooperation of the grantee or a teen parent who is not the grantee is reasonably anticipated to result in:

- (a) physical harm of a serious nature to the child for whom support is sought, or to the relative with whom the child is living which would reduce his or her capacity to care for the child adequately; or
- (b) an emotional impairment that substantially affects the functioning of the child for whom support is sought, or of the relative with whom the child is living, and which would reduce his or her capacity to care for the child adequately.

(2) For every good cause determination which is based in whole or in part upon anticipation of emotional harm to the child or relative, the worker must consider the following:

- (a) the present emotional state of the individual subject to emotional harm;
- (b) the emotional health history of the individual subject to emotional harm;
- (c) the intensity and probable duration of the emotional upset;
- (d) the degree of cooperation to be required; and
- (e) the extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

(B) Verifications.

(1) A claim of good cause must be verified by one of the following:

- (a) birth certificate or medical or law enforcement records that indicate that a child was conceived as the result of incest or forcible rape. Acceptable medical records shall include records reflecting the judgment of a disinterested third party including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception is the result of rape;
- (b) court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
- (c) court, medical, criminal, child protective services, social service, psychological, or law enforcement records that indicate the putative or noncustodial parent might inflict physical or emotional harm on the child or relative;
- (d) medical records regarding the emotional health history and present emotional health status of the relative of the child or the child for whom support would be sought that indicate emotional harm would result from cooperation, or written statements from a mental health professional indicating such results; or
- (e) a written statement from a public or licensed private social agency that the grantee, or a teen parent who is not the grantee, is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption.

(2) When none of the items listed in 106 CMR 203.750(B)(1) is present or conclusive, a sworn statement from the grantee, or a teen parent who is not the grantee, and at least one other individual with knowledge of the circumstances that provide the basis for the claim of good cause may support the claim of good cause.

203.760: Final Determination of Good Cause

(A) Requirements.

(1) After considering the evidence provided by the grantee, or a teen parent who is not the grantee, the worker must make a determination of:

- (a) whether or not the grantee, or a teen parent who is not the grantee, has good cause for not cooperating with the child support requirements; and
- (b) whether or not DOR can proceed without risk of harm to the child or the grantee, or a teen parent who is not the grantee, since the DOR activities do not involve their participation.

203.760: continued

(2) The final determination must be made within 30 days of the good cause claim, except where the worker has documented that extra time is needed to secure additional evidence.

(3) The determination must:

- (a) contain, in written form, the worker's findings and the basis for the determination;
- (b) be reviewed and approved by the supervisor; and
- (c) be made a part of the case record.

(4) If the worker finds that good cause does not exist, the grantee, or the teen parent who is not the grantee, must be notified in writing of the worker's findings and basis for determination, and afforded an opportunity to cooperate or withdraw the request for assistance.

If the grantee, or the teen parent who is not the grantee, does not withdraw the request for assistance, the worker notifies DOR to proceed with the child support enforcement efforts.

If the grantee, or the teen parent who is not the grantee, does not cooperate with DOR, he or she must be removed from the assistance unit and vendor payments must be instituted, to the extent possible. The grantee retains the right to appeal such action.

(5) If the worker finds that good cause exists, but determines that DOR may proceed to establish paternity or enforce support without placing the grantee, teen parent who is not the grantee, or the dependent child at risk of physical or emotional harm, the worker must inform the grantee or the grantee and the teen parent who is not the grantee of the worker's decision in writing. This written notice must contain a summary of the worker's findings and basis for determination. It must also inform the grantee that he or she has the right to withdraw the request for assistance or to have the case closed. If the grantee does not withdraw the request for assistance, the worker notifies DOR to proceed with child support enforcement efforts.

(B) Verification. For those cases in which the worker finds that good cause exists, the approved written findings of good cause in the case record is verification that a final determination of good cause has been made.

For those cases in which the worker finds that good cause does not exist or that good cause does exist but DOR may proceed to establish paternity or enforce support, the approved written finding in the case record shall be verification that a final determination has been made.

203.765: Assistance Pending Determination of Good Cause

Assistance will not be denied or discontinued, pending a determination of good cause, if the grantee, or a teen parent who is not the grantee, has provided evidence of at least one of the circumstances, listed in 106 CMR 203.745 or 203.750, or sufficient information to permit an investigation by the worker to determine the existence of any of these circumstances.

203.770: Result of Sanction for Failure to Cooperate Without Good Cause

(A) When a grantee, or a teen parent who is not the grantee, is sanctioned for failure to cooperate with DOR without good cause, the grantee shall receive a notice informing him or her of:

- (1) the changes in the assistance grant amount;
- (2) the reason(s) for the decision;
- (3) the obligation to cooperate; and
- (4) the right to appeal this decision with DTA.

(B) If the grantee does appeal, he or she shall have the burden to prove by a preponderance of evidence that he or she, or the teen parent who is not the grantee, did cooperate with DOR.

(C) A sanctioned grantee or teen parent who is not the grantee continues to be subject to all appropriate requirements during the sanction period including, but not limited to, the Work Program, time-limited benefits and the family cap.

(D) When a sanctioned grantee or teen parent who is not the grantee notifies DTA that he or she is willing to cooperate with DOR and signs a form prescribed by the Department, DTA shall send a copy of the signed form to DOR within three business days of the date the grantee or teen parent signed the form.

203.770: continued

(E) The sanctioned grantee or teen parent who is not the grantee shall be deemed to have cooperated with child support enforcement requirements and the sanction will be removed if DOR has not informed DTA of the status of the case within 70 days from the date the form described in 106 CMR 203.770(D) is sent to DOR.

(F) Following the determination of noncooperation by DOR, if a sanctioned grantee or teen parent who is not the grantee states that he or she wishes to cooperate and DOR then determines that he or she has cooperated, DOR shall notify DTA of the cooperation and the sanction will be removed.

(G) Following the determination of noncooperation by DOR, if a sanctioned grantee or teen parent who is not the grantee states that he or she wishes to cooperate and then fails to appear for the DOR-scheduled court date or appointment, DOR shall issue a determination of noncooperation to DTA in accordance with DOR's regulations. DTA shall keep the sanction in effect, or if necessary, reinstate the sanction.

203.775: Periodic Review of Good Cause

The worker must review all cases in which a finding of good cause has been made, except for those based on forcible rape, incest, or serious harm, at each eligibility review or whenever information is obtained that indicates a need to reconsider eligibility. Reverification of good cause shall not be required at eligibility review or at any other time, unless information is obtained that indicates a need to reconsider eligibility for good cause. If grounds for good cause are forcible rape, incest, or emotional problems, the worker may inquire whether the recipient now wants to cooperate. If the worker determines that circumstances have changed such that good cause no longer exists, or if the grantee, or a teen parent who is not the grantee, wishes to cooperate, the worker must rescind the findings and proceed to enforce the requirement.

203.780: Department of Revenue (DOR) Activities

It is the responsibility of the DOR to attempt to locate absent parents and obtain current support obligations and any arrearages from parents who are delinquent in meeting such obligations. The following activities may be engaged in by DOR in its attempt to collect support:

(A) When there is an outstanding probate court order that is not being complied with, DOR may institute contempt proceedings in the probate court where the original action took place.

(B) When there is an outstanding district court order, DOR may notify the appropriate probation department requesting enforcement thereof.

(C) When there is no court order for support, DOR may try to locate the absent parent and negotiate a legally binding agreement. If this is not possible, DOR may establish the support obligation through court order by filing a complaint in the district court or, when appropriate, the probate court.

203.785: Cooperation in Obtaining Third-Party Liability Coverage for Medical Services

As a condition of eligibility, each grantee, or a teen parent who is not a grantee, must cooperate with the Department in identifying and providing information that would assist the Department in pursuing any third-party liability for medical services unless he or she has good cause for not cooperating. The grounds for good cause for not cooperating are the same as those for Child Support, as specified in 106 CMR 203.745.

203.790: Family Abandonment Penalty

A parent who leaves his or her family for the purpose of qualifying his or her family for assistance under any of the programs administered by DTA shall be punished by a fine of an amount established by law or imprisonment for not more than three months.

203.800: Immunizations

(A) Requirement. The grantee must ensure that each dependent child is properly immunized. Failure to comply with 106 CMR 203.800(A) shall result in the ineligibility of the grantee unless there is good cause as specified in 106 CMR 203.800(B).

The grantee must provide verification of the dependent child's immunization at application, upon notification of the birth of a dependent child who will be included in the assistance unit, and when the dependent child turns age two.

The grantee has 60 days from the date of notification of this requirement to provide verification of compliance with the immunization requirement, or a written statement, signed by an appropriate health care provider, of the date such immunizations have been scheduled.

In cases where the immunization certificate states that the dependent child does not have the age-appropriate immunizations, the grantee is also required to submit a statement from the health care provider indicating that the immunizations have been completed within 30 days of the scheduled appointment.

(B) Good Cause for Failure to Comply with Immunization Requirement. Good cause for failure to comply with the immunization requirement is limited to the reasons listed in 106 CMR 203.800(B)(1) through (3):

- (1) A grantee states in writing that the required immunization(s) conflicts with his or her religious beliefs.
- (2) A physician certifies in writing that the child should not be immunized due to medical reasons.
- (3) A grantee states in writing that he or she refused an immunization(s) for a dependent child after consultation with a physician due to his or her belief that there is a potential health risk from the immunization(s).

203.800: continued

(C) Sanction for Noncompliance with Immunization Requirement. When a grantee fails to comply with 106 CMR 203.800 without good cause, he or she will be sanctioned by a denial or a reduction of cash benefits in an amount equal to his or her portion of the assistance grant. In two-parent households, both parents will be sanctioned for failure to comply with 106 CMR 203.800(C).

A sanctioned grantee(s) is still subject to other TAFDC provisions, including, but not limited to, the Time-Limited Benefits specified in 106 CMR 203.200, Family Cap as specified in 106 CMR 203.300 and the Work Program requirements as specified in 106 CMR 203.400.

Once a grantee is sanctioned, the sanction will be imposed until the proper documentation is provided.

(D) Verification

(1) Since age-appropriate immunizations are required for school enrollment, verification of school enrollment satisfies the immunization verification requirement for a school-age child.

(2) Since immunizations are required for participation in Head Start or a licensed day care program, the following verifications satisfy the requirement for a child participating in Head Start or a licensed day care program:

- (a) if the Department pays for the Head Start or licensed day care program, no further verification is required;
- (b) a copy of the immunization form for Head Start or licensed day care program; or
- (c) a written statement from the Head Start or licensed day care program that the child is enrolled.

(3) Verification of immunization for a dependent child may be satisfied by one of the following:

- (a) a written statement on the health care provider's letterhead that the child is up to date on his or her immunizations;
- (b) a copy of a MassHealth or other insurance bill for a well-child visit; or
- (c) completion of a form, prescribed by the Department, and signed by the health care provider.

203.900: Learnfare

(A) Requirements. A dependent child(ren) younger than 16 years old must attend school regularly.

(1) Submission of Quarterly School Attendance Verification.

(a) A grantee who is applying for or receiving TAFDC for a dependent child younger than 16 years old is required to verify the dependent child's attendance at a private school, public school or an approved home school program, unless a grantee is disabled in accordance with 106 CMR 203.100.

(b) Documentation verifying the dependent child's attendance must be submitted within 14 calendar days after the end of a school quarter and include the number of unexcused absences the dependent child had in that quarter.

(2) Probationary Status.

(a) A grantee is placed in a probationary status when the documentation required by 106 CMR 203.900(A)(1):

1. is not submitted without good cause in accordance with 106 CMR 203.900(A)(2)(e); or
2. shows the dependent child had more than eight unexcused absences in the previous school quarter.

(b) The Department will notify the school and the grantee when the grantee is placed in probationary status. The grantee shall have the opportunity to dispute the information concerning unexcused absences with the Department. For purposes of this provision, an absence shall be considered excused if the absence(s) is due to one or more of the following reasons:

203.900: continued

1. illness as certified by a physician or a written statement from the grantee if the illness was less than five consecutive school days;
2. hospitalization as certified by hospital records;
3. a disability that would meet an exemption specified in 106 CMR 203. 100;
4. death of a family member as verified by a death certificate Of death notice;
5. religious holidays; or
6. a crisis situation approved by the director or designee.

(c) A grantee in probationary status is required to submit, by the fifteenth of each month, documentation for the previous month showing the number of unexcused absences for the dependent child in that month

(d) A grantee shall remain in probationary status for six months, or until such time that the number of unexcused absences during the six preceding school months is ten or less, whichever is longer.

(e) Good cause is present when the grantee has taken all necessary steps on his or her part to obtain the documentation but the school authority has been unable to comply with the request.

(3) Sanctions. In an assistance unit in which the grantee is in probationary status, the dependent child whose unexcused absences brought about the probationary status will be sanctioned, and the cash benefits reduced by an amount equal to the dependent child's portion of the assistance grant, when the documentation:

(a) is not submitted without good cause in accordance with 106 CMR 203.900(A)(2)(e); or

(b) shows the dependent child had more than three unexcused absences during any month in the probationary period.

If the only dependent child is sanctioned, the grantee may constitute an assistance unit of one if otherwise eligible.

The Department will notify the school and the Department of Social Services when a dependent child has been sanctioned for three consecutive months. The purpose of these notifications is to obtain assistance in addressing the problems associated with the child's inadequate level of school attendance.

(B) Verifications. The following verifications are mandatory.

(1) Verification of school attendance shall be a method specified by the Department. The Department may establish procedures to obtain school verification directly from school institutions or school districts.

(2) Verification of the grantee's disability shall be in accordance with 106 CMR 203.100(B).

(3) Verification of an approved home school program shall be a written statement from the local school authority attesting to the approved home school program arrangement and a written statement from the provider of the approved home school program.

203.920: Ineligibility of Strikers

An individual who is participating in a strike is not eligible for TAFDC. If an individual is participating in a strike on the last day of a calendar month, he or she shall be considered to have been participating in a strike for the entire calendar month. Assistance which was paid for any month in which an individual was considered to have been on strike must be considered an overpayment and shall be treated in accordance with the provisions of 106 CMR 706.200, *et seq.* The amount of the overpayment shall be determined in accordance with 106 CMR 203.920(C).

(A) Definition. A strike is any concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement, or any concerted slowdown or other concerted interruption of operations by employees.

(B) Participation in a Strike. An individual shall be considered to be participating in a strike if he or she is actively engaged in a concerted work stoppage, slow down or interruption, or if he or she is honoring such an action by willful absence from his or her position or refusal, in whole or in part, to perform the duties of his or her employment.

203.920: continued

(C) Sanctions. If the individual who is participating in a strike is a parent, or is the only child in the assistance unit, the entire assistance unit is ineligible. In all other instances, the individual participating in the strike is ineligible.

(D) Restoration of TAFDC Benefits. At the termination of a strike, an otherwise eligible individual whose assistance was terminated or denied due to participation in a strike may request restoration of TAFDC benefits or may apply for TAFDC benefits. The individual must provide verification that the strike has ended. Acceptable verification shall be a written statement from either the collective bargaining representative or the employer.

REGULATORY AUTHORITY

106 CMR 203.000: M.G.L. c. 18, § 10.