

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 321.000: EMERGENCY AID TO THE ELDERLY, DISABLED AND CHILDREN:
FINANCIAL ELIGIBILITY

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321.000: Overview of Financial Eligibility

In order to receive EAEDC, an applicant or recipient must meet financial eligibility requirements as well as the requirements specified in 106 CMR 320.000: *Categorical Requirements*.

An applicant or recipient meets the financial eligibility requirements if he or she has assets and income at or below levels specified by the Department. The purpose of 106 CMR 321.000 is to show how financial eligibility is established. The topics covered are:

- (A) Assets, 106 CMR 321.100;
- (B) Income, 106 CMR 321.200;
- (C) Membership in the Assistance Unit and Filing Unit, 106 CMR 321.300;
- (D) Standards of Assistance, 106 CMR 321.420;
- (E) Calculation of the Grant Amount, 106 CMR 321.500; and
- (F) Payment of Grants, 106 CMR 321.520.

321.010: General Requirements for Financial Eligibility

There are two major elements in the determination of financial eligibility: an assets test and an income test. In order for the assistance unit to be eligible for EAEDC, the combined assets and the combined income of the filing unit may not be above the limits specified by the Department.

The specific requirements of the test of financial eligibility are discussed in the following sections:

(A) 106 CMR 321.300, 321.310, and 321.320 provide the requirements for determining who is in the filing unit, who is in the assistance unit, and whose assets, income, and needs are to be considered in determining eligibility.

(B) 106 CMR 321.100: *Assets* provides the requirements for determining how assets are to be counted in the eligibility test.

(C) 106 CMR 321.200: *Income* provides the requirements for determining how income is to be counted in the eligibility test.

(D) 106 CMR 321.420: *Standards of Assistance* provides the maximum amounts that may be received as a monthly grant.

The remaining sections provide the requirements for calculating and paying the grant once eligibility has been established.

321.100: Assets

Assets are objects of value, other than income as defined in 106 CMR 321.240, such as personal property, real estate, vehicles, the cash surrender value of life insurance, cash, bank deposits, and negotiable securities. Countable assets are all assets that are considered for eligibility determination. Noncountable assets are all assets that are exempt from consideration. All assets are considered countable unless inaccessible in accordance with 106 CMR 321.125 or noncountable in accordance with 106 CMR 321.140.

321.110: Asset Limitation

In order for the assistance unit to be eligible for assistance, the combined assets of the filing unit may not exceed:

(A) \$250 for an assistance unit of one; or

(B) \$500 for an assistance unit of two or more.

The dollar value of an asset shall be its equity value. An asset's equity value is its fair market value minus any legal encumbrances or obligations.

321.120: Countable Assets

Assets that shall be considered in determining financial eligibility include but are not limited to:

(A) Cash.

(1) Definition. Currency, checks, or bank drafts in the possession of or available to the filing unit.

(2) Verification. The amount of cash shall be counted at application, redetermination, and when a change is reported.

The applicant's or recipient's declaration on the application or redetermination form stating the amount of cash available to the filing unit shall be sufficient evidence.

(B) Bank Deposits.

(1) Requirement. Bank deposits are deposits in a bank, savings and loan institution, credit union, or other financial institution. Bank deposits may be in the form of savings, checking, trust accounts, term certificates, or other types of accounts.

321.120: continued

Funds in a bank account shall be considered to be available only where and to the extent that a member of the filing unit has both ownership of and access to such funds. The determination of ownership of and access to funds in a bank account shall be made in conformity to Massachusetts State law, including common law.

(2) Joint Accounts. If a member of the filing unit is a co-holder of a joint bank account, the entire amount on deposit shall be considered available as an asset unless the member of the filing unit demonstrates otherwise.

A member of the filing unit who states that he or she is not the owner, or is only partial owner, of the funds shall be required to demonstrate the ownership of the funds. A member of the filing unit who states that he or she has no access, or only partial access to the funds, shall be required to demonstrate such lack of access.

(3) Verification of Access to and Ownership of Bank Deposits. If lack of either access to or ownership of the funds in the account is verified, the funds shall not be considered available as an asset.

Verification that a member of the filing unit lacks access to and ownership of the funds may be demonstrated by the member of the filing unit having his or her name removed from the account. If the member of the filing unit cannot remove or chooses not to remove his or her name from the account, then lack of either access or ownership must be verified.

(a) Prior to determining lack of ownership, there shall be a determination of whether the member of the filing unit has access to the account (*See 106 CMR 321.125: Inaccessible Assets*). If lack of access is demonstrated, the funds are not available.

If the verification submitted does not demonstrate lack of access, the worker shall proceed to determine ownership.

(b) Verification that the member of the filing unit lacks ownership of, or has only partial ownership of, the funds in the account shall be demonstrated by at least two of the following:

1. Documents showing the origin of the funds, who opened the account, or whose money was used to open the account;
2. Documentation through federal or state tax records as to which of the joint account holders declares the tax on the interest credited to the account as income;
3. Records of who makes deposits and withdrawals and, if appropriate, of how withdrawn funds are spent;
4. Any reasonable evidence of written or oral agreements made between the parties listed on the account or by someone who established or contributed to the account, with respect to the ownership of the funds in the account;
5. When the member of the filing unit states that he or she does not own the account but is listed as a co-holder solely as a convenience to the other co-holder to conduct bank transactions on his or her behalf, evidence of the age, relationship, physical or mental condition, or place of residence of the co-holder shall be provided;
6. Evidence as to why the member of the filing unit is listed on the account;
7. A signed, notarized statement from the member of the filing unit and from at least one of (a) other individuals listed on the joint account, or (b) a person who established or contributed to the account, stating that the member of the filing unit had no knowledge of the existence of the account; or
8. If only one of the above is available and if the other individual(s) listed on the account or who had established or contributed to the account is unavailable or is unable or unwilling to provide a statement, the second proof may be a signed statement from the member of the filing unit attesting under penalties of perjury as to the ownership of funds in the account.

A document or piece of evidence submitted to verify a particular fact shall not count as more than one verification under 106 CMR 321.120(B)(3). However, a document, piece of evidence or a statement may address more than one fact needed for verification.

If a member of the filing unit would be required to pay to obtain documents or other verification and no other method of verification is available, the Department, if it determines the document is necessary, shall obtain the documents.

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(4) Verification of Account Balances. Verification of the current balance of each account is mandatory at application, at redetermination, and at times of reported change.

The amount on deposit shall be verified by bank books or bank statements that show the bank balance within 45 days of the date of the application or redetermination interview.

If, at redetermination, a member of the filing unit declares a balance of \$25 or less in an account, other than a checking account, verification shall not be required provided a balance of \$25 or less was verified for the same account at the last eligibility determination, and the account balance, in combination with other assets, would not affect continued eligibility of the assistance unit. The member of the filing unit's declaration shall be recorded in the case record.

(C) Retirement Accounts and Pensions. Retirement or pension funds shall be counted in the determination of eligibility if the funds in the plan(s) are accessible to the applicant or recipient.

(1) Sources.

An IRA (Individual Retirement Account) is a tax-deductible savings program that sets aside money for retirement. Funds in an IRA are accessible and, therefore, counted as an asset in their entirety less the amount of penalty for early withdrawal.

A Keogh Plan is a retirement plan established by a self-employed individual. A Keogh Plan may be established for the self-employed individual alone or for the self-employed individual and his or her employees. The funds in a Keogh Plan established for the self-employed individual alone are counted as an asset in their entirety less the amount of penalty for early withdrawal. The funds in a Keogh Plan established for employees who are not members of the filing unit as well as for the self-employed individual are counted as an asset, less the amount of penalty, only if the funds are accessible to the individual.

Pensions are retirement plans established by employers to provide benefit payments to their employees upon retirement or disability. Pension funds set aside by an individual's current employer are to be considered a countable asset, provided such funds are accessible. Pension funds from an individual's former employer shall be countable in their entirety less any penalties for withdrawal, provided that such funds are accessible. A 401(k) plan is a retirement plan funded by tax-deferred contributions made by reducing current pay and having the reduced amount set aside into a deferred account and are made by employees and employers. 401(k) plans have specific conditions under which funds may be distributed. Funds in a 401(k) plan that are accessible are countable in their entirety less the amount of penalty for early withdrawal.

An Annuity is an investment that provides a fixed sum payable to a person, based upon the terms of the annuity. Payments may be made for a specific period of time or for life.

(2) Verification. Verification of the current value of a retirement account or pension is mandatory at application, redetermination and when a change is reported.

The current value of IRA funds shall be verified by a quarterly statement or a written statement from the account institution, dated within 45 days of the application or redetermination interview.

Verification of the current amount of funds other than an IRA and the accessibility of the funds to a member(s) of the filing unit shall be by a written statement from the financial institution, employer or former employer, signed and dated within 45 days of the date of the application or redetermination interview. Other legal documents, such as court orders, are acceptable as verification to prove the accessibility or inaccessibility of the funds to the applicant or recipient. See 106 CMR 321.125: *Inaccessible Assets*.

(D) Securities.

(1) Requirement. Stocks, bonds, options, futures contracts, debentures, mutual and money market fund shares, government, bank, corporate or promissory notes, and other financial instruments are countable assets. Tradeable securities are valued at the most recent closing bid price, and non-tradeable securities are valued at current equity value. A security for which there is no market or which is inaccessible in accordance with 106 CMR 321.125 shall be noncountable.

321.120: continued

(2) Verification. Verification of the current value of each security is mandatory at application, redetermination, and when a change is reported. The number of securities owned shall be substantiated by the written statement of the applicant or recipient.

Any one of the following shall be sufficient verification of the value of a security:

- (a) a statement from the individual, corporation, licensed stockbroker, bank or government agency that issued the security;
- (b) a clipping from a current daily newspaper showing the date and closing bid price;
- (c) a statement from any bank or other financial services institution able to verify the current value of a particular security; or
- (d) documentation from a current financial publication.

A claim that a particular security has no market value shall be verified by one of the above.

A claim that a particular security is inaccessible shall be verified in accordance with 106 CMR 321.125: *Inaccessible Assets*.

321.120: continued

(E) Cash Surrender Value of Life Insurance Policies.

(1) Requirement. The total cash surrender value of all life insurance policies is a countable asset. The cash surrender value of a life insurance policy is the amount the issuing company has agreed to pay the owner of the policy upon its cancellation.

(2) Verification. The verification of the cash surrender value (CSV) of all life insurance policies is mandatory at application and at times of reported change. Cash surrender value shall also be reverified at least once a year.

Cash surrender value shall be verified by the table of loan and cash surrender value amounts located on the actual policy, or by a written statement from the issuing company or its representative. If the total cash surrender value of all policies owned by the filing unit, combined with the value of all other countable assets, is within \$150 of the asset limit, or, if the policy is paid up or has been in effect longer than the number of years covered by the table, verification of the CSV must be obtained from the issuing company or agent.

(F) Burial Insurance.

(1) Requirement. The cash surrender value of a burial insurance policy is a countable asset.

(2) Verification. The verification of the cash surrender value of burial insurance is mandatory at application and at times of reported change and shall be by the table of cash surrender values in the policy itself, or by a signed statement from the seller.

(G) Vehicles.

(1) Requirements. The first \$1500 of the equity value of one vehicle is noncountable. Any equity value in excess of \$1500 is a countable asset.

The full equity value of all other vehicles owned by the assistance unit (including vehicles that are used primarily for recreational purposes such as snowmobiles, boats, trailers, jeeps, vans, and motorcycles) shall be countable. When the assistance unit owns more than one vehicle, the \$1500 equity limit shall be applied to the vehicle having the greatest equity value, provided it is used primarily for the transportation of the assistance unit.

(2) Verification. The equity value and fair market value of all countable vehicles shall be verified at application and when another vehicle is acquired. Equity value and fair market value shall also be verified at redetermination if the Department has reason to believe that the value has increased or changed so that, combined with other assets, the value affects or may affect continued eligibility.

(a) Equity Value. Equity value is determined by subtracting the balance of any liens or legal encumbrances from the fair market value of the vehicle.

The balance of an outstanding lien or legal encumbrance shall be verified by the payment book or a statement from the bank, finance company, or lender showing the payment schedule and the outstanding balance.

(b) Fair Market Value. Fair market value is the price for which the vehicle will sell on the open market.

The fair market value shall be verified by one of the following:

1. the wholesale value (for cars and trucks) and finance value (for recreational vehicles) tables in the most recent vehicle valuation book used by the Department; or
2. the low value in an older car valuation book (for cars and trucks); if the car or truck is too old to be listed in an older car valuation book, it shall be assigned the value used for excise tax purposes; or
3. the written appraisal of a licensed automobile dealer who deals with classic, custom-made or antique vehicles if the vehicle is considered a classic, custom-made, or antique; or
4. for recreational vehicles, the projected loan value as quoted by a bank or other lending institution; documents showing the value of the vehicle for insurance purposes; or a written estimate of the cash value of the vehicle from a licensed recreational vehicle dealer; or
5. any information obtained by the Department from a recognized vehicle valuation source.

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If a vehicle is specially equipped with apparatus for the handicapped, has low mileage, or has other optional equipment, these factors shall not increase the value of the vehicle.

The valuation assigned by the Department may be rebutted by submitting evidence such as the written estimate of a licensed automobile dealer or a value from a more recent and/or different vehicle valuation source.

(c) Ownership. When joint ownership by two or more persons is claimed, verification of ownership of the vehicle shall be mandatory at application and when a change regarding joint ownership of vehicles is reported. Ownership and distribution of ownership shall be determined and verified in accordance with 106 CMR 321.130.

(H) Real Estate (Other Than the Home).

(1) Requirement. The equity value of all real property owned by a member(s) of the filing unit other than the principal place of residence and the land on which it rests, shall be a countable asset except as specified in 106 CMR 321.140.

Equity value is the fair market value less any legal encumbrances or obligations.

Fair market value is the price for which the real property will sell on the open market in the geographic area involved, taking into consideration the size, location, condition and other factors affecting the property's value.

(2) Verification. The fair market value and equity value of all countable real estate owned by the filing unit shall be verified at application, and at times of reported change when it affects or may affect eligibility.

Fair market value shall be verified by a copy of the most recent tax bill or the property tax assessment that was most recently issued by the taxing jurisdiction provided that this assessment is not:

- (a) a special purpose assessment;
- (b) based on a fixed rate per acre method; or
- (c) based on an assessment ratio or providing only a range.

If the lender(s) is an organization, the verification of encumbrances or legally enforceable obligations on the property shall be a copy of loan instruments or other binding documents that evidence the outstanding balance of the loan. If the lender is an individual, the amount of the encumbrances or obligations shall be verified by either a copy of the loan instrument and a signed statement from the lender setting forth the payment schedule and outstanding balance of the loan or other document that evidences the outstanding balance of the loan.

In the event that a current property tax assessment is not available or the applicant or recipient wishes to rebut the fair market value determined by the Department, a comparable market analysis or a written appraisal of the value of the property from a knowledgeable source shall establish the fair market value. A knowledgeable source shall be a licensed real estate agent or broker; a real estate appraiser; bank, savings and loan association or similar lending organization; or an official of the local real property tax jurisdiction. The applicant or recipient may rebut the fair market value determined by the Department at any time by presenting a new appraisal that reflects changes in the property and/or the market for the property.

(I) Income Tax Refunds.

(1) Requirements. Income tax refunds, except for the portion, if any, that is received as an earned income credit (EIC), shall be considered a countable asset but noncountable as income. The earned income credit of an income tax refund is noncountable as an asset or as income in the month of receipt and the following month. The remaining portion of the earned income credit is a countable asset in the third month.

(2) Verification. An income tax refund shall be verified at the time of receipt by one of the following:

- (a) a copy of the check or payment document; or
- (b) a written statement from the agency making the payment; or
- (c) a copy of the tax return.

321.125: Inaccessible Assets

(A) Requirements. An inaccessible asset is an asset to which the individual has no ready access and is not counted when determining eligibility for EAEDC.

(1) Inaccessible assets include, but are not limited to, property the ownership of which is the subject of legal proceedings and irrevocable trust funds.

(2) Any funds in a trust and the income produced by that trust to the extent it is not available to the assistance unit shall be considered inaccessible to the assistance unit if all of the conditions listed below are met by the trust arrangement.

(a) No member of the assistance unit has the power to revoke the trust arrangement or change the name of the beneficiary.

(b) The trustee administering the trust is either (1) a court or an institution, corporation, or organization that is not under the direction or ownership of any assistance unit member; (2) an individual appointed by the court who has court imposed limitations placed on his or her use of the funds; or (3) an individual whose responsibilities are governed by the terms of the irrevocable trust and who is not under the direction or control of any assistance unit members.

(c) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a member of the assistance unit.

(3) All assets to which the applicant or recipient is legally entitled shall be considered accessible to the applicant or recipient

(a) from the date of application or acquisition, whichever is later, if the applicant or recipient does not meet the condition specified in 106 CMR 321.125(A)(3)(b); or

(b) from the period beginning six months after the date of application or acquisition, whichever is later, if the applicant or recipient is incapable of competently representing his or her own interests, has no guardian or conservator capable of representing the applicant's or recipient's interests, and the representative (who may be a provider) of such applicant or recipient is making a good faith effort to secure the appointment of a competent guardian or conservator.

(B) Verifications. Verification of inaccessibility of an asset is mandatory at application or whenever a change in circumstances regarding the accessibility of the asset has changed. The following documents may be used, as appropriate, to verify inaccessibility:

(1) A copy of the original legal instrument that established the inaccessibility of the asset;

(2) Relevant legal or financial statements that document the inaccessibility of the asset, if the original legal instrument is not available.

(3) Documents showing how the holder's name(s) appears on the bank account or security.

(a) If the account is titled A or B, both individuals have full access to the account;

(b) If the account is titled A and B, neither individual has access to the account without the consent of the coholder. The applicant or recipient must submit a written statement from the coholder denying such consent. If the applicant or recipient is unable to obtain such a statement, he may submit an affidavit stating that he does not have the coholder's consent;

(c) If the account is titled A in trust for B, or A for B, A has full access to the account and B has no access to the account;

(d) If the account title contains only one name, that individual has full access to the account.

(4) A copy of the trust or other legal document that verifies that it is an irrevocable trust and it meets all of the conditions specified in 106 CMR 321.125(A)(2);

(5) A written statement from a competent medical authority as defined in 106 CMR 701.600 verifying that, and describing the medical reason(s) why,

(a) the applicant or recipient is incapable of competently representing his or her own interests; or

(b) the guardian or conservator, if any, is incapable of competently representing the applicant's or recipient's interests.

If an applicant or recipient demonstrates lack of ownership, inaccessibility to the asset, or both, the asset is not considered in the determination of eligibility.

321.130: Joint Ownership of Assets

(A) Definition. Any asset, other than a bank account, jointly owned by two or more persons is considered to be owned in equal shares unless a different distribution of ownership is verified. If joint ownership exists, only that portion of the asset owned by persons included in the filing unit is countable. Refer to 106 CMR 321.120(B) for treatment of joint bank accounts.

(B) Verification. Documents that verify other than equal ownership include, but are not limited to, titles, contracts, or other certificates of ownership.

321.135: Transfer of Income and/or Assets

(A) Transfers for Less Than Fair Market Value.

(1) If, within 12 months prior to applying for EAEDC, a member of the filing unit assigns or transfers any income and/or an asset(s) in whole or in part for less than its fair market value, or places the income and/or asset(s) into an irrevocable trust, it shall be presumed that the assignment or transfer was made to obtain EAEDC, unless the presumption is rebutted pursuant to 106 CMR 321.135(A)(2). If the presumption is not rebutted, or if the transfer is prohibited by law, the filing unit will be ineligible for EAEDC for that period of time calculated in accordance with 106 CMR 321.135(C) and (D).

(2) The presumption that an assignment, transfer or placement of income and/or an asset(s) for less than its fair market value was made for the purpose of obtaining EAEDC, may be rebutted if the applicant establishes one of the following:

(a) The transfer was made prior to January 17, 1995.

(b) At the time of the transfer, the filing unit member had sufficient other income sources and/or assets to pay for 12 months of the foreseeable day-to-day living and medical expenses as defined in 106 CMR 321.135(A)(2)(c) of the filing unit member and those individuals that the filing unit member was legally obligated to support. This determination shall be based on the filing unit's average monthly expenses for the six months immediately preceding the date of the transfer.

(c) The transfer of the income and/or asset(s) was for self-support because the filing unit member's income and assets at the time of the transfer were insufficient to meet the filing unit member's day-to-day living and medical expenses and the filing unit member's expenses were then met. Day-to-day living expenses are limited to expenses for shelter, fuel, utilities, and food and cannot exceed the greater of what the filing unit member was paying for those expenses prior to the date the income and/or asset(s) was transferred or the payment standard in accordance with 106 CMR 321.420 that would have been applicable to the assistance unit. Medical expenses are limited to health insurance premiums or health care treatment or services essential for the treatment of members of the filing unit to the extent that such costs are not covered by any health insurance or Medicaid, and not incurred as the result of cosmetic surgery unrelated to illness, accident or surgery or any treatment or procedures related to transsexualism. It is presumed that rehabilitative therapies, pain management, personal care attendants, durable medical equipment, experimental treatments for serious illnesses, accidents and reconstructive surgeries as the result of disfiguring illnesses, accidents or operations constitute essential health care treatment. Expenditures which would presumptively not constitute essential health care treatment include those for vacations, recreational equipment such as swimming pools, extravagant items, and leisure activities.

(d) The transfer of the income and/or asset(s) was made while the filing unit member was legally incompetent or as a result of undue coercion; provided, however, that the applicant must demonstrate that every reasonable effort has been made to recover the property by court action or by such other procedures as indicated by the circumstances.

(e) The transfer of the income and/or asset(s) was the result of a legal action such as a court order, judgment, foreclosure, or delinquent tax sale.

321.135: continued

The applicant must provide evidence that the transfer of income and/or asset(s) was done exclusively for a purpose other than for obtaining EAEDC. A subjective statement of intent or of ignorance of the transfer rules is not sufficient. The applicant must provide objective evidence of one or more of the factors listed in 106 CMR 321.135(A)(2).

(B) Transfer for Fair Market Value or More.

(1) If, within 12 months prior to applying for EAEDC, a member of the filing unit transfers income and/or an asset(s) for its fair market value or greater value and the transfer was for an extraordinary expense(s) and/or a vacation(s), it will be presumed that the transfer was made for the purpose of obtaining EAEDC.

An item shall be considered an extraordinary expense if the following apply:

(a) the expense is not normally incurred by the filing unit, and
 (b) the expense(s) exceeds 25% of the filing unit's average monthly gross income, excluding the receipt of any non-recurring lump sum income, for the six months immediately preceding the date of the transfer.

(2) An item(s) shall not be considered an extraordinary expense if:

(a) it is for a day-to-day expense as defined in 106 CMR 321.240(B)(4)(a) through (f), or if it is necessary for work, employment, education or job training, or
 (b) it is for the purchase of a prepaid funeral arrangement, not to exceed \$1,500, and one burial plot for each member of the assistance unit. A prepaid funeral arrangement may include a contract with a funeral director or a separately identifiable trust fund. Use of any portion of this asset for any purpose other than funeral or burial arrangements shall render the balance of the asset countable under the provisions of 106 CMR 321.120.

(3) If the transfer of the income and/or asset(s) was made for the reason specified in 106 CMR 321.135(B)(1), the presumption that the income and/or asset(s) was transferred for the purpose of obtaining EAEDC may be rebutted in accordance with 106 CMR 321.135(A)(2). If the presumption is not rebutted, the filing unit will be ineligible for EAEDC for that period of time calculated in accordance with 106 CMR 321.135(C) and (D).

(4) Other than as provided in 106 CMR 321.135(B)(1), a transfer of income and/or an asset(s) for its fair market or greater value will not be considered a transfer for the purpose of obtaining EAEDC as long as the transfer is not prohibited by law.

(C) Value of Transferred Income and/or Assets. If the income and/or an asset(s) are considered to have been transferred to obtain EAEDC, the value shall be determined as follows:

(1) Determine the fair market value of the transferred income and/or asset(s) as of the date of transfer.

(2) Deduct from the fair market value:

(a) any legal encumbrances attached to the transferred income and/or asset(s) which were paid on or after the date of transfer, and
 (b) any compensation received that is in excess of the paid legal encumbrances. Compensation may be in the form of money, goods or services. The value of goods and services received as compensation shall be valued at their fair market value as of the date of receipt. Compensation does not include the value of any item set forth in 106 CMR 321.135(B)(1) and/or any compensation received in a transfer prohibited by law.

(3) The result is the value of the transferred income and/or asset(s).

(D) Calculation of Period of Ineligibility. A period of ineligibility shall remain in effect for all members of the filing unit for an uninterrupted period as determined in the following calculation.

(1) Divide the value of the transferred income and/or asset(s), as determined in 106 CMR 304.135(C), by the appropriate standard of assistance for the assistance unit. The result will be the number of months in the period of ineligibility.

321.135: continued

(2) Any remainder in 106 CMR 321.135(D)(1) shall be considered unearned income in the first month following the period of ineligibility and is deducted from the appropriate standard of assistance for the assistance unit, provided there is a reapplication for assistance during that month.

(3) The period of ineligibility begins on the first day of any transfer(s), in whole or in part, of the income and/or assets within 12 months of application. Any assistance received during the ineligibility period shall be considered an overpayment in accordance with 106 CMR 321.200 *et seq.*

(E) Ineligibility for EAEDC. Any member of the filing unit who is determined to be ineligible for Transitional Aid to Families with Dependent Children (TAFDC) due to the transfer of income and/or asset(s) shall be concurrently ineligible for EAEDC.

321.140: Noncountable Assets

The following are not countable assets for EAEDC purposes. Their possession has no effect on eligibility:

(A) Highway relocation assistance payments, urban renewal assistance payments, disaster relief payments used for relocation, and payments from private agencies used for relocation;

(B) The filing unit's principal place of residence and the undivided land on which it rests;

(C) First \$1,500 of equity value of one vehicle in accordance with 106 CMR 321.120(G);

(D) Household belongings such as furniture, appliances, household decorations, linens and cookware; personal belongings such as jewelry, books and toys, even if of more than usual value;

(E) Property to which the filing unit has no ready access, such as property the ownership of which is the subject of legal proceedings (probate, divorce suits, *etc.*), and irrevocable trust funds that were placed in trust 12 months or longer before application for EAEDC;

(F) Home produce grown or preserved by the filing unit for its own consumption;

(G) Food Stamps;

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(H) A loan verified by a written document, signed by the borrower and lender, that expresses the borrower's intent to repay and the conditions of repayment, the terms of which specify the purpose of the loan and preclude its use to meet current living costs;

(I) Any grant or scholarship to a student the terms of which preclude its use to meet current living costs;

(J) Any grant or loan to an undergraduate student for educational purposes made or insured under any program administered by the U.S. Secretary of Education;

(K) Student financial assistance provided under Title IV of the Higher Education Act of 1965 or under the Bureau of Indian Affairs Education Assistance programs; or student financial assistance for attendance costs, such as but not limited to tuition, fees, equipment or books, under programs developed pursuant to the Perkins Vocational and Applied Technology Education Act;

(L) Assets of any member of the household who is an SSI recipient;

(M) Lands held in trust for Native Americans; property purchased with payments made to Native Americans under Public Laws 92-254, 93-134, 94-540 and 94-114; and funds distributed to, or held in trust for, members of any Indian tribe pursuant to a judgment of the Indian Claims Settlements or the Secretary of the Interior under Public Laws 94-114, 93-134, 96-420, 97-458, 98-64 and 102-71;

(N) For each member of the assistance unit:

(1) one burial plot, and

(2) the value of a prepaid funeral arrangement, not to exceed \$1,500;

A prepaid funeral arrangement may include a contract with a funeral director or a separately identifiable trust fund. Use of any portion of this asset for any purpose other than funeral or final disposition arrangements shall render the balance of the asset countable under the provisions of 106 CMR 321.120;

(O) Real estate that is not the principal residence of the assistance unit, but which the assistance unit is making a good faith effort to sell, provided:

(1) The owner of the real estate signs an agreement on a form specified by the Department to repay from the net proceeds of the sale the amount of EAEDC benefits received while the real estate was owned by the assistance unit. The amount of the repayment shall be the net proceeds from the sale or the amount of EAEDC benefits paid, whichever is less. The net proceeds of the sale, when added to all other countable assets at the time of the sale, must exceed the EAEDC asset limit specified in 106 CMR 321.110 for repayment to occur.

(2) The real estate may be excluded for no more than six months from the date of the signing of the agreement specified in 106 CMR 321.140(O)(1).

(3) A good faith effort to sell shall be defined as an offer to sell at or about fair market value by methods, including, but not limited to, listing with a licensed real estate salesperson or through a newspaper or other type of advertisement.

The good faith offer must be verified. Verification shall be by a copy of the newspaper advertisement, letter from a licensed real estate person, or other appropriate document(s).

(4) If the assistance unit becomes ineligible during the six-month period for categorical or financial reason(s) other than ownership of real estate, or if the assistance unit fails to sell the real estate at the end of the six months, assistance shall be terminated, and all EAEDC benefits paid shall be treated as an overpayment.

(5) A recipient who fails to report acquisition of a piece of real estate, other than that used as the principal residence, within ten days of taking title to the real estate, has been overpaid between the date title was acquired and the date the ownership of the real estate was reported to the Department, provided that the equity value of the real estate when added to the total of all other countable assets exceeds the applicable EAEDC asset limit as specified in 106 CMR 321.110. The Department must pursue recovery in accordance with 106 CMR 706.200 *et seq.*;

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(P) Any portion of a Workers' Compensation, property damage, personal injury, Compensation to Victims of Violent Crimes Act, death settlement or award, except for compensation for lost wages, that is received as a reimbursement for specified item(s) and used to pay for such item(s). *See* 106 CMR 321.240(G) for verification;

(Q) Property that is essential to employment or self-employment shall include, but is not limited to, work-related equipment such as tools of a tradesperson, machinery of a farmer, and property such as farm land. Income derived from such property shall be countable;

(R) Earned income credits (EIC), whether received as an advance payment or as part or all of an income tax refund, in the month of receipt and the following month;

(S) Payments to eligible individuals of Japanese ancestry or their survivors under the Civil Liberties Act of 1988 and payments to eligible Aleuts (who were former residents of the Aleutian and Pribilof Islands) or their survivors under the Aleutian and Pribilof Islands Restitution Act in accordance with Public Law 100-383;

(T) Agent Orange Settlement Fund payments made to Vietnam veterans or their survivors, in accordance with Public Law 101-201, effective January 1, 1989;

(U) The value of public-assistance cash benefit(s) for the remainder of the cyclical month of issuance. If any or all of the money from such cash benefit(s) is retained beyond the cyclical month of issuance, the amount of money retained becomes a countable asset, except as specified in 106 CMR 706.210 for the correction of an underpayment;

(V) Payments made under the Radiation Exposure Compensation Act of 1990;

(W) Payments credited to an escrow account under the Family Self-Sufficiency Program administered by the Department of Housing and Urban Development (HUD) when the filing unit lacks the legal ability to use the money for its support and maintenance; and

(X) EAEDC cash benefits resulting from a correction of an underpayment or a fair hearing decision, in the month of receipt and the following month.

321.200: Income

Income may be countable or noncountable for determination of financial eligibility or calculation of the grant amount.

All countable income is considered on a monthly basis and is applied to the determination or redetermination of eligibility and calculation of the grant amount in the cyclical month. Amounts of income paid in other than monthly amounts must be converted to monthly amounts.

The most current monthly income information provided to the Department is used as the basis for the grant calculation until information is received indicating a change in income or eligibility, or until a redetermination is due. If verified income information indicates an underpayment, an adjustment shall be made.

321.210: Types of Countable Income

The types of countable income generally are as follows:

(A) Earned Income. Earned income is income, in cash or in kind, earned through employment or self-employment. Earned income may be received as wages, salary, tips, commissions, or in kind. For employees, earned income is the total gross amount received.

With respect to self-employment, earned income is the total gross income less total business expenses. Business expenses do not include personal expenses, such as lunches and transportation to and from work. *See* 106 CMR 321.210(E) and (F) for an explanation of income from real estate, roomers and boarders, and business expenses.

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(B) Unearned Income. Unearned income is all income that a person does not earn by the application of his own efforts, or by the application of his own managerial skills. Unearned income includes, but is not limited to:

- (1) Dividends;
- (2) Interest;
- (3) Unemployment Compensation payments;
- (4) Pensions;
- (5) Social Security (RSDI) benefits;
- (6) Veterans' benefits, except as specified in 106 CMR 702.720;
- (7) Contributions, except as provided in 106 CMR 321.120 and 321.250;
- (8) Certain income from real estate. *See* 106 CMR 321.210(E).

(C) In-Kind Income. In-kind income is income in any form other than money. It may consist of a share of crops, free services, free rent, free utilities, clothing, or food, but it is not necessarily limited to these. It may be earned or unearned.

For purposes of financial eligibility and calculation of the grant amount, shelter (including rent, mortgage, fuel, or utilities) and food provided at no cost to the applicant or recipient shall be valued at the Department's standard value. *See* 106 CMR 321.510.

(D) Deemed Income.

(1) The income, excluding the types of noncountable income listed in 106 CMR 321.250, of the spouse of the EAEDC applicant or recipient, who lives in the same household with the EAEDC applicant or recipient, is deemed to the filing unit in determining eligibility and the amount of the grant in accordance with 106 CMR 321.230.

(2) The income and assets, excluding the types of noncountable income listed in 106 CMR 321.250 and the noncountable assets listed in 106 CMR 321.140, of the spouse who lives in the same household, are deemed to the filing unit in determining eligibility in accordance with 106 CMR 321.230 for income and in accordance with 106 CMR 321.110 for assets.

(E) Real Estate Income.

(1) When an applicant or recipient receives income from rented apartments or a house, he or she shall be considered to be self-employed. This income can be earned or unearned.

The income is unearned if the property is managed by a rental agency that forwards a check to the applicant or recipient who has no specific responsibility for the income-producing property. This unearned income, less business expenses only, shall be considered in determining eligibility and the amount of assistance.

The income is earned if the applicant or recipient manages the property by collecting rents and providing services to maintain the income-producing property.

Deductions from unearned and earned income shall be allowed for all or part of certain business expenses as defined and explained below.

(2) Business expenses include carrying charges, the cost of fuel and utilities provided to tenants, maintenance and repair costs. These expenses are explained as follows:

(a) Carrying Charges. Carrying charges include current taxes less any abatements, betterment taxes, interest and principal payments on the mortgage, water bills, and fire insurance premiums. Carrying charges must be expressed as monthly amounts and must be verified.

(b) Fuel and Utilities. The cost of fuel and utilities provided to tenants may be based on actual costs averaged on a yearly basis and expressed as a monthly amount or on projected monthly costs. If actual costs are used, they must be verified. If projected amounts are used, verification shall be by a written statement of the projected costs from the applicant or recipient.

(c) Maintenance and Repair Costs. Maintenance and repair costs of \$20 per month per rented unit may be routinely allowed. If the applicant or recipient shows documentation that the maintenance or repair costs exceed an average of \$20 per month, the excess amount shall be allowed in determining the amount of available income.

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(3) If the applicant or recipient occupies an apartment in the same house from which he or she receives rental income, the business expenses shall be partially deducted in determining rental income in the following ways:

(a) If a two-family house, one-half the carrying charges will be allowed as a business expense; if a three-family house, $\frac{2}{3}$ will be allowed, and so forth.

(b) When the applicant or recipient provides his or her own heat and that of the tenants from a single heating unit, the fuel expense will be prorated as in 106 CMR 321.210(E)(3)(a).

(c) When an applicant or recipient provides his or her own utilities and that of the tenants from the same meter(s) the utility expenses shall be prorated as in 106 CMR 321.210(E)(3)(a).

(4) If the applicant or recipient occupies an apartment in the same house from which he or she receives rental income and he or she provides heat to the tenants from separate heating units or utilities from separate meters, these expenses shall be totally deducted in determining income.

If the applicant or recipient receives rental income from property in which he or she does not reside, the business expenses shall be totally deducted from the total rental income.

(5) Work-related expenses are allowable as deductions from income that is earned by the rental of income property. The deductions for work-related expenses must be in accordance with 106 CMR 321.270, and the deductions for the \$30 and $\frac{1}{3}$ disregard, if applicable, in accordance with 106 CMR 321.280.

(6) If the rental income is earned income in accordance with 106 CMR 321.210(E)(1), then work-related expenses are allowable as deductions from the income. The deductions for work-related expenses must be in accordance with 106 CMR 321.270, and the deductions for the \$30 and $\frac{1}{3}$ disregard, if applicable, in accordance with 106 CMR 321.280.

(F) Roomer and Boarder Income. When an applicant or recipient provides a room or room and board in his or her home or rented dwelling to a person not included in the assistance unit, he or she shall be considered to be self-employed. The amount received from the roomer or boarder, less the applicable business expenses specified in 106 CMR 321.210(F)(1), (2), or (3), shall be available gross earned income. The applicant or recipient shall be informed that he or she may choose whether the standard or nonstandard business expenses are to be considered. However, if the applicant or recipient chooses the nonstandard business expenses, he or she must show documentation that the business expenses exceed the standard business expenses.

(1) The standard business expenses that shall be allowed are:

(a) 25% of the income from roomers;

(b) 75% of the income from boarders.

(2) The nonstandard business expenses (explained below) shall be allowed for an applicant or recipient who owns his or her own home and who can show documentation that these business expenses exceed the standard business expenses.

(a) The business expenses include carrying charges, the cost of fuel and utilities, maintenance and repair costs, the cost of laundry or cleaning or both, and the cost of meals for boarders as explained below:

1. Carrying charges include current taxes less any abatements, betterment taxes, interest and principal payments on the mortgage, water bills, and fire insurance premiums. Carrying charges must be verified and expressed in monthly amounts.

2. The cost of fuel and utilities provided to the tenants may be based on actual costs averaged on a yearly basis and expressed in monthly amounts or on projected monthly costs. If actual costs are used, they must be verified. If projected costs are used, verification shall be by a written statement from the applicant or recipient.

3. Maintenance and repair costs of \$20 per month per roomer or boarder may be routinely allowed. If the applicant or recipient can show documentation that the maintenance or repair costs exceed an average of \$20 per month, the excess amount shall be allowed.

4. The monthly cost of laundry or cleaning or both provided to the roomer or boarder as part of the room or board arrangement shall be verified by a written statement from the applicant or recipient.

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5. The monthly cost of meals provided to a boarder shall be verified by a written statement from the applicant or recipient.
- (b) The business expenses shall be prorated in the following manner and deducted to determine the income from a roomer or a boarder.
 1. If there is one roomer or boarder, one-half the carrying charges shall be allowed as a business expense; if there are two roomers or boarders, $\frac{2}{3}$ shall be allowed, and so forth.
 2. The heat and utility expenses shall be prorated as in 106 CMR 321.210(F)(b)1..
 3. The maintenance and repair costs shall only be prorated as in 106 CMR 321.210(F)(2)(b)1. if the applicant or recipient documents that the average exceeds the \$20-per-month allowance.
- (3) The nonstandard business expenses (explained below) shall be allowed for an applicant or recipient who resides in a rented dwelling and who can show documentation that these business expenses exceed the standard business expenses.
 - (a) The business expenses include the rental charge, the cost of fuel or utilities or both, if paid separately from the rental charge, the cost of laundry or cleaning or both, and the cost of meals for boarders as explained below:
 1. The rental charge for the rented dwelling. The rental charge must be verified and expressed in monthly amounts.
 2. The costs for fuel or utilities or both must be verified if either or both these costs are the responsibility of the applicant or recipient as a separate charge in addition to the rental charge. The costs may be based on actual costs averaged on a yearly basis and expressed in monthly amounts or on projected costs. If actual costs are used, they must be verified. If projected amounts are used, verification shall be by a written statement of the projected costs from the applicant or recipient.
 3. The monthly cost of laundry or cleaning or both provided to the roomer or boarder as part of the room or board arrangement shall be verified by a written statement from the applicant or recipient.
 4. The monthly cost of providing meals to a boarder shall be verified by a written statement from the applicant or recipient.
 - (b) The business expenses shall be prorated in the following manner and deducted to determine the income from a roomer or a boarder.
 1. If there is one roomer or boarder, $\frac{1}{2}$ the rental charge shall be allowed as a business expense; if there are two roomers or boarders, $\frac{2}{3}$ shall be allowed, and so forth.
 2. The heat or utility expenses or both if the applicant or recipient is responsible for either or both these costs, shall be prorated as in 106 CMR 321.210(F)(3)(b)1..
- (4) The applicant or recipient who receives income from a roomer or boarder shall be allowed the work-related expense deduction in accordance with 106 CMR 321.270 and the \$30 and $\frac{1}{3}$ disregard or the \$30 disregard, if applicable, in accordance with 106 CMR 321.280.

321.220: Rules for Counting Income

In general, income that is countable in determining whether an assistance unit is eligible for EAEDC is also countable in determining the amount of its grant. All income of a member of the filing unit, except as specified in 106 CMR 321.250: *Noncountable Income*, shall be considered in determining need and assistance payments for the entire assistance unit.

There are, however, several exceptions to the usual method of counting income. These exceptions are explained in 106 CMR 321.220(A) through (C). In summary, they are the following:

- (A) Income from a person who has a legal obligation to support an EAEDC applicant or recipient is counted in accordance with 106 CMR 321.230.

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(B) A payment that represents accumulated recurring or nonrecurring income, such as a retroactive Social Security check, is countable as monthly income according to special rules (*see* 106 CMR 321.240: *Lump-Sum Income* and 106 CMR 321.245: *Retroactive Social Security Benefits*). As described in 106 CMR 321.120(I), other kinds of one-time lump-sum payments are counted as assets rather than as income.

(C) 106 CMR 321.280 describes circumstances under which certain portions of earned income are not countable either in determining or redetermining eligibility or in calculating the grant.

321.230: Circumstances Governed by Legal Support Obligations

(A) Circumstances in which legal obligations or rights to support exist include the following:

(1) Natural or Adoptive Parents. Natural or adoptive parents have a legal obligation to support their children. The income and assets of any natural or adoptive parent(s) of a dependent child(ren) living in the same household must be considered in determining eligibility for EAEDC. The requirements for the treatment of the income and assets of the natural or adoptive parent(s) are specified in 106 CMR 321.230(B) and (C).

(2) Spouses. Spouses have a legal obligation to support their spouses and at the same time have a right to receive support from them. If the spouse of an applicant or recipient is living in the same household, his or her income and assets must be considered in determining the eligibility of the applicant or recipient. The requirements for the treatment of the income and assets of the spouse are specified in 106 CMR 321.230(B) and (C).

(B) Income.

(1) Excluding the types of noncountable income specified in 106 CMR 321.250, the income of the spouse or the natural or adoptive parent(s) who lives in the same household as the EAEDC applicant or recipient but who is not himself or herself an applicant or recipient of a cash assistance program administered by the Department, shall be deemed to the EAEDC applicant or recipient in accordance with the following:

(a) If there is only earned income, the amount of income to be deemed to the assistance unit shall be the result of:

1. the monthly gross earned income minus the work-related expense deduction specified in 106 CMR 321.270; and
2. minus an amount equal to the appropriate standard specified in 106 CMR 321.420(H).

(b) If there is only unearned income, the amount to be deemed to the assistance unit shall be the result of subtracting an amount equal to the appropriate standard specified in 106 CMR 321.420(H) from the monthly gross unearned income.

(c) if there is both earned and unearned income, the amount to be deemed to the assistance unit shall be the result of:

1. the gross monthly earned income minus the work-related expense deduction specified in 106 CMR 321.270;
2. plus the gross monthly unearned income; and
3. minus the appropriate standard specified in 106 CMR 321.420(H).

(2) The countable income of the spouse and/or natural or adoptive parent(s) shall not be deemed as specified in 106 CMR 321.230(B)(1) when:

(a) such income is being counted in determining the current eligibility of that spouse and/or natural or adoptive child(ren) for any cash assistance program administered by the Department; or

(b) the only income of the spouse and/or natural or adoptive parent(s) is from a cash assistance program administered by the Department.

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(C) Assets. Excluding the types of noncountable assets specified in 106 CMR 321.140, the assets of the spouse or the natural or adoptive parent(s) living in the same household as the EAEDC applicant or recipient but not himself or herself an applicant or recipient of a cash assistance program administered by the Department, shall be counted in determining the current eligibility of the EAEDC applicant or recipient, unless such assets of the spouse and/or natural or adoptive parent(s) are being counted in determining the current eligibility of that spouse and/or natural or adoptive child(ren) for any cash assistance program administered by the Department. Assets that are to be counted shall be counted in accordance with 106 CMR 321.110, 321.120, 321.300 and 321.320.

321.235: Eligibility Test for Person Caring for a Disabled Person

The income and assets of a disabled person being cared for by an EAEDC applicant or recipient pursuant to 106 CMR 320.300 must not exceed the following limits:

(A) the disabled person's countable income cannot exceed \$1500 monthly; and

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(B) the disabled person's countable assets cannot exceed \$2000.

The rules for counting this income and assets are the same rules as for an EAEDC applicant or recipient.

321.240: Lump-Sum Income

(A) Definition.

(1) Income is considered to be lump sum when it is otherwise countable according to the provisions of 106 CMR 321.000 and when it is received as a one-time, nonrecurring payment. Exclusions from the lump sum income provisions are specified in 106 CMR 321.240(B).

(2) Lump sum income may be either earned or unearned income in accordance with 106 CMR 321.210: *Types of Countable Income*. This does not include contractual salaries. (See 106 CMR 321.290.)

(3) Lump sum income includes, but is not limited to, the following types of income:

(a) Accumulation of retroactive income such as Railroad Retirement, Federal Veteran's Benefits, Worker's Compensation that represents loss of income, retroactive Social Security payments, Unemployment Compensation, retroactive wages, and/or compensation for lost wages received under the Compensation to Victims of Violent Crimes Act.

(b) Other payments in the nature of a windfall, such as lottery winnings, inheritances, settlements and awards, that are not totally or partially received as a reimbursement for a specified item(s) and used to pay for such item(s). Whatever portion of the lump sum income that is received as a reimbursement for a specified item(s) and used to pay for such item(s) shall be considered a noncountable asset. (See 106 CMR 321.140.)

(4) Verification of lump sum income shall be by a document appropriate to the circumstances, such as:

(a) a copy of the benefit or award letter;

(b) a copy of the check or payment document;

(c) a written statement from the agency or person making the payment; or

(d) a written statement from the agency, person making the payment, or attorney representing the client, that states what specific item(s) are being reimbursed as part of the lump sum payment if the lump sum payment includes reimbursement for specific item(s); and receipts from the assistance unit that verify the payment for the specific item(s).

(B) Exclusions From Lump Sum Income. The following types of lump sum income are excluded from the provisions of 106 CMR 321.240(B):

(1) Lump sum income received by a stepparent, who is not a member of the assistance unit, is noncountable as lump sum income to the assistance unit.

(2) Lump sum income that is noncountable in accordance with 106 CMR 321.250.

(3) Any portion of a Worker's Compensation, property damage, personal injury, Compensation to Victims of Violent Crimes Act, or death settlement or award, except for compensation for lost wages, that is received as a reimbursement for a specified item(s) and used to pay for such item(s) is excluded as an asset in accordance with 106 CMR 321.140, or as income in accordance with 106 CMR 321.250.

This is verified by a written statement from the agency, person making the payment, or attorney for the client, that states what specific item(s) are being reimbursed as part of the lump sum payment if the lump sum payment includes reimbursement for specific item(s); and receipts from the assistance unit that verify the payment for the specific item(s).

(4) Any portion of the lump sum income that can be verified as having been used to pay for back bills resulting from the costs of day-to-day living expenses and obligations incurred while awaiting the receipt of the lump sum income. For purposes of 106 CMR 321.240(B), day-to-day living expenses and obligations of the assistance unit shall be limited to the cost for:

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(a) health insurance premiums or health care treatment or services essential for the treatment of members of the assistance unit to the extent that such costs were not covered by any health insurance or MassHealth. It is presumed that rehabilitative therapies, pain management, personal care attendants, durable medical equipment, experimental treatments for serious illnesses and reconstructive surgeries as the result of disfiguring illness, accidents or operations constitute essential health care treatment. Expenses incurred as the result of cosmetic surgery unrelated to illness, accident or surgery or any treatment or procedures related to transsexualism are not allowable. Expenditures which would presumptively not constitute essential health care treatment includes those for vacations, recreational equipment such as swimming pools, extravagant items, and leisure activities.

This is verified by copies of paid medical bills, health insurance premium payments, or both.

(b) transportation; the lesser of the actual costs or \$150 per month and provided that such costs were not covered by any other source.

This is verified by copies of paid bills or receipts for transportation expenses.

(c) replacement or repair of existing basic household furniture, or the purchase of basic household furniture where the family did not previously own such items, or the replacement or repair of existing, defective refrigerator, home heater, stove, oven, washer, and/or dryer, or the purchase of said appliances where the family did not previously own such items, limited to the lesser of the actual costs or \$2500.

This is verified by copies of paid bills or receipts.

(d) basic repairs of a dwelling owned and lived in by the assistance unit, exclusive of remodeling, and limited to the lesser of the actual costs or \$2500.

This is verified by a copy of the deed to the property and copies of paid bills or receipts.

(e) Payments for court-ordered judgments including alimony and/or child support.

This is verified by copies of the court order(s) and copies of the canceled checks or receipts showing the amount and date of payment and to whom paid.

(f) Payments for obligations to local, state and federal governments.

This is verified by a copy of a canceled check or receipt showing the amount and date of payment and to whom paid.

(5) Up to \$150,000 of lump sum income from a personal injury settlement that is immediately placed into an irrevocable trust that meets the requirements of 106 CMR 321.125 and is for the benefit of an injured person who is legally incompetent. Distributions from the trust will not be counted if the terms of the trust restrict distributions to those needed to meet the injured person's special needs which result from the injury and such distributions are actually made for such purpose; provided, however, that distributions made to the trustee for the reasonable costs of administering the trust will not be counted. Special needs include, but are not limited to, medical care such as rehabilitative therapies, pain management and personal care attendants; education-related expenses, vocational training or rehabilitation; transportation-related needs such as the purchase and/or retrofitting of a van; and special equipment, clothing or services for the disabled. All other distributions will be counted in accordance with Department regulations.

Distributions which would presumptively not be for a person's special needs include vacations, recreational equipment such as swimming pools, extravagant items, and leisure activities.

Verification of an injured person's legal incompetence shall be by:

(a) a document listed in 106 CMR 320.500 verifying that the injured person is under the age of 18 years, or

(b) a document from the court that appoints a guardian or conservator for the injured person or otherwise declares that the injured person is incompetent.

Verification of the amount and terms of the trust shall be by a copy of the trust document.

Verification that distributions were used to meet special needs shall be by copies of paid bills or receipts showing the amount and date of payment and to whom paid.

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(6) Any portion of lump sum income from a personal injury settlement or award that is placed by court order directly into an irrevocable trust that meets the requirements of 106 CMR 321.125 and is for the benefit of an injured person who is legally incompetent. Distributions from the trust will be counted in accordance with 106 CMR 321.240(B)(5).

Verification(s) shall be in accordance with 106 CMR 321.240(B)(5).

(7) The first \$600 of lump sum income as specified in 106 CMR 321.240(A)(3) is noncountable income in the month of receipt. Any portion that exceeds the \$600 amount is countable as lump sum income in the month of receipt.

(C) Availability for Needs. Lump-sum income, as specified in 106 CMR 321.240(A) and not excluded in 106 CMR 321.240(B) received by a member of the filing unit shall be considered available income to meet the needs of all members of the assistance unit at the time of receipt of the lump sum income for a specified period of ineligibility in accordance with 106 CMR 321.240(D).

(D) Calculation of Period of Ineligibility.

(1) The following calculation is used to determine eligibility or ineligibility due to lump sum income:

(a) Add the filing unit's earned lump sum income to any other earned income received by the unit and deduct applicable disregards in accordance with 106 CMR 321.270, 321.275 and 321.280. Add the result of this calculation to the filing unit unearned lump sum income and any other countable unearned income received by the filing unit or deemed to the filing unit.

(b) If the total of 106 CMR 321.240(D)(1)(a) is less than or equal to the appropriate standard of assistance, the assistance unit remains eligible and the income is deducted from the standard of assistance.

(c) If the total of 106 CMR 321.240(D)(1)(a) is greater than the appropriate standard of assistance, the assistance unit is ineligible.

(2) The period of ineligibility is determined as follows:

(a) Divide the total income in 106 CMR 321.240(D)(1)(a) by the appropriate standard of assistance for the assistance unit. The result will be the number of months in the period of ineligibility.

(b) Any remainder in 106 CMR 321.240(D)(2)(a) shall be considered unearned income in the first month following the period of ineligibility and is deducted from the appropriate standard of assistance for the assistance unit provided there is a reapplication for assistance during that month.

(c) The period of ineligibility begins with the first day of the cyclical month of receipt of the lump sum income. Any assistance received during the ineligibility period shall be considered an overpayment in accordance with 106 CMR 321.200 *et seq.*

(E) Change in Circumstances. Once a determination of the period of ineligibility is made in accordance with 106 CMR 321.240(D), the period of ineligibility remains in effect for all members of the filing unit except in situations resulting in recalculation as specified in 106 CMR 321.240(F). Changes in income for members of the filing unit shall not alter the period of ineligibility for any of the members of the ineligible assistance unit.

A new member(s) to the assistance unit during the period of ineligibility, if otherwise eligible, shall receive a grant amount equal to the appropriate standard of assistance less any countable deductible income during the remainder of the period of ineligibility.

(F) Situations Resulting in Recalculation. The period of ineligibility cannot be altered or recalculated for any member(s) of the ineligible assistance unit, except in the situations described below. Recalculation can only be done retroactive to the month in which the event that caused the recalculation occurred. The ineligibility period may only be eliminated or shortened for the remaining months when:

(1) The standard of assistance is increased or changed for the ineligible assistance unit in accordance with 106 CMR 321.420;

(2) The lump sum income was used to pay for day-to-day living expenses and obligations in accordance with 106 CMR 321.240(B)(4);

Verification shall be in accordance with 106 CMR 321.240(B)(4).

321.240: continued

(3) As a direct result of a natural disaster, the ineligible assistance unit was required to spend all or a portion of the lump sum income on day-to-day living expenses as specified in 106 CMR 321.240(B)(4), and/or shelter, fuel, utilities, food and/or clothing costs above those amounts paid by the ineligible assistance unit for such costs the month immediately preceding the month in which the disaster occurred; provided, however, that the additional costs shall be limited to the lesser of the actual costs or \$2500.

Verification of the natural disaster shall be a copy of a written report from the fire or police department or the Red Cross.

Verification of the day-to-day living expenses shall be in accordance with 106 CMR 321.240(B)(4).

(4) As a direct result of a natural disaster, the ineligible assistance unit no longer has access to the lump sum income and is unable to pay for the day-to-day living expenses specified in 106 CMR 321.240(B)(4) and/or shelter, fuel, utilities, food and/or clothing costs equal to or less than those paid by the ineligible assistance unit for the month immediately preceding the month in which the disaster occurred.

Verification of the natural disaster shall be a copy of a written report from the fire or police department or the Red Cross.

Verification of the day-to-day living expenses shall be in accordance with 106 CMR 321.240(B)(4).

(5) As a result of an abusive relationship, the ineligible assistance unit was required to spend the lump sum income on day-to-day living expenses as specified in 106 CMR 321.240(B)(4), and/or shelter, fuel, utilities, food and/or clothing; or the assistance unit no longer has access to the lump sum income and is unable to pay for day-to-day living expenses as specified in 106 CMR 321.240(B)(4), and/or shelter, fuel, utilities, food and/or clothing;

Verification of an abusive relationship shall be a copy of court, medical, criminal, child protective services, battered victim's services, or law enforcement records that indicate the parent or absent parent might inflict physical or emotional harm on the child or relative if the ineligible assistance unit attempted to obtain access to the lump sum income.

Verification of the day-to-day living expenses shall be in accordance with 106 CMR 321.240(B)(4).

(6) The lump sum income was used to pay for food, not to exceed the maximum food stamp coupon allotment for a family of that size, provided the assistance unit is not otherwise eligible for food stamps.

(G) Ineligibility for Emergency Aid to the Elderly, Disabled and Children (EAEDC). Any member of the filing unit who is determined to be ineligible for Transitional Aid to Families with Dependent Children (TAFDC) due to lump sum income shall be concurrently ineligible for EAEDC.

321.245: Retroactive Social Security Benefits

The retroactive Social Security payment shall be considered available unearned income in determining the needs of all members of the assistance unit until such time as the funds are no longer available to the assistance unit.

Retroactive Social Security income shall be considered as unavailable to the assistance unit when the income has been used as an expenditure for the assistance unit in accordance with 106 CMR 321.240(B) or 321.240(F). Verification of such expenditures shall be in accordance with 106 CMR 321.240(G).

Verification of the retroactive Social Security benefit shall be by:

- (A) a copy of the benefit or award letter;
- (B) a copy of the check or payment document; or
- (C) a written statement from the agency or person making the payment.

321.250: Noncountable Income

106 CMR 321.250 lists income that shall not be counted in either the test of financial eligibility or the calculation of the grant amount. Additional income that is not countable under certain circumstances but is countable under others is listed in 106 CMR 321.260. The following types of income are never countable:

- (A) All income of persons receiving Supplemental Security Income (SSI);
- (B) An SSI emergency advance payment or one-time payment made pending an SSI eligibility determination;
- (C) The cash value (face amount) of food stamps;
- (D) The cash value of USDA-donated food stamps or surplus commodities;
- (E) Payments under the Nutrition Program for the Elderly (Title VII of the Older Americans Act of 1965);
- (F) The value of assistance received under the Child Nutrition Act of 1966 and the National School Lunch Act;
- (G) Home produce for consumption by members of the filing unit and their families;
- (H) The first \$130 per month of training stipends including, but not limited to, payments from the Department of Employment and Training (DET) or the Massachusetts Rehabilitation Commission (MRC). The balance of the stipend is treated as unearned income, which is countable unless specified as noncountable under another provision of 106 CMR;
- (I) Reimbursement payments for education and/or training-related expenses received from participation in JTPA programs, or from other agencies and organizations that are nonduplicative of EAEDC payments and are provided for specific goods or services. Such reimbursement payments include, but are not limited to, transportation allowances, child care costs, and the costs of books, supplies, or uniforms;
- (J) Any grant or scholarship to a student, the terms of which preclude its use to meet current living costs;
- (K) Any grant or loan to an undergraduate student for educational purposes made or insured under any program administered by the U.S. Secretary of Education;
- (L) Student financial assistance provided under Title IV of the Higher Education Act of 1965 or under the Bureau of Indian Affairs Education Assistance Programs;
- (M) Student financial assistance for attendance costs, such as but not limited to, tuition, fees, equipment or books, under programs developed pursuant to the Perkins Vocational and Applied Technology Education Act;
- (N) Irregular or infrequent income, such as gifts, that cannot be reasonably projected over a period of time and that is less than \$30 per recipient in any quarter;
- (O) Experimental Housing Allowance Program payments made under contracts entered into prior to 1975;
- (P) Payments to, or reimbursement given to volunteers serving as foster grandparents, senior health aides, or senior companions, or serving in the Service Corps of Retired Executives, or in VISTA, or in any other program established under the Domestic Service Act of 1973;
- (Q) The tax-exempt portions of payments made under the Alaska Native Claims Settlement Act;
- (R) Funds distributed to or held in trust for members of any Indian tribe pursuant to a judgment of the Indian Claims Settlements or the Secretary of the Interior;

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321.250: continued

(S) Payments to Native Americans under Public Laws 92-254, 93-134, 94-114, 94-540, 96-420, 97-458, 98-64 and 102-71, including interest income from these payments;

(T) Relocation payments as described in 106 CMR 321.140;

(U) Housing subsidies received under any Massachusetts or Federal housing program including utility allowances paid under such programs;

(V) A loan verified by a written document, signed by the borrower and lender, that expresses the borrower's intent to repay and the conditions of repayment, the terms of which specify the purpose of the loan and preclude its use to meet current living costs;

(W) Work study income of undergraduate students under a federally- assisted work study program;

321.250: continued

- (X) Earned income of a dependent child:
 - (1) all earned income of a dependent child under age 14;
 - (2) all earned income of a dependent child age 14 or older who is a full-time student, or a part-time student and a part-time employee;
 - (3) the earned income of a dependent child age 14 or older who is not a student, or is a part-time student and a full-time employee is noncountable for six months in a calendar year when the earned income is derived from participation in a JTPA program;

- (Y) Foster parent payments made by any public or licensed private non-profit child welfare agency for a child who is not required to be in the filing unit;

- (Z) Assistance from other social service agencies or organizations that does not duplicate assistance received under Emergency Aid to the Elderly, Disabled and Children (EAEDC);

- (AA) Cash contributions from a nonlegally responsible person(s) that:
 - (1) are restricted for a specific purpose; and
 - (2) provide for a portion of any of the needs specified in 106 CMR 321.510: *Guide for Income-In-Kind* or provide for needs not included in 106 CMR 321.510.
A contribution from a nonlegally responsible person(s) that meet the entire cost of one or more of the needs specified in 106 CMR 321.510: *Guide for Income-In-Kind* is countable income and is deducted using the standard values in 106 CMR 321.510;

- (BB) Payments from the Home Energy Assistance Program;

- (CC) EAEDC cash benefits resulting from a correction of an underpayment or a fair hearing decision, in the month of receipt and the following month;

- (DD) Refunds from a utility company, landlord or other vendor that were originally from EAEDC cash benefits, fuel assistance, or other noncountable income funds;

- (EE) Any portion of a Workers' Compensation, property damage, personal injury, Compensation to Victims of Violent Crimes Act, or death settlement or award that is spent for the purpose for which it was originally earmarked and is not compensation for lost wages;

- (FF) Earned income credits whether received as advance payments of earned income credits or as part or all of an income tax refund;

- (GG) Payments to eligible individuals of Japanese ancestry or their survivors under the Civil Liberties Act of 1988 and payments to eligible Aleuts (who were former residents of the Aleutian and Pribilof Islands) or their survivors under the Aleutian and Pribilof Islands Restitution Act, Public Law 100-383;

- (HH) Agent Orange Settlement Fund payments made to Vietnam veterans or their survivors, in accordance with Public Law 101-201, effective January 1, 1989;

- (II) Money received from a loan secured by the equity in the home of an individual who is aged 60 or over (so-called "reverse mortgage");

- (JJ) Up to the first \$50 in current child or spousal support payments or a combination thereof received in any month by an EAEDC family;

- (KK) Payments made under the Radiation Exposure Compensation Act of 1990;

- (LL) Payments credited to an escrow account under the Family Self-Sufficiency Program administered by the Department of Housing and Urban Development (HUD) when the filing unit lacks the legal ability to use the money for its support and maintenance;

- (MM) Earnings of temporary census employees of the United States Census Bureau for the decennial census;

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321.250: continued

(NN) Youthbuild or Americorps allowances, earnings or payments to individuals participating in those programs; and

(OO) The first \$600 received as lump sum income as specified in 106 CMR 321.240(B)(7) is noncountable income in the month of receipt.

321.260: Income Test of Eligibility

Financial eligibility with regard to income is determined at application, redetermination, and when a change in income is reported. For filing units whose income does not exceed the applicable Standard of Assistance specified in 106 CMR 321.420, a grant calculation is performed as specified in 106 CMR 321.500.

321.270: Work-Related Expense Deduction

(A) Requirements. An applicant or recipient who is employed is entitled to a \$150 monthly deduction from gross wages in determining eligibility and in determining the amount of the assistance grant.

A person who meets the provisions of 106 CMR 321.230, whose income is deemed to the filing unit, is entitled to a \$150 monthly deduction from gross wages for a work-related expense deduction.

(B) Restrictions.

(1) An applicant or recipient who meets the provisions of 106 CMR 321.280(C) shall not be eligible for the work-related expense deduction.

(2) An applicant or recipient who is required to be in the filing unit, but is not included in the assistance unit, shall not be eligible for the work-related expense deduction.

321.275: Dependent Care Deduction

(A) Requirements. An applicant or recipient who is employed may receive a deduction from income equal to the expenditure for the care of a dependent child, as defined in 106 CMR 701.600: *Definitions of Terms*, or an incapacitated individual requiring such care.

If the applicant or recipient is eligible for the \$30 and 1/3 disregard (106 CMR 321.280), the dependent care deduction shall be made after the \$30 and 1/3 has been deducted. The dependent child or incapacitated individual must be a member of the assistance unit. For an applicant or recipient who is employed full-time, the amount allowed as a deduction shall be the actual cost of dependent care, including the cost of transporting dependents to and from dependent care, but shall not exceed \$175 per dependent child, age two or older, or incapacitated individual, per month. For a dependent child under the age of two, the monthly maximum allowable deduction shall not exceed \$200.

An applicant or recipient who is employed less than full-time may receive a proportionate share of the maximum allowable deduction. For an applicant or recipient employed less than full-time, the following standards shall be used to determine the maximum proportionate share of the maximum deduction, per dependent child or incapacitated individual, for which they are eligible. In all situations, the amount allowed for dependent care shall be the actual expenditure for dependent care, including the cost of transporting dependents to and from dependent care, or the maximum allowable deduction, whichever is less.

WEEKLY HOURS	MONTHLY HOURS	MAXIMUM DEDUCTIONS	
		DEPENDENT TWO OR OLDER	CHILD YOUNGER THAN TWO
1 - 10	1 - 43	\$ 44	\$ 50
11 - 20	44 - 87	\$ 88	\$100
21 - 30	88 - 130	\$132	\$150
31 - above	131 - above	\$175	\$200

321.275: continued

(B) Restrictions.

- (1) An applicant or recipient who meets the provisions of 106 CMR 321.280(C) shall not be eligible for the dependent-care deduction.
- (2) An applicant or recipient who is required to be in the filing unit, but is not included in the assistance unit, shall not be eligible for the dependent-care deduction.

321.275: continued

(3) The dependent-care deduction is not applied to income from a renter, roomer, or boarder.

(C) Verification. The expenses for which the dependent-care deduction is claimed shall be verified as follows:

(1) The only acceptable verifications for dependent-care expenses are:

- (a) a signed and dated statement from the dependent-care provider; and/or
- (b) a canceled check or money order payable to the dependent-care provider.

If none of the above documents is available, verification of dependent-care expenses shall be a signed and dated statement from the employed individual of the actual cost of dependent care.

(2) The verification of the cost of transporting dependents to and from dependent care shall be a signed and dated statement from the employed individual of the actual cost of such transportation.

(3) The incapacity of an individual in the assistance unit other than a dependent child for whom dependent-care costs are being claimed must be verified. Incapacity is verified by a current statement from a competent medical authority as defined in 106 CMR 701.600.

321.280: Eligibility for the \$30 and 1/3 Disregard and the \$30 Disregard

An applicant or recipient is eligible to have \$30 and 1/3 of the remaining gross earned income, after work-related expenses, but before dependent-care deductions, disregarded if the following requirements are met:

(A) An employed applicant or recipient shall be eligible to receive the \$30 and 1/3 disregard for four consecutive calendar months and a \$30 disregard for eight consecutive calendar months following the four consecutive calendar months of the \$30 and 1/3 disregard. Eligibility for the \$30 disregard during the eight consecutive calendar months following the four consecutive calendar months of the \$30 and 1/3 disregard remains in effect even though the \$30 disregard may not have been applied for each of the eight consecutive calendar months. Once the \$30 and 1/3 disregard has been applied for four consecutive calendar months, the recipient is ineligible to receive it again for as long as he or she continues to receive EAEDC.

(B) If the \$30 and 1/3 disregard has been applied for four consecutive calendar months and the recipient subsequently stops receiving EAEDC, he or she shall be ineligible to receive the \$30 and 1/3 disregard until the expiration of a period of 12 consecutive calendar months without receipt of EAEDC.

(C) This disregard does not apply to the earned income of a member of the assistance unit for the month in which one of the following conditions apply:

- (1) An applicant or recipient who reduced his or her income or terminated his or her employment without good cause within the 30 days prior to the month for which the grant amount is calculated or who refused a *bona fide* job offer without good cause in the same period. See 106 CMR 701.380 for acceptable good cause reasons.
- (2) An applicant or recipient who failed without good cause to make a timely report of income received. Good cause for failure to make a timely report shall be limited to demonstrated serious illness on the part of the applicant or recipient, or a dependent child. See 106 CMR 701.420: *Responsibility for Notification of Changes* for the definition of a timely report.

321.290: Verification and Determination of Income

(A) Verification and Determination of Income. Earned income from wages shall be verified at application, redetermination, and at any time a member of the filing unit reports he or she has commenced employment or his or her earnings have changed. Earned income shall be verified by pay stubs, pay envelopes, or a written statement signed by an employer. The verification must show the gross wages (including tips, if applicable) and the number of hours worked when necessary to verify dependent care expenses.

321.290: continued

(1) If the employee is paid weekly, the average of the four consecutive weeks' pay received prior to the application date will be multiplied by $4\frac{1}{3}$ or 4.333 to obtain an average monthly wage. If the filing unit member has worked less than four weeks, any wage information that is available will be used initially, and the figure will be revised if necessary when wage information for four consecutive weeks is available.

(2) If the employee is paid bi-weekly, an average of the last two consecutive pay periods will be multiplied by $2\frac{1}{6}$ or 2.167 to obtain a monthly figure. If the employee is paid twice a month, the last two consecutive pay periods will be added to obtain a monthly figure.

(3) If the employee is paid monthly, the monthly figure is used.

(4) If the employee receives a contractual annual salary, the amount to be used is the contractual annual salary divided by 12. Verification of the annual salary should be obtained in the form of a signed copy of the contract or a signed letter stating the annual salary to be received.

(5) Pay stubs, pay envelopes, or a written statement signed by an employer showing wages paid and the number of hours worked in the year to date may be used to determine an anticipated monthly wage provided the number of weeks' pay represented is shown or can be computed. The average weekly earnings derived are multiplied by $4\frac{1}{3}$ or 4.333 to obtain a monthly figure.

(B) Verification and Determination of Self-Employment Income. Earned income must be verified. Self-employment income is verified by means of business records and tax returns that show the total amount of income and the total business expenses associated with the gross income earned. The three most current months' records must be used. Business expenses may be verified by records of bank deposits, records of wages paid to employees, and Social Security and other taxes paid on and withheld from those wages; rent receipts, utility payments receipts, bills of lading, receipts for purchase of stock, and Workers' Compensation payment records.

(C) Unearned Income. Unearned income shall be verified at application, at redetermination, and at the time of a change in income. Income that is received on other than a monthly basis shall be converted to a monthly amount in accordance with 106 CMR 321.290. Unearned income shall be verified by a copy of the benefit payment check, a copy of a benefit or award letter, retirement fund documents, social security benefit statements, a written statement from the agency or person making the payment that indicates the amount and frequency of the payment, or information received by the Department through a computer match from agencies such as the Social Security Administration (SSA) or the Department of Employment and Training (DET) that indicates the current amount and frequency of the payment.

321.300: Membership in the Assistance Unit and Filing Unit

An assistance unit is composed of those persons whose needs are considered in determining eligibility and the amount of the grant, and who are eligible to receive benefits under EAEDC. All persons in the assistance unit must be included in the filing unit.

A filing unit is composed of those persons whose income and assets must be considered in determining the eligibility and/or amount of the grant for the assistance unit, regardless of whether they are included in the assistance unit.

A household is the total group of persons who live together. The household may include persons who are not in the filing unit. In order for the assistance unit to be eligible for EAEDC, the filing unit may not have:

(A) assets greater than the asset limitation (106 CMR 321.110); or

(B) income, including income deemed to it, greater than the allowable limits for income specified in 106 CMR 321.420.

321.310: Composition of the Assistance Unit

(A) Whenever an application is made by an elderly person as specified in 106 CMR 320.100, the assistance unit shall include the elderly person;

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(B) Whenever an application is made by a disabled person as specified in 106 CMR 320.200, the assistance unit shall include the disabled person;

(C) Whenever an application is made by a person participating in MRC as specified in 106 CMR 320.250, the assistance unit shall include the person participating in MRC;

(D) Whenever an application is made by a person who is caring for a disabled person as specified in 106 CMR 320.300, the assistance unit shall include the person caring for the disabled person;

(E) Whenever an application is made by a caretaker for dependent children as specified in 106 CMR 320.400, the following persons must be included in the assistance unit, unless one or more of these persons meets one of the exceptions specified in 106 CMR 320.400(3):

- (1) the dependent child(ren) as defined in 106 CMR 701.600; and
- (2) the siblings and half-siblings of the dependent child(ren).

The caretaker specified in 106 CMR 320.400(1)(c) may include or exclude himself or herself only from the assistance unit, but the caretaker may not be an assistance unit of one when all of the dependent child(ren) and the siblings and half-siblings of the dependent child(ren) in the home are foster child(ren).

321.320: Composition of the Filing Unit

The following persons must be included in the filing unit and their income and assets must be included in determining the assistance unit's eligibility and the amount of the grant.

(A) persons in the assistance unit (106 CMR 321.310: *Composition of the Assistance Unit*);

(B) the spouse living in the home of a person in the assistance unit who is applying for or receiving EAEDC pursuant to 106 CMR 320.100, 320.200, 320.250, 320.300; and

(C) the disabled person who is being cared for pursuant to 106 CMR 320.300. The income and assets of this person shall be considered in determining the eligibility of the person providing the care in accordance with 106 CMR 321.235.

321.325: Failure To Cooperate

(A) If the financial eligibility of the assistance unit cannot be determined because of the failure or refusal of any member of the filing unit to provide information and/or verification, the entire assistance unit is ineligible and assistance shall be denied or terminated.

321.325: continued

(B) If any person required to be in the filing unit fails to prove that he or she is categorically eligible, but the financial eligibility for the assistance unit can be determined, eligibility and the amount of the grant for the assistance unit shall be determined by including that person's income and assets but excluding his or her needs.

321.400: Introduction - Living Arrangement and Grant Calculation

The assistance grant of EAEDC applicants or recipients is based on the living arrangement of the assistance unit. 106 CMR 321.410, 321.420, and 321.500 describe the living arrangements, the Standards of Assistance for the living arrangements, and the grant calculation.

321.410: Living Arrangement

(A) Definition. The living arrangement of EAEDC applicants or recipients shall be one of the following:

(1) Living Arrangement A describes an EAEDC individual or EAEDC family who is responsible for a shelter cost, including but not limited to rent, mortgage, real estate taxes, insurance, fuel or utility expenses or room or board expenses from a licensed lodging house, and who:

(a) Lives alone; or

(b) Lives with others, except as specified in 106 CMR 321.410(A)(2) or (A)(3).

(2) Living Arrangement B describes an EAEDC individual or EAEDC family who lives with another assistance unit who is applying for or receiving TAFDC, including spouses, and a legal obligation to support exists between a member(s) of the TAFDC assistance unit and a member(s) of the EAEDC assistance unit, except as described in 106 CMR 321.410(A)(3)(b).

(3) Living Arrangement H describes the EAEDC individual or EAEDC family, who is responsible for a shelter cost as specified in 106 CMR 321.410(A)(1), and is in one of the following circumstances:

(a) Lives with a spouse who is applying for or receiving EAEDC; or

(b) Lives with a spouse and a child(ren) who is not the natural or adoptive child(ren) of the spouse and the spouse is applying for or receiving TAFDC for himself or herself only or for himself or herself and the child(ren).

(4) Living Arrangement C describes an EAEDC individual who resides in a halfway house, licensed chronic hospital, licensed nursing home, approved public medical institution, licensed intermediate care facility, residential treatment center or public psychiatric institution..

(5) Living Arrangement D describes an EAEDC individual or EAEDC family in one or more of the following circumstances:

(a) An individual, including an individual with no established place of abode, who pays no shelter costs as specified in 106 CMR 321.410(A)(1); or

(b) An individual in a temporary emergency shelter.

(6) Living Arrangement E describes an EAEDC individual who resides in a licensed rest home also known as a residential care facility.

(7) Living Arrangement F describes an EAEDC individual who resides in a therapeutic community center.

(B) Verification. The verification of living arrangement is mandatory and shall be by:

(1) A written, dated, and signed statement from the applicant or recipient and any other appropriate individual; and

(2) The applicant or recipient shall be required to provide additional verification, as follows:

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<u>Living Arrangement</u>	<u>Verification Required</u>
A	a rent or mortgage statement; and/or proof of responsibility for any other shelter cost; and/or room and/or board receipt; and/or a written statement from the individual or family with whom the individual or family shares the shelter expenses that specifies how the shelter expenses are shared.
B	a written statement from the appropriate Department worker.
H	a written statement from the individual with whom the applicant/recipient shares the shelter costs that specifies the shelter costs are shared.
C	a statement from an authorized person at the halfway house, licensed chronic hospital, approved public medical institution, licensed intermediate care facility, public psychiatric institution or residential treatment center.
D	a statement from an authorized representative of the shelter if a resident of an emergency shelter; or a signed and dated statement from the applicant or recipient that he or she has no shelter expenses.
E	a written statement from an authorized person at the rest home.
F	a written statement from an authorized person at the therapeutic community center.

321.420: Table of Standards of Assistance

The figures in the following Standards of Assistance Tables are used to determine financial eligibility. If the countable monthly income for the assistance unit is equal to or less than the appropriate standard of assistance, the unit is financially eligible. The monthly grant is the difference between the countable income and the appropriate standard of assistance. The determination of living arrangement shall be in accordance with 106 CMR 321.410.

The General Appropriations Act for Fiscal Year 2004 (the state budget) removed the rent allowance from the EAEDC program effective July 1, 2003.

(A) Living Arrangement A

<u>Assistance Unit Size</u>	<u>Standard of Assistance</u>
1	\$303.70
2	395.10
3	486.60
4	578.20
5	669.80
6	761.10
Incremental	91.60

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321.420: continued

(B) Living Arrangement B

<u>Assistance Unit Size</u>	<u>Standard of Assistance</u>
1	\$ 91.60
2	183.20
Incremental	91.60

(C) Living Arrangement C. Individuals in halfway houses, licensed chronic hospitals, licensed nursing homes, approved public medical institutions, licensed intermediate care facilities, residential treatment centers or public psychiatric institutions shall receive \$72.80 per month, minus countable income, provided they do not receive any other personal needs allowance from any other source.

Under no circumstances shall personal laundry costs be charged to the personal needs allowance of a recipient specified in 106 CMR 321.420(C).

(D) Living Arrangement D

<u>Assistance Unit Size</u>	<u>Standard of Assistance</u>
1	\$ 92.80
2	184.40
3	275.70
4	367.30
5	458.90
6	534.30
Incremental	91.60

(E) Living Arrangement E: Licensed Rest Homes. Individuals in licensed rest homes shall receive \$72.80 per month plus the *per diem* established for the facility by the Rate Setting Commission, minus countable income, provided that all of the following conditions are met:

- (1) the per diem amount is not paid by another Department mechanism;
- (2) the individual is not eligible for any other form of cash assistance; and
- (3) the per diem cost is charged to the individual.

Under no circumstances shall laundry costs be charged to the personal needs allowance of a recipient specified in 106 CMR 321.420(E).

(F) Living Arrangement F: Therapeutic Community Center

<u>Assistance Unit Size</u>	<u>Standard of Assistance</u>
1	\$196.00

321.420: continued

(H) Living Arrangement H

<u>Assistance Unit Size</u>	<u>Standard of Assistance</u>
1	\$202.50
2	263.40
3	324.40
4	385.50
5	446.60
6	507.40
Incremental	61.10

321.500: Calculation of Grant Amount

The grant amount is calculated as follows:

- (A) Identify the countable income of the members of the assistance unit. (*See* 106 CMR 321.200 through 321.250.)
- (B) Subtract work-related expenses, as defined in 106 CMR 321.270, and, if applicable, the \$30 and one-third disregard or \$30 disregard, as specified in 106 CMR 321.280, and/or, if applicable, the dependent care deduction, as specified in 106 CMR 321.275, from earned income, and add the result to the unearned income.
- (C) Subtract the result of 106 CMR 321.500(B) from the standard of assistance appropriate to the assistance unit. If the result is less than zero, then the assistance unit is financially ineligible. If the result is greater than or equal to zero, the assistance unit is financially eligible.
- (D) Multiply the grant amount by a percentage determined by the Department.

321.510: Guide for Income-In-Kind

Income-in-kind is income other than cash provided to the assistance unit. It may consist of free rent or mortgage, free heat, free utilities, free food and/or free clothing. This also applies to a family in temporary emergency shelter.

When an EAEDC family and/or individual is a member(s) of an EA household in a temporary emergency shelter, deduct the income-in-kind values from the appropriate Living Arrangement A or H Standards of Assistance.

TABLE OF MONTHLY VALUES FOR INCOME-IN-KIND

	LIVING ALONE	SHARING
SHELTER	\$110 per month	\$56 per month
FUEL	\$23 per month	\$12 per month
UTILITIES	\$17 per month	\$9 per month
FOOD (Individual)	\$42 per month	\$42 per month
CLOTHING (Individual)	\$18 per month	\$18 per month

REGULATORY AUTHORITY

106 CMR 321.000: M.G.L. c. 18, § 10.