

106 CMR DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 703.000: TRANSITIONAL CASH ASSISTANCE PROGRAM: NONFINANCIAL  
ELIGIBILITY

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703.000: Overview of TAFDC Nonfinancial Requirements

In order to receive TAFDC, an applicant or client must meet all of the applicable eligibility requirements. These requirements are both nonfinancial and financial.

The nonfinancial requirements for TAFDC eligibility are:

- (A) 106 CMR 703.100: *Exemptions from Time-limited Benefits*;
- (B) 106 CMR 703.120: *Time-limited Benefits*;
- (D) 106 CMR 703.150: *Work Program*;
- (E) 106 CMR 703.200: *Dependent Child*;
- (F) 106 CMR 703.300: *Relationship and Living Arrangement*;
- (G) 106 CMR 703.340: *Residence*;
- (H) 106 CMR 703.400: *Citizens, Noncitizens, and Canadian-born Indians*;
- (I) 106 CMR 701.230: *Social Security Numbers (SSN)*; and
- (J) 106 CMR 703.500: *Cooperation with Child Support Enforcement Efforts*.

703.010: Overview of EAEDC Nonfinancial Requirements

In order to receive EAEDC, an applicant or client must meet all of the applicable eligibility requirements. These requirements are both nonfinancial or financial.

The nonfinancial requirements for EAEDC eligibility are:

- (A) 106 CMR 703.600: *Elderly - 65 Years of Age or Older*;
- (B) 106 CMR 703.191: *Disabled*;
- (C) 106 CMR 703.610: *Participant in a Massachusetts Rehabilitation Commission Program*;
- (D) 106 CMR 703.620: *Caring for the Disabled*;
- (E) 106 CMR 703.700: *Caretaker Family*;
- (G) 106 CMR 703.800: *Age, Identity, Resident, Place of Residence, Temporary Absence, and Disqualifying Absences*;
- (H) 106 CMR 703.400: *Citizens, Noncitizens and Canadian-born Indians*; and
- (I) 106 CMR 701.230: *Social Security Number (SSN)*.

703.100: TAFDC Exemptions from Time-limited Benefits(A) Requirements.

(1) An assistance unit is exempt from the TAFDC time-limited benefits restrictions found at 106 CMR 703.120, if the grantee:

(a) is disabled as defined in 106 CMR 703.190. A client who requests an exemption under this clause shall, as a condition of continued eligibility, apply for Social Security Disability benefits (RSDI/SSI) and, if requested by the Department, appeal a denial of Social Security Disability benefits at the Social Security Administration as specified in 106 CMR 703.190. Clients who do not comply with the Department's request to apply for Social Security Disability benefits or appeal a decision shall not be granted a work exemption under this clause;

(b) is essential to the care of one of the following disabled persons living in the home:

1. a child;
2. the grantee's spouse; or
3. the child's other parent.

A client who requests this exemption shall either apply for Social Security Disability benefits on behalf of the disabled child or spouse or the disabled spouse or child's other parent must apply for benefits on his or her own behalf. Verification of such required Social Security Disability benefits applications must be provided.

(c) is in their 33<sup>rd</sup> week or later of pregnancy or in their third trimester of pregnancy who have submitted documentation signed by a primary care provider or an obstetrician, gynecologist, nurse-midwife or family practitioner that the client has a pregnancy-related medical condition that prevents the client from working;

(d) has a child living in the home younger than two years of age and in the assistance unit or is not in the assistance unit in accordance with 106 CMR 704.305(A)(5)(a), (b), and (c) because the child:

1. receives SSI;
2. receives state and/or federal foster care maintenance payments; or
3. receives state and/or federal adoption assistance;

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

(e) has a child living in the home under the age of three months and not included in the assistance unit;

(f) is a teen parent younger than 20 years old who is meeting the living arrangement requirements found at 106 CMR 703.180 and attending school, not beyond high school, full time; or a combination of a full-time HiSET program and participation in an approved training or employment-related activity for a total of 20 hours per week; or if living in a teen structured living program, meeting the requirements found at 106 CMR 703.183;

(g) is an ineligible grantee, except that an ineligible grantee who has a legal obligation to support his or her dependent children in the assistance unit shall not be exempt unless he or she meets one of the exemptions specified in 106 CMR 703.100(A)(1)(a) through (f) or (h); or he or she cannot work for pay due to his or her alien status; or

(h) is 66 years of age or older or a grantee between 60 and 66 years of age, who is the primary caregiver for the child and retired prior to applying for TAFDC benefits [Note: 106 CMR 703.100(A)(1)(h) was formerly found at 106 CMR 203.100(A)(1)(h)].

(2) In a two-parent household, both grantees must meet one of the exemptions found at 106 CMR 703.100(A)(1)(a) through (f) or (h) for the assistance unit to be exempt from specified in 106 CMR 704.415: *TAFDC Table of Need Standards - Nonexempt Assistance Units*;

(3) In a two-parent family, only one parent may claim an exemption at 106 CMR 703.100(A)(1)(b), (d), or (e). In addition, in a two-parent family, if one parent claims the exemption at:

(a) 106 CMR 703.100(A)(1)(a) as a disabled grantee, the other parent may not claim an exemption at 106 CMR 703.100(A)(1)(b), (d), or (e) unless there is medical documentation that the disabled grantee is unable to provide care for the person listed in 106 CMR 703.100(A)(1)(b), (d), or (e); and/or

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- (b) 106 CMR 703.100(A)(1)(c) as a pregnant woman, the other parent may not claim an exemption at 106 CMR 703.100(A)(1)(b), (d), or (e) unless there is medical documentation that the pregnant woman is unable to provide care for the person listed in 106 CMR 703.100(A)(1)(b), (d), or (e).
  - (4) An exempt grantee remains exempt until the grantee no longer meets the criteria for an exemption. A grantee must inform the Department as soon as his or her circumstances change in a way that may affect his or her exemption status.
  - (5) A nonexempt grantee may appeal a nonexempt status determination. However, if the grantee's nonexempt status is upheld at the fair hearing, the period during which the appeal decision was reached is included in the calculation of the 24-month maximum period of eligibility specified in 106 CMR 703.120.
  - (6) In the event that a grantee claims an exemption but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed shall be included in the calculation of the 24-month maximum period of eligibility as specified in 106 CMR 703.200.
  - (7) If a grantee claims an exemption but is determined to be nonexempt as a result of the verification process, the period during which the verification process was being completed is included in the calculation of the 24-month maximum period of eligibility specified in 106 CMR 703.120.
- (B) Verifications. A grantee who claims an exemption under 106 CMR 703.100(A)(1) must provide the appropriate verification.
- (1) A disabled grantee must provide verifications specified in 106 CMR 703.190 for the TAFDC Disability Exemption Process.
  - (2) A grantee who claims an exemption under 106 CMR 703.100(A)(1)(b)1. must show that he or she cannot look for, obtain or keep full-time employment because the child's disabilities make the grantee essential to the care of the child. The following verifications must be provided to the Department:
    - (a) verification that the disabled child receives Supplemental Security Income (SSI); or written verification of the disability from the disabled child's competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*. This verification must be on a form prescribed by the Department;
    - (b) On the form referenced in 106 CMR 703.100(B)(2)(a), a statement specifying the severity of the child's disability and the extent of the care the disabled child requires; and
    - (c) If the child attends school full time, or is otherwise out of the home, documentation that the child has disability-related needs during the day and/or night, which require care that prevents the grantee from looking for, obtaining or keeping full-time employment. Documentation may be provided on the form referenced in 106 CMR 703.100(B)(2)(a), or by a statement from the grantee, that is supported by another document or third party source.
  - (3) A grantee who claims to be essential to the care of one of the persons listed in 106 CMR 703.100(A)(1)(b) must provide:
    - (a) verification that the disabled person:
      - 1. receives SSI for disability, or Social Security for disability;
      - 2. receives TAFDC and meets the requirements for the Disability Exemption Process as specified in 106 CMR 703.190; or
      - 3. if not receiving TAFDC, has written verification of the disability on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*; and
    - (b) written documentation on a form prescribed by the Department completed by a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* that specifies the severity of the disability, the reason the grantee is essential to the care of the disabled person, and that the grantee cannot be employed because he or she must be in the home to care for the disabled person.
  - (4) A teen parent younger than 20 years of age who is claiming an exemption must provide verification that he or she meets the requirements of 106 CMR 703.180.

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- (5) An ineligible grantee who has a legal obligation to support his or her dependent children in the assistance unit must provide either the applicable verifications specified in 106 CMR 703.100(B)(1) through (4) or the verification specified in 106 CMR 703.430, if unable to work for pay due to noncitizen status.
- (6) Verification of pregnancy shall be in accordance with 106 CMR 703.210.
- (7) Verification that a grantee is 66 years of age or older or between 60 and 66 years of age shall be in accordance with 106 CMR 703.220(B).

703.110: TAFDC Good Cause Waivers Due to Domestic Violence

(A) Definition of Domestic Violence. The following acts by a current or former intimate partner, spouse, relative, or household member shall be considered domestic violence:

- (1) physical acts that resulted in, or threatened to result in, physical injury;
- (2) sexual abuse;
- (3) sexual activity involving a dependent child;
- (4) being forced to engage in nonconsensual sexual acts or activities;
- (5) threats of, or attempts at, physical or sexual abuse;
- (6) mental or emotional abuse which would significantly reduce the victim's capacity to care for himself or herself or his or her child or significantly reduce his or her capacity to perform essential activities of daily living;
- (7) neglect or deprivation of medical care; or
- (8) stalking.

(B) Requirements.

- (1) The Department shall inform all applicants or clients that referrals to community-based programs are available to past and present victims of domestic violence, and that they may be eligible for waivers of certain program requirements due to domestic violence. Such notification shall take place at application, at eligibility review and any time the Department receives information indicating that the applicant or client may have a history of domestic violence.
- (2) The Department shall give applicants and clients written information about domestic violence, including how to contact community-based domestic violence programs, and rights regarding confidentiality. The Department shall also inform applicants and clients that community-based domestic violence programs may be able to help them to request waivers and document the need for waivers.
- (4) An applicant or client may request a good cause waiver of certain TAFDC program requirements due to domestic violence, at any time, including:
  - (a) the work program requirement;
  - (b) the 24-month time limit; and
  - (c) teen parent school attendance requirements.

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

The applicant or client has the burden of producing evidence to establish good cause due to domestic violence; however, the worker may assist. The applicant or client may need to produce evidence of the ongoing need for a good cause waiver, and may show that he or she is currently participating in a domestic violence program, or has otherwise begun to address the domestic violence issue leading to the waiver.

- (5) The Department shall decide whether a good cause waiver for domestic violence shall be granted, the type of the waiver, if any, and the length of the waiver. If a good cause waiver due to domestic violence is granted, the Department may ask the applicant or client speak with a trained domestic violence professional.
- (6) The Department may also reassess any Employment Development Plan (EDP) of an applicant or client who the Department determines cannot meet the EDP due to domestic violence.

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(7) A victim of domestic violence may also have good cause for failure to cooperate with child support requirements. (*See* 106 CMR 703.520 through 703.526).

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

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

(2) Compliance with the specific requirement may:

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

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

(1) Evidence of the existence of domestic violence alone is not sufficient to show the need for a good cause waiver due to domestic violence. The evidence must also meet the criteria specified in 106 CMR 703.110(C).

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

(2) An applicant or client must verify a good cause claim due to domestic violence by providing:

(a) a signed statement which includes:

- 1. the basis for the good cause claim as found at 106 CMR 703.110(C);
- 2. the reason he or she believes imposition of the specific requirement may place him or her or his or her child at risk of domestic violence, which may result in serious harm or emotional impairment or penalize him or her, or make it more difficult for him or her or his or her child to escape domestic violence; and
- 3. a description of the relevant incidents including the approximate dates of the incidents; and

(b) court, medical, criminal, child protective service, psychological, law enforcement or school records;

(c) documents showing he or she has an order of protection under M.G.L. c. 209A or has taken other legal steps to end the domestic violence, evidence that he or she has sought safe haven in a domestic violence shelter or similar refuge, documentation of injuries such as medical records or photographs; or

(d) if the documentation described in 106 CMR 703.110(D)(2)(b) or (c) is unavailable or inconclusive, a sworn statement from the applicant or client and at least one other individual with knowledge of the circumstances which provides with specificity a history of domestic violence, rape or incest and other facts which support his or her good cause claim.

703.120: TAFDC Time-limited Benefits

(A) A nonexempt grantee, including each grantee in a two-parent family, who is receiving TAFDC or who would be receiving TAFDC but for a TAFDC sanction, may only receive TAFDC for a maximum of a cumulative 24 months in a continuous 60-month period. The ineligibility shall apply to all members of the assistance unit.

(1) The initial continuous 60-month period begins on the date an assistance unit first becomes eligible for TAFDC. The maximum cumulative 24-month period in a continuous 60-month period begins on the date that an exempt grantee becomes nonexempt, or the date a nonexempt grantee first becomes eligible for TAFDC, whichever is later.

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

- (a) receives a TAFDC grant;

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- (b) has a grantee participating in the Full Employment Program or supported work; or
- (c) receives TAFDC benefits through vendor payments.
- (3) The calculation of a nonexempt grantee's cumulative 24-month period shall stop when:
  - (a) the entire assistance unit is ineligible, including ineligibility as the result of a sanction;
  - (b) the grantee becomes exempt as specified in 106 CMR 703.100; or
  - (c) the assistance unit voluntarily withdraws from TAFDC.

The calculation of the cumulative 24-month period resumes when the grantee becomes nonexempt in the same continuous 60-month period.

- (4) A nonexempt grantee's cumulative 24-month period is not stopped when there is a sanction period imposed on a member of the assistance unit, except as specified in 106 CMR 703.120(A)(3)(a).
- (5) The calculation of the 60-month period cannot be stopped.
- (6) If aid to the assistance unit has been terminated because of the end of the cumulative 24-month period, the assistance unit may establish eligibility for TAFDC before the end of the continuous 60-month period if the grantee meets an exemption found at 106 CMR 703.100.
- (7) At the end of a continuous 60-month period, a nonexempt grantee may reapply for TAFDC and begin a new cumulative 24-month eligibility period and a new continuous 60-month period.
- (8) In a two-parent household, both parents shall have the same 60-month period. If, because of a prior period of assistance, both parents do not share the same start date of their 60-month period, the earliest date shall apply to the household.

(B) Exception.

- (1) A teen parent (*see* 106 CMR 703.180) who received assistance as a member of another TAFDC assistance unit may reapply for TAFDC, if he or she meets the teen parent requirements found at 106 CMR 703.180, and:
  - (a) he or she is not eligible to be included in another assistance unit; or
  - (b) the other TAFDC case is closed.
- (2) At the time of the reapplication, the worker shall determine if the teen parent meets an exemption specified in 106 CMR 703.100, and:
  - (a) if the teen parent meets an exemption, the assistance unit will be exempt from the time-limited benefits defined in 106 CMR 703.120(A); or
  - (b) if the teen parent does not meet an exemption, the teen parent is nonexempt and the time-limited benefits defined in 106 CMR 703.120(A) will apply.

(D) Verification for a Waiver of the 24-month Period.

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

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- (b) Hospital records;
  - (c) Records of other medical or long-term care institutions;
  - (d) Military service records;
  - (e) Police records; or
  - (f) Social Security Survivor's Benefits (RSDI).
- (2) a written report from a physician that verifies the incapacity and the inability of the child's custodial parents to care for the child;
  - (3) documentation that the legal custody or guardianship of the child has been transferred to the other parent or a relative;
  - (4) written documentation from the penal institution verifying the incarceration of the custodial parents and the dates of incarceration and expected release, if any; or
  - (5) written documentation from the institution where the custodial parent is institutionalized, as well as the date of admission and expected date of discharge, if any.

703.130: TAFDC Extension of Benefits Beyond the 24-month Period

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

An individual may request an extension of benefits beyond the 24-month period after a nonexempt grantee has used 22 months of time-limited benefits, or at any time when an individual has already received 24 months of time-limited benefits.

(A) Requirements.

- (1) Before determining whether or not to approve an extension, the Commissioner or designee shall consider:
  - (a) the degree that a nonexempt grantee has and is cooperating, with the Department in work-related activities. Work-related activities are those which are intended to lead to full-time employment;
  - (b) whether the nonexempt grantee has been sanctioned or has otherwise failed to cooperate with the Department's rules and regulations;
  - (c) whether the grantee received and/or rejected job offers reduced his or her employment hours or quit a job without good cause as specified in 106 CMR 701.380: *Good Cause Criteria*, or has been fired for cause;
  - (d) whether appropriate job opportunities currently exist locally. A job opportunity is appropriate when the grantee meets the minimum requirements for a job;
  - (e) whether suitable state-standard child care (including special needs care) is available during the grantee's hours of employment and commuting time; and
  - (f) whether the client demonstrated a good faith effort to meet his or her economic independence goals. If a client has not demonstrated a good faith effort, but is otherwise found eligible for an extension under 703.130(A)(1)(a), (c) through (f), the Commissioner, in his or her discretion, may continue to provide benefits on behalf of any dependent children.
- (2) A nonexempt grantee who is participating in an approved education or training activity at the end of the 24-month period may be granted a three month extension to complete the activity. If necessary, a second three month extension may be granted to complete the activity.
- (3) A nonexempt grantee who is working full time (35 hours per week), requests an extension and is otherwise eligible, shall be granted an extension.

(B) Conditions of Extension.

- (1) Each extension is limited to a period of up to three months.
- (2) In addition to the requirements specified in 106 CMR 703.130, all TAFDC financial and nonfinancial eligibility requirements must be met to qualify for and continue to receive an extension.
- (3) There is no limit to the number of extensions for which an assistance unit may qualify.



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(C) Extension Activities. The Department will determine which activities the nonexempt grantee should participate with the goal of obtaining full-time employment. These activities may include:

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

In a two-parent assistance unit, each nonexempt grantee must participate in the activities listed in 106 CMR 703.130(C)(1) through (4).

703.150: TAFDC Work Program(A) Requirements.

(1) A grantee who has received assistance for 60 days must work the required hours per week as specified in 106 CMR 703.150(A)(5), unless:

- (a) the grantee is exempt (*see* 106 CMR 703.100);
- (b) the grantee is caring for a foster child in the home who is younger than two years old;
- (c) a grantee is caring for a foster child in the home whose needs exceed a standard level of care (DCF tiers 2, 3 and 4) as determined by the DCF Commissioner or designee. A waiver of Work Program requirements may be granted by the DTA Commissioner for other foster parent grantees at the request of the DCF Commissioner based on the needs of the foster child; or
- (d) the grantee has good cause as specified in 106 CMR 701.380: *Good Cause Criteria*.

In a two-parent household, each parent shall meet the Work Program requirements for the required hours per week as specified in 106 CMR 703.150(A)(5), unless that parent meets the requirements of 106 CMR 703.150(A)(1). If 106 CMR 703.150(A)(1)(b) and (c) apply, however, the work program requirement must still be met by one parent.

(2) A nonexempt grantee meets the Work Program requirements by:

- (a) working in a job for pay for at least the required hours per week as specified in 106 CMR 703.150(A)(5);
- (b) working full-time in the Full Employment Program (FEP) (*see* 106 CMR 707.180: *Full Employment Program*) or participating in an approved Supported Work Program (*see* 106 CMR 707.160: *Supported Work Component*);
- (c) participating in community service, job search or another Department approved activity that is expected to result in employment for the required hours per week as specified in 106 CMR 703.150(A)(5). The maximum number of hours a grantee can participate in a community service program is limited by the federal Fair Labor Standards Act (FLSA). A grantee who cannot meet the required hours of participation through community service alone due to the FLSA must participate in an additional allowable work activity so that the required hours are met. If the grantee cannot identify an allowable work activity, the Department shall provide a referral to an activity;
- (d) combining the hours of work, other approved work program activities and community service hours to total the required hours per week as specified in 106 CMR 703.150(A)(5). The number of hours of community service and/or other work program activities required each week will be the difference between the required hours per week and the number of hours worked;
- (e) participating in a substance abuse treatment program while in a substance abuse shelter;

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- (f) participating in an unpaid work study or internship program for the required hours per week;
- (g) providing child care to a teen parent's dependent child (both of whom are living in the grantee's home) enabling the teen parent to meet the school attendance requirements;
- (h) participating in a Department-approved supported work program with a commitment from the employer to hire participants who successfully complete the program;
- (i) participating in an education or training activity including a certificate or degree program from a four-year degree-granting higher education institute, community college or a certificate program (up to a bachelor's degree) for up to the required hours per week as specified in 106 CMR 703.150(A)(5). If the education or training activity is less than the required hours per week, the grantee must participate in other work program activities to meet the required hours. For purposes of meeting the work program requirement, an education or training activity cannot exceed 24 months. The Department may extend this period if the client is making substantial progress towards completion of the certificate or degree program;
- (j) participating in a vocational educational program not to exceed 12 months. The Department may extend this period if the client is making substantial progress towards completion of the certificate or degree program in vocational education; or
- (k) if residing in an emergency shelter, meeting his or her housing search requirements.

A grantee is given an initial period of up to 60 days to meet the Work Program requirement. During this period, the grantee must seek employment or find employment through FEP.

A grantee who does not meet the Work Program requirements as defined in 106 CMR 703.150(A)(2) within the 60 days must participate in the Community Service Program, unless participating in FEP.

- (3) A categorically ineligible noncitizen who is unable to work in a paying job because of his or her noncitizen status, must participate in the Community Service program for the required hours per week, unless the grantee:

- (a) meets another exemption (*see* 106 CMR 703.100);
- (b) is caring for a foster child in the home who is younger than two years old;
- (c) is caring for a foster child in the home whose needs exceed a standard level of care (DCF tiers 2, 3 and 4) as determined by the DCF Commissioner or his or her designee. A waiver of work requirements may be given for other foster parent grantees at the request of the DCF Commissioner based on the needs of the foster child; or
- (d) has good cause (*see* 106 CMR 701.380: *Good Cause Criteria*).

The individual shall be given an initial period of up to 60 days to find a Community Service placement. If the individual does not begin a Community Service placement within the 60 days, he or she shall be mandated to participate in Community Service.

- (4) At Reapplication. If a grantee reapplies for assistance any time within a continuous 60-month period, the grantee, unless otherwise exempt, must meet the Work Program requirements to be eligible for assistance. The grantee will not receive another 60-day period to look for work.

If the 60-month period has expired when the grantee reapplies for assistance, the grantee, unless otherwise exempt, will receive another 60-day period to look for work before having to meet the Work Program requirement.

- (5) For purposes of 106 CMR 703.150(A), the required hours per week are defined as:
- (a) 20 hours, if the youngest child in the assistance unit (or who is not in the assistance unit as defined in 106 CMR 704.305(A)(5)(a), (b), or (c)) is between two and six years of age (*see* 106 CMR 701.600: *Definition of Terms*); and
  - (b) 30 hours, if the youngest child in the assistance unit (or who is not in the assistance unit as defined in 106 CMR 704.305(A)(5)(a), (b), or (c)) is six years of age or older.

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In a two-parent household where both parents are work program required, each parent must meet the required hours per week based on the age of the youngest child in the assistance unit (or who is not in the assistance unit in accordance with 106 CMR 704.305(A)(5)(a), (b), or (c))

(B) Verification. Unless otherwise specified, verification of participation in an Employment Services Program component shall be submitted on a form prescribed by the Department in accordance with the participation criteria for that component. *See 106 CMR 707.000: ESP Overview/Participation Requirements*. The form shall be signed under the penalties of perjury.

703.151: TAFDC Ineligibility of Strikers

Strikers are not eligible for TAFDC. Assistance which was paid for any month (or portion of a month) during which an individual was on strike must be considered an overpayment for the month. *See 106 CMR 706.200: Overpayments and Underpayments*, for treatment of overpayments. The amount of the overpayment is determined in accordance with 106 CMR 703.151(C).

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

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

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

(D) Restoration of TAFDC Benefits. At the end of a strike, an otherwise eligible individual may ask for a reinstatement of TAFDC or apply for TAFDC. The individual must verify that the strike has ended. Verification shall be a written statement from either the collective bargaining representative or the employer.

703.160: TAFDC Immunizations

(A) Requirement. Each dependent child must be properly immunized. Failure to immunize shall result in the grantee's ineligibility unless there is good cause as specified in 106 CMR 703.160(B).

The dependent child's immunization must be verified at application, birth of a dependent child, and when the child turns age two.

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

If scheduled, the grantee must also submit a statement from the health care provider indicating the immunizations have been completed within 30 days of the scheduled appointment.

(B) Good Cause for Failure to Comply with Immunization Requirement. Good cause is limited as follows:

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

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(C) Sanction for Noncompliance with Immunization Requirement. When a grantee does not meet the immunization requirements without good cause, he or she will be sanctioned by a denial or a reduction of his or her portion of the grant. In two-parent households, both parents will be sanctioned.

A sanctioned grantee is still subject to other TAFDC provisions including, but not limited to, Time-limited Benefits (*see* 106 CMR 703.120), and the Work Program requirements (*see* 106 CMR 703.150). The sanction will continue until the proper documentation for its removal is provided.

(D) Verification.

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

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

(a) if the Department pays for the Head Start or licensed day care, no further verification is required;

(b) a copy of the immunization form for Head Start or licensed day care; or

(c) a written statement from Head Start or licensed day care that the child is enrolled.

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

(a) a written statement on the health care provider's letterhead that the child is up to date on immunizations;

(b) a copy of a MassHealth or other insurance bill for a well-child visit; or

(c) completion of a form, prescribed by the Department, and signed by the health care provider.

## 703.170: TAFDC Learnfare

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

(1) Submission of Quarterly School Attendance Verification

(a) A grantee must verify the dependent child's attendance at a private school, public school or an approved home school program, unless a grantee is disabled (*see* 106 CMR 703.100).

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

(2) Probationary Status

(a) A grantee is placed in a probationary status when the documentation required by 106 CMR 703.170(A)(1):

1. is not submitted without good cause (*see* 106 CMR 703.170(A)(2)(e)); or

2. shows the dependent child had more than eight unexcused absences in the previous school quarter.

(b) The Department will notify the school and the grantee when the grantee is placed in probationary status. The grantee shall have the opportunity to dispute the information concerning unexcused absences with the Department. An absence shall be considered excused for one or more of the following reasons:

1. illness as certified by a physician or a written statement from the grantee if the illness was less than five consecutive school days;

2. hospitalization certified by hospital records;

3. a disability that would qualify for an exemption (*see* 106 CMR 703.100);

4. death of a family member verified by a death certificate or death notice;

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- 5. religious holidays; or
- 6. a crisis situation as approved by the school principal or designee.
- (c) A grantee in probationary status must submit, by the fifteenth of each month, documentation for the previous month showing the number of unexcused absences for the dependent child.
- (d) A grantee shall remain in probationary status for six months, or until such time as the number of unexcused absences during a rolling period of the six preceding school months is ten or less, whichever is longer.
- (e) Good cause exists when the grantee has taken all necessary steps on his or her part to get the documentation but the school has been unable to meet the request.
- (3) Sanctions. If the grantee is in probationary status, the dependent child, whose unexcused absences brought about by the probationary status, will be sanctioned, and the cash reduced by the dependent child's portion of the grant, when the school documentation:
  - (a) is not submitted without good cause (*see* 106 CMR 703.170(A)(2)(e)); or
  - (b) shows the dependent child had more than three unexcused absences during any month in the probationary period.

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

The Department will notify the school and the Department of Children and Families when a dependent child has been sanctioned for three consecutive months to assist in addressing the problems associated with the child's school attendance.

(B) Verifications.

- (1) Verification of school attendance shall be by a method specified by the Department. The Department may establish procedures to obtain school verification directly from school institutions or school districts.
- (2) Verification of the grantee's disability shall be in accordance with 106 CMR 703.100.
- (3) Verification of an approved home school program shall be a written statement from the local school authority attesting to the approved home school program arrangement and a written statement from the home school program provider.

703.180: TAFDC Teen Parent Eligibility

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

- (1) has graduated from high school or received a High School Equivalency Test (HiSET) certificate; is enrolled and attending full time a school not beyond high school; is attending a full-time HiSET program or participating in an approved training or employment-related activity for a total of 20 hours per week, if living in a teen structured living program is meeting the requirements found in 106 CMR 703.181 and 703.183(A)(3); and
- (2) resides in one of the following living arrangements:
  - (a) residing with one of the following responsible adults:
    - 1. his or her parents;
    - 2. an adult 20 years of age or older who meets the relationship requirement (*see* 106 CMR 703.310) for the teen parent;
    - 3. an adult 20 years of age or older who meets the relationship requirement (*see* 106 CMR 703.310) for the dependent child, except that in the case of an unmarried teen parent, the other parent of the dependent child will not meet the requirements of 106 CMR 703.180;
    - 4. an approved foster parent; or
    - 5. a legal guardian who is not the other parent of the dependent child;
  - (b) in a teen structured living program (*see* 106 CMR 703.183); or

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(c) on his or her own when the Department determines he or she has the necessary educational and vocational goals and sufficient independent living skills and parenting skills (*see* 106 CMR 703.184).

106 CMR 703.180 apply whether the teen parent is a grantee, a dependent child, or excluded from the assistance unit (*see* 106 CMR 704.305(A)(5)).

703.181: TAFDC Teen Parent School Attendance [Note: 106 CMR 703.181 was formerly found at 106 CMR 203.610]

(A) Requirements.

(1) A teen parent must:

- (a) be a high school graduate;
- (b) be a graduate of a High School Equivalency Testing (HiSET) program;
- (c) be a full-time student not beyond high school (which may include an approved alternative education program); or
- (d) be a full-time student in a HiSET program and participate in an approved training or employment-related activity for 20 hours per week, or, if living in a teen structured living program, meeting those requirements (*see* 106 CMR 703.183(A)(3)).

(2) A teen parent described in 106 CMR 703.181(A)(1)(c) or (d) must meet the Employment Services Program requirements found at 106 CMR 707.110: *Completion of an Employment Development Plan (EDP)* and 707.140: *Educational Component*.

(3) A teen parent shall be provided with child care by a referral from the Department. If child care is not available, the teen parent will be exempt from 106 CMR 703.181(A)(1)(c) and (d).

(4) Failure by a teen parent to meet the school attendance requirements will result in a sanction for the teen parent and his or her dependent child unless good cause exists in accordance with 106 CMR 701.380: *Good Cause Criteria*.

(a) For the first failure the grant will be reduced by an amount equal to the teen parent's portion of the grant.

(b) If the failure continues beyond 30 days, as well as for subsequent failures, the teen parent and his or her dependent child will be ineligible for a TAFDC grant.

1. If the teen parent and his or her dependent child is sanctioned, the child's other parent, living with the teen parent and child, may constitute an assistance unit of one, if otherwise eligible.

2. If a teen parent and his or her dependent child is sanctioned, the mother of the teen parent, living with the teen parent and his or her dependent child, may constitute an assistance unit of one, if otherwise eligible.

(5) A teen parent who is ineligible in accordance with 106 CMR 703.181(A)(4) may have his or her TAFDC reopened (*see* 106 CMR 707.205: *Restoration of TAFDC Benefits and ESP Participation*).

(6) A teen parent is not subject to these requirements for three months following the birth of his or her child.

(B) Verifications.

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

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

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

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- (4) Verification of full-time participation in a HiSET program shall be by a written statement from the educational provider stating that the program will lead to a high school diploma or equivalency and verifying the teen parent's full-time attendance.
- (5) Verification of participation in an approved training or employment-related activity shall be by a method specified by the Department.

703.182: TAFDC Teen Parent Living with Responsible Adult

(A) Requirements.

- (1) Except as stated in 106 CMR 703.183 and 703.184, a teen parent and his or her dependent child must reside in one of the living arrangements cited in 106 CMR 703.180(A)(2).
- (2) A teen parent younger than 18 years old:
  - (a) must be included in the parent's assistance unit when the parent receives TAFDC for siblings and/or half siblings of the teen parent; and
  - (b) will have his or her financial eligibility determined in accordance with 106 CMR 704.236: *Income from the Parent(s) of a Teen Parent Younger than 18 Years Old for TAFDC.*

(B) Verifications.

- (1) Verification of relationship shall be in accordance with 106 CMR 703.310.
- (2) Verification of the living arrangement with an adult relative 20 years of age or older or a legal guardian shall be a written statement from the adult relative or legal guardian.
- (3) Verification of legal guardianship shall be a copy of the legal document that verifies the arrangement.
- (4) Verification of an approved foster care placement shall be a written statement from the appropriate social service agency.

703.183: TAFDC Teen Parent Structured Residential Setting [Note: 106 CMR 703.183 was formerly found at 106 CMR 203.630]

(A) Requirements.

- (1) A teen parent must reside in a teen structured living program when the teen is not living with one of the people cited in 106 CMR 703.180(2) or cannot live alone as defined in 106 CMR 703.184 and the teen parent asserts that he or she cannot live in the home of his or her parents because abuse, neglect, substance abuse/addiction, or some other extraordinary circumstance is present and is confirmed by the Department and the Department of Children and Families (DCF); and

The pregnant teen may reside in a teen structured living program at any time during her pregnancy.
- (2) A teen parent placed in a teen structured living program must pay a portion of his or her assistance grant for program fees. The amount is determined by the teen structured living program.
- (3) The minimum obligations of a teen structured living program are as follows:
  - (a) require a teen parent to enroll and make acceptable progress in a school not beyond high school or a HiSET program unless he or she has a high school diploma or a HiSET certificate;
  - (b) require a teen parent to participate in basic parenting skills, basic life skills classes, and pregnancy prevention classes;
  - (c) provide necessary rules and regulations to promote stability; and
  - (d) provide regular counseling sessions to enhance the teen parent's self-esteem.

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



703.184: TAFDC Teen Parent Living Independently

(A) Requirements. The Department may determine that a teen parent may live on his or her own if he or she has the necessary educational and vocational goals and acquired sufficient independent living skills and parenting skills. A teen parent may live independently if he or she is:

- (1) married and living with his or her spouse; or
- (2) unmarried, or married and living apart from his or her spouse; and
  - (a) if younger than 18 years old, the Department of Children and Families (DCF) confirms that there is no known reason the teen parent cannot live independently, that the teen parent is a graduate of a DCF independent living program, and the teen parent is:
    1. a graduate of high school;
    2. a graduate of a HiSET program;
    3. attending school full-time not beyond high school; or
    4. attending a full-time HiSET program and participating in an approved training or employment-related activity for a total of 20 hours per week.
  - (b) if 18 or 19 years of age, and is:
    1. a graduate of high school;
    2. a graduate of a HiSET program;
    3. attending school full-time not beyond high school; or
    4. attending a full-time HiSET program and participating in an approved training or employment-related activity for a total of 20 hours per week; or
  - (c) if 17 years of age, DCF or a DCF vendor has assessed both the home of the teen's parents and the teen's current living situation and finds that the teen parent cannot return to the parent's home, and the current living environment poses no apparent health or safety risks to the teen parent or his or her dependent child.

DCF shall make this determination based on the following:

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

The DTA Commissioner or designee will review the recommendation of DCF and approve or deny the independent living arrangement of the teen parent.

(B) Verifications.

- (1) Verification of marriage shall be a license or certificate of marriage.
- (2) Verification that there is no known reason the teen parent younger than 18 years old cannot live independently and graduation from a DCF independent living program shall be by a written statement from DCF.
- (3) Verification of school attendance and graduation from high school shall be in accordance with 106 CMR 703.181.
- (4) Verification of graduation from a HiSET program shall be a copy of the certificate attesting to completion of the HiSET program.
- (5) Verification of participation in an approved training or employment-related activity shall be by a method determined by the Department.
- (6) Verification of 106 CMR 703.184(A)(2)(c) is the responsibility of DCF. DCF must submit to the DTA Commissioner or designee, written statements from:
  - (a) the principal of the school or the HiSET vendor that state the teen parent is making satisfactory progress toward a diploma or certificate program, or that the teen parent is a high school graduate or a graduate of a HiSET program;

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- (b) the DCF case worker, if the teen parent is an open DCF case, that the teen parent should be permitted to live on his or her own rather than in a structured living program;
- (c) the DCF case worker that the teen parent has an established, stable, quality child care arrangement; and
- (d) the teen parenting program that it agrees that the teen parent should be able to live on his or her own.

703.190: TAFDC Disability Exemption Process

(A) Requirements.

- (1) For a parent to be considered disabled for TAFDC purposes, his or her medical impairment must meet or equal the Social Security Disability standards in accordance with 20 CFR Part 416, Subpart I (the Social Security Disability standard), or meet or equal the Social Security Disability standard except that the medical impairment must only have lasted or is expected to last for a continuous period between 90 days and 12 months.
- (2) The applicant or client must apply for Social Security Disability benefits in accordance with 106 CMR 702.710: *SSI and SSP Benefits*: SSI Benefits and appeal any denials at the Social Security Administration, if requested to by the Department.

(B) Disability Determination Process. The determination of whether a parent meets the definition of disability as defined above shall be made by the agency or organization under contract/agreement with the Department to provide disability evaluation services (hereafter referred to as the Department's agent).

(C) Cooperation in the Disability Determination Process.

- (1) An applicant or client is responsible for establishing that he or she is disabled. The Department shall assist the applicant or client in obtaining the necessary information and may require the applicant or client to attend an exam by the Department's agent.
  - (a) The applicant or client must provide the Department with:
    - 1. a description of his or her impairments and a list of his or her medical providers; and
    - 2. information regarding the vocational factors used in determining the Social Security Disability standard.
  - (b) If an applicant or client, without good cause, does not appear for a scheduled medical examination, does not provide required medical releases, or otherwise does not cooperate in the disability determination process, the Department's agent shall make a determination of disability based only on the information received from the applicant or client and other available sources.
 

Religious or personal reasons opposing medical examinations or tests do not constitute good cause.
- (2) The Department and, if applicable, its agents, shall take reasonable steps to assist applicants and clients in obtaining information necessary to make a determination.
  - (a) The worker and/or agent of the Department is responsible for assisting the applicant or client in completing the Disability Supplement when, after inquiry by the worker, such assistance is requested.
  - (b) The Department's agent is responsible for:
    - 1. gathering the information needed to make a disability determination by contacting any physician, psychologist, and/or hospital identified by the applicant or client, to obtain information on any impairment that may potentially affect the applicant's or client's ability to work provided such impairments have been identified by the applicant or recipient or is otherwise evident in the record; and

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2. arranging for a competent medical authority (*see* 106 CMR 701.600: *Definition of Terms*) to examine the applicant or client for additional information or tests, as necessary, to clarify incomplete or ambiguous information submitted to the Department by a competent medical authority as defined in 106 CMR 701.600.

(D) When the Department's agent must make a determination, it shall determine whether the applicant or client has an impairment or combination of impairments that meets or is equivalent to the disability standards found at 106 CMR 703.190.

(E) The Department's agent shall make a determination that an applicant or client is not disabled only if:

- (1) the agent has considered all clinical or vocational evidence submitted by the applicant or client or obtained by the Department. The Department shall consider a test and diagnosis done more than 30 days prior to the completion of the applicant's or client's Disability Supplement if it is still relevant to the applicant's or client's current impairments; and
- (2) the clinical information available establishes that one or more of the findings needed to meet the applicable medical standard is not satisfied and additional clinical information would not enable the applicant or client to meet the medical standard.

(F) When an applicant or client makes a first claim for a disability exemption (*see* 106 CMR 703.100) within a continuous 60-month period, disability is presumed. The applicant or client will be considered exempt until the Department's agent makes its determination. If the agent finds that the applicant or client is not disabled, the exemption will end.

(G) When an applicant, who has previously been denied by the Department's agent, makes another claim of disability within a continuous 60-month period; and

- (1) the applicant has used 24 months of time-limited benefits (*see* 106 CMR 703.120), eligibility must be established using the verification described in 106 CMR 701.380(B)(7).
  - (a) If the applicant is requesting a time-limited benefits extension (*see* 106 CMR 703.130), the verification described in 106 CMR 701.380(B)(7) may also be used to excuse the applicant from meeting the work activities related to qualifying for a time-limited benefits extension.
  - (b) If the applicant is not requesting a time-limited benefits extension, the verification described in 106 CMR 701.380(B)(7) may be used to excuse the applicant from meeting the work program requirement (*see* 106 CMR 703.150), if applicable;
- (2) the applicant has not used 24 months of time-limited benefits, the verification at 106 CMR 701.380(B)(7) may be used to excuse the applicant from meeting the work program requirement (*see* 106 CMR 703.150), if applicable.

If the verification described in 106 CMR 701.380(B)(7) is provided, eligibility for TAFDC will be presumed but the applicant will not be considered exempt under 106 CMR 703.100. The final disability determination will be made by the Department's agent. The length of this good cause period will be determined by the specified verification until the final disability determination is made by the Department's agent.

(H) When a client, who has been previously denied by the Department's agent, makes another claim of disability within a continuous 60-month period (*see* 106 CMR 703.120); and

- (1) the client has used 24 months of time-limited benefits (*see* 106 CMR 703.130), the verification described in 106 CMR 701.380(B)(7) may be used to excuse the client from meeting the work activities related to qualifying for a time-limited benefits extension; or
- (2) the client has not used 24 months of time-limited benefits (*see* 106 CMR 703.120), the verification described in 106 CMR 701.380(B)(7) may be used to excuse the client from meeting the work program requirement, if applicable.

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If the verification described in 106 CMR 701.380(B)(7) is provided, eligibility for TAFDC will be presumed but the applicant will not be considered exempt under 106 CMR 703.100. The final disability determination will be made by the Department's agent. The length of this good cause period will be determined by the specified verification until the final disability determination is made by the Department's agent.

(I) The decision of the Department's agent as to whether an applicant or client is disabled shall also be the decision of the Department. A Department hearings referee may affirm, modify or reverse the finding of the agency or organization providing disability evaluation services.

703.191: EAEDC Disability Process

(A) An EAEDC applicant or client younger than 65 years old is disabled if he or she has an impairment or combination of impairments that is expected to last 60 days or more and that substantially reduces or eliminates the applicant's or client's ability to support himself or herself.

An applicant or client shall be considered as having such an impairment or combination of impairments if he or she:

(1) has an impairment or combination of impairments verified by a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*, on a medical report prescribed by the Department, which meets the requirements of 106 CMR 703.191(D). The competent medical authority and the agency or organization under contract/agreement with the Department to provide disability evaluation services (hereafter referred to as the Department's agent), when required, determines that the impairment:

- (a) meets a standard as specified in 106 CMR 703.192;
- (b) is included in the SSI Listing of Impairments as specified in 20 CFR, Part 404, Subpart P, Appendix 1; or
- (c) substantially reduces or eliminates the applicant's or client's ability to support himself or herself when consideration is given to the vocational factors as specified in 106 CMR 703.193; or

(2) has written notification from SSA or an administrative law judge that he or she is considered disabled for purposes of SSI or SSDI and/or that he or she is eligible for SSI or SSDI. However, this provision does not apply to those who are not currently receiving SSI or SSDI payments due to the recoupment of an overpayment by SSA. Such person is not eligible for EAEDC.

(B) An EAEDC applicant or client must apply for SSI and cooperate in the SSI application and/or appeal process when required by the Department or the Department's agent.

(C) An EAEDC client must submit verifications at times determined by the Department and/or the Department's agent of his or her:

- (1) disability as defined in 106 CMR 703.191(A)(1) from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*; or
- (2) being determined disabled for purposes of SSI or SSDI as specified in 106 CMR 703.191(A)(2).

(D) The medical report required by 106 CMR 703.191(A)(1) must be completed within 30 days of providing it to the Department and must be based on an examination conducted within the preceding 30 days from completion unless:

- (1) the medical report is for an applicant; and
- (2) the impairments listed are chronic and no improvement could be expected.

(E) The Department's agent shall make the determination of disability for EAEDC eligibility except when:

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- (1) a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* verifies that the applicant or client has an impairment or combination of impairments that:
    - (a) is expected to last at least 60 days but not more than 90 days; and
    - (b) meets or is equivalent to a medical standard defined in 106 CMR 703.192 or impairment included in the SSI Listing of Impairments.
  - (2) the applicant's or client's medical report is not completed by a competent medical authority, is not completed within 30 days of filing with the Department, or is not based on an examination conducted within 30 days from completion as required by 106 CMR 703.191(D);
  - (3) a competent medical authority verifies that the EAEDC applicant or client does not have an impairment that affects his or her ability to work and/or that the applicant's or client's impairment or combination of impairments is not expected to last for 60 days or more; or
  - (4) the applicant or client verifies that he or she is eligible for SSI or SSDI or considered disabled for purposes of SSI or SSDI (*see* 106 CMR 703.191(A)(2)).
- (F) If a disability determination by the Department's agent is:
- (1) required and the competent medical authority states that the applicant or client meets a medical standard, SSI Listing of Impairments, or has an impairment affecting his or her ability to work, and if otherwise eligible, the applicant or client shall receive EAEDC benefits pending a review by the Department's agent; or
  - (2) not required because of 106 CMR 703.191(E), the EAEDC applicant or client shall be considered disabled upon giving the Department the necessary medical report or verifications and shall receive EAEDC benefits if otherwise eligible.
- (G) When the Department's agent is required to make a disability determination (*see* 106 CMR 703.191(E)), it shall determine in the order listed whether the applicant or client has an impairment or combination of impairments that:
- (1) meets the MassHealth disability standards;
  - (2) meets or is equivalent to a medical standard specified in 106 CMR 703.192;
  - (3) does not meet a medical standard specified in 106 CMR 703.192, but meets or is equivalent to an impairment included in the SSI Listing of Impairments; or
  - (4) neither meets nor is equivalent to a medical standard specified in 106 CMR 703.192 or an impairment included in the SSI Listing of Impairments, but the impairment, or combination of impairments, substantially reduces or eliminates the applicant's or client's ability to support himself or herself when consideration is given to the vocational factors specified in 106 CMR 703.193.
- In making the determination in 106 CMR 703.191(G)(4), the impairment, or combination of impairments, shall not be compared to the medical standards specified in 106 CMR 703.192 or the SSI Listing of Impairments. The determination shall be based on the applicant's or client's functional capacity and his or her ability to do work in light of the vocational factors as specified in 106 CMR 703.193.
- (H) The Department's agent shall make a determination that an applicant or client is not disabled only if:
- (1) the agent has considered all evidence submitted by the applicant or client and/or obtained by the Department (*see* 106 CMR 702.315(B)(2)). The Department shall consider a test completed and diagnosis made more than 30 days prior to the completion of the applicant's or client's medical report if it is still relevant to his or her current impairments;
  - (2) the clinical information available establishes that one or more of the findings required to meet or equal the applicable medical standard or the SSI listed impairment, is not satisfied and additional clinical information would not enable the applicant or client to meet or equal the applicable medical standard or the SSI listed impairment; and

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(3) a vocational determination of not disabled is made pursuant to 106 CMR 703.193. In making this determination, the Department's agent shall rely on the functional capacity assessment made by the competent medical authority who completed the applicant's or client's medical report unless:

- (a) the assessment is inconsistent with the clinical findings or the clinical findings are not sufficient to make this determination; or
  - (b) the assessment is inconsistent with the statements made by the applicant or client.
- In either of these situations, the Department's agent shall obtain whatever additional information is needed to determine the applicant's or client's functional capacity.

(I) When an applicant, who has previously been denied by the Department's agent, makes another claim of disability, an eligibility determination shall be completed:

- (1) when the Department's agent makes a decision on this new disability claim; or
- (2) if such a determination is not made in time to allow initial benefits to be provided within 30 days of the date of application, a presumptive finding of eligibility based on the disability shall be made pending the decision from the Department's agent.

(J) When a client who has been previously denied by the Department's agent, makes another claim of disability within a continuous 60-month period, the eligibility determination shall be based on the applicant or client not being disabled, pending a decision by the Department's agent.

(K) The decision of the Department's agent as to whether an applicant or client is disabled shall be the decision of the Department. A Department hearings referee may affirm, modify or reverse the finding of the agency or organization providing the disability evaluation services.

703.192: EAEDC Medical Standards(A) Musculoskeletal System.

(1) Arthritis of Any Major Joint (Hips, Knees, Hands or Feet). Arthritis of any major joint must be substantiated by:

- (a) the presence of three or more of the following clinical findings lasting for more than 15 days and expected to last for at least 30 days:
  - 1. pain;
  - 2. swelling;
  - 3. tenderness;
  - 4. warmth;
  - 5. redness;
  - 6. stiffness; or
  - 7. limitation of motion; and
- (b) corroboration of the diagnosis by at least two of the following:
  - 1. positive serologic test for rheumatoid factor; or anti-nuclear antibody or HLAB antigen;
  - 2. elevated sedimentation rate;
  - 3. positive joint fluid culture;
  - 4. elevation of white blood count;
  - 5. significant anatomical deformity; or
  - 6. x-ray evidence of significant joint space narrowing or bony destruction.

(2) Disorders of the Spine. Disorders of the spine must be demonstrated by one of the following:

- (a) x-ray evidence of significant arthritic changes manifested by ankylosis, or fixation, or motion limitation (objective);

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- (b) Bone density evidence of significant osteoporosis manifested by pain and real motion limitation;
  - (c) evidence of other vertebragenic disorders (*e.g.*, herniated nucleus pulposus or spinal stenosis), with:
    - 1. pain and significant limitation of motion in the spine; and
    - 2. appropriate radicular distribution of significant sensory, motor, or flex abnormalities; or
  - (d) evidence of acute back strain with pain and significant limitation of motion lasting more than 15 days and expected to last for at least 30 days.
  - (3) Fracture of a Major Bone. When solid union has not occurred and incapacity is expected to last for at least 30 days.
  - (4) Soft Tissue Injuries or Loss. Soft tissue injuries or loss, including burns, must be demonstrated by one of the following, which lasts more than 15 days and can be expected to last for at least 30 days:
    - (a) significant loss which prohibits function of an upper or lower extremity;
    - (b) significant body surface involvement; or
    - (c) involvement of critical areas such as hands and feet that prevents their use.
- (B) Special Senses and Speech.
- (1) Impairment of Central Visual Acuity. Remaining vision in the better eye after best correction must be 20/100 or less and must be expected to last for at least 30 days.
  - (2) Contraction of Peripheral Visual Fields. Contraction of peripheral visual fields in the better eye must be:
    - (a) to 20° or less from point of fixation;
    - (b) so the widest diameter subtends an angle no greater than 25°; or
    - (c) to 25% or less visual field efficiency; and
 must be expected to last at least 30 days.
  - (3) Hearing Impairments. Hearing must not be restorable by a hearing aid, and the impairment must be manifested by one of the following:
    - (a) average hearing threshold sensitivity for air conduction of 90 decibels or greater; and for bone conduction to corresponding maximal levels, in the better ear, determined by the simple average of hearing threshold levels at 500, 1000, and 2000 Hz; or
    - (b) speech discrimination scores of 40% or less in the better ear; and must be expected to last for at least 30 days.
  - (4) Disturbance of Labyrinthine-vestibular Function. Disturbance of labyrinthine-vestibular function (including Meniere's disease) must be demonstrated by one or more attacks of balance disturbance and tinnitus within the 30-day period immediately preceding application for EAEDC. The symptoms must persist for at least 30 days and affect daily functions and the diagnosis must be corroborated by:
    - (a) hearing loss established by audiometry; or
    - (b) standard vestibular test (ENG) with or without hearing loss established by audiometry.
- (C) Respiratory System.
- (1) Chronic Obstructive Airway Disease. Spirometric evidence of airway obstruction must be demonstrated by maximum voluntary ventilation (MVV) and one-second forced expiratory volume (FEV1) with both values equal to or less than those specified in Table I, corresponding to height and expected to last for at least 30 days.

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Table I

Height (inches)	MVV equal to or less than (L/Min)	And	FEV1 equal to or less than (L)
57 or less	42		1.5
58	43		1.5
59	44		1.5
60	45		1.6
61	46		1.6
62	47		1.6
63	48		1.6
64	49		1.7
65	50		1.7
66	51		1.7
67	52		1.8
68	53		1.8
69	54		1.8
70	55		1.9
71	56		1.9
72	57		1.9
73 or more	58		1.9

- (2) Diffuse Pulmonary Fibrosis. Diffuse pulmonary fibrosis due to any cause must be demonstrated by both of the following, and expected to last for at least 30 days:
- (a) Total vital capacity (VC) must be equal to or less than the values specified in Table II, corresponding to height; and

Table II

Height or less than (inches)	VC equal to (L)
57 or less	1.7
58	1.8
59	1.8
60	1.9
61	1.9
62	2.0
63	2.0
64	2.1
65	2.1
66	2.2
67	2.2
68	2.3
69	2.3
70	2.4
71	2.4
72	2.5
73 or more	2.5



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(b) Arterial oxygen tension (po2) at rest and simultaneously determined arterial carbon dioxide tension (PCO2) values must be equal to or less than those specified in Table III.

Table III

Arterial pco2 (mm Hg)	Arterial po2 equal to or less than (mm Hg)
30 or below	75
31	74
32	73
33	72
34	71
35	70
36	69
37	68
38	67
39	66
40 or above	65

(3) Other Restrictive Ventilatory Disorders. Other restrictive ventilatory disorders (such as kyphoscoliosis, thoracoplasty, and pulmonary resection) must be substantiated by total vital capacity (VC) equal to or less than the values specified in Table IV, corresponding to height and expected to last at least 30 days.

Table IV

Height (inches)	VC equal to or less than (L)
59	1.5
60	1.6
61	1.6
62	1.6
63	1.6
64	1.7
65	1.7
66	1.7
67	1.8
68	1.8
69	1.8
70	1.9

(4) Active Pulmonary Tuberculosis. Active pulmonary tuberculosis must be corroborated by either:

- (a) positive culture; or
- (b) x-ray evidence of increasing lesions or cavitation; and expected to last at least 30 days.

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(5) Other Respiratory Disorders. Other respiratory disorders must be shown by the presence of at least two of the following 106 CMR 702.192(C)(5)(a), (b), or (c) for more than 15 days and expected to last at least 30 days:

- (a) shortness of breath, wheezing, rhonchi, rales, cough, or fever;
- (b) significant x-ray changes; or
- (c) significant laboratory abnormalities.

(D) Cardiovascular System.

(1) Open Heart Surgery. The period of incapacity will be expected to last at least 30 days and meet the criteria in 106 CMR 703.192(D)(3) or (4).

(2) Ischemic Heart Disease.

(a) Ischemic heart disease, with chest pain of cardiac origin, must be corroborated by one of the following:

- 1. significantly diminished exercise tolerance corroborated by results of ETT;
- 2. significant ischemic changes on resting EKG;
- 3. EKG evidence of myocardial infarction at some time and symptoms if EKG evidence is more than six months old;
- 4. development of significant arrhythmia;
- 5. angiographic evidence (obtained independently) of coronary artery disease; or
- 6. development of left bundle branch block.

(b) If ischemic heart disease is ruled out after an extensive work-up the period of incapacity will be 90 days if:

- 1. symptoms lasted at least 15 days; or
- 2. substantial work activity is precluded by a physician's orders for at least 90 days.

(3) Congestive Heart Failure. Congestive heart failure must be manifested by evidence of vascular congestion such as hepatomegaly, or peripheral or pulmonary edema, with either of the following present, and expected to last at least 30 days.

- (a) evidence of congestive heart failure on clinical examination; or
- (b) significant x-ray or EKG changes.

(4) Arteriosclerosis Obliterans or Thromboangiitis. Arteriosclerosis obliterans or thromboangiitis must be substantiated by both:

- (a) intermittent claudication; and
- (b) absence of peripheral arterial pulsations below the knee; and be expected to last for at least 30 days.

(5) Venous Insufficiency of the Lower Extremity. Venous insufficiency of the lower extremity must be expected to last at least 30 days and be associated with two or more of the following:

- (a) varicosities;
- (b) brawny edema;
- (c) stasis dermatitis; and
- (d) ulceration

(E) Digestive System. Impairments affecting the digestive system that are considered incapacitating are listed:

(1) Gastrointestinal Disorders.

(a) Gastrointestinal disorders must be substantiated by the presence of three or more of the following symptoms lasting more than seven days and expected to last at least 30 days:

- 1. pain;
- 2. nausea;
- 3. vomiting;
- 4. diarrhea;

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- 5. bloody stools; or
- 6. abdominal distension.

(b) Gastrointestinal disorders expected to last more than 90 days must demonstrate the presence of clinical findings under of significant pathology demonstrated by x-ray, endoscopy, barium enema, biopsy, or other objective criteria; or the presence of one of the following:

- 1. abscess or fistula formation;
- 2. hematocrit of 30% or less;
- 3. serum albumin of 3.0 g per deciliter (100 ml) or less;
- 4. serum calcium of 8.0 mg per deciliter;
- 5. fat in stool of 7.0 m or greater per 24-hour specimen;
- 6. nitrogen in stool of 3.0 g or greater per 24-hour specimen;
- 7. evidence of pancreatic dysfunction; or
- 8. systemic manifestations such as arthritis, iritis, or liver dysfunction not attributable to other causes.

(2) Diseases of the Liver.

(a) Acute Hepatitis (Viral A, B, Non-A, Non-B). Incapacity expected to last more than 90 days must meet the criteria in 106 CMR 703.192(E)(2)(b).

(b) Chronic Liver Disease. Chronic liver diseases (portal, postnecrotic, or biliary cirrhosis, chronic active hepatitis, Wilson’s disease) must be substantiated by a history of significant and unresolved hyperbilirubinemia, ascites due to hypoalbuminemia, or mental confusion lasting more than 15 days and expected to last at least 30 days; or if the impairment persists is expected to last more than 90 days and is accompanied by confirmation of liver disease by liver biopsy and demonstration (clinical) of two of the following:

- 1. bleeding from esophageal varices; or
- 2. hepatic cell necrosis or inflammation;
- 3. hepatic encephalopathy.

(3) Weight Loss. Weight loss due to any gastrointestinal disorder must be substantiated by weight equal to or less than the values specified in Table V (for men) or Table VI (for women), corresponding to height and expected to last at least 30 days.

Table V — Men		Table VI — Women	
Height (inches)	Weight (pounds)	Height (inches)	Weight (pounds)
61	95	61	82
62	98	62	84
63	100	63	87
64	103	64	89
65	106	65	92
66	109	66	94
67	112	67	97
68	116	68	100
69	119	69	104
70	122	70	107
71	126	71	111
72	129	72	114
73	133	73	117
74	136	74	121
75	139	75	124
76	143	76	128

Weight loss which continues for more than 90 days despite treatment and proper nutrition, must meet the criteria in 106 CMR 703.192(E)(1) or (2)(b).

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(F) Genitourinary System.

Impairment of Renal Function. Impairment of renal function due to any cause must be substantiated by one of the following, which lasts more than 15 days and can be expected to last at least 30 days:

- (1) elevation of serum creatinine;
- (2) hematocrit of 30% or less;
- (3) renal osteodystrophy manifested by bone pain and appropriate radiographic abnormalities;
- (4) documented fluid overload syndrome;
- (5) anorexia;
- (6) hemodialysis or peritoneal dialysis; or
- (7) proteinuria.

(G) Hemic and Lymphatic Systems.

- (1) Anemia. Anemia must be substantiated by one of the following:

- (a) hematocrit of 30% or less if, acute or not tolerated; or
- (b) one or more blood transfusions required within the 30-day period immediately preceding application for EAEDC, and the incapacity is expected to last at least 30 days.

- (2) Sickle Cell Disease. Sickle cell disease or one of its variants must be substantiated by a documented painful thrombotic crisis within the 30 day period immediately preceding application for EAEDC; and expected to last for at least 30 days.

- (3) Hemorrhage. Hemorrhage due to any traumatic or nontraumatic cause must be substantiated by one or more blood transfusions required within the 30-day period immediately preceding application for EAEDC.

(H) Skin. All skin disorders and infections that last more than 15 days and that can be expected to last for at least 30 days will possibly be considered incapacitating when one of the following is present:

- (1) Involvement of extensive body areas; or
- (2) Involvement of critical areas such as hands, feet, axillae, perineum, or face.

(I) Endocrine System. Diabetes mellitus must be substantiated by one of the following:

- (1) Peripheral neuropathy manifested by decreased sensation and loss of vibration and positional sense;
- (2) Significant visual impairment according to the criteria in 106 CMR 703.192(B)(1) and (2), Special Senses and Speech;
- (3) Amputation due to diabetic necrosis or peripheral vascular disease; or
- (4) A documented episode of acidosis within the 30-day period immediately preceding application for EAEDC, and the incapacity is expected to last for at least 30 days.

(J) Multiple Body Systems.

- (1) Lupus Erythematosus. Disseminated lupus erythematosus must be established by a positive LE preparation or biopsy or positive ANA test. Exacerbation (involving renal, cardiac, pulmonary, gastrointestinal, or central nervous systems) must have occurred within the 30-day period immediately preceding application for EAEDC, and have lasted more than 15 days and be expected to last for at least 30 days.

- (2) Obesity. Obesity must be substantiated by weight equal to or greater than the values specified in Table VII for males or Table VIII for females and one of the following:

- (a) a history of significant pain and limitation of motion in any weight-bearing joint or the spine;
- (b) significant hypertension;
- (c) a history of significant cardiovascular difficulties;

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- (d) chronic venous insufficiency with pain or superficial varicosities; or
  - (e) significant respiratory difficulties; and
- The incapacity is expected to last for at least 30 days.

Table VII — Men		Table VIII — Women	
Height (inches)	Weight (pounds)	Height (inches)	Weight (pounds)
60	246	56	208
61	252	57	212
62	258	58	218
63	264	59	224
64	270	60	230
65	276	61	236
66	284	62	242
67	294	63	250
68	302	64	258
69	310	65	266
70	318	66	274
71	328	67	282
72	336	68	290
73	346	69	298
74	356	70	306
75	364	71	314
76	374	72	322

- (K) Neurological System.
- (1) Central Nervous System Vascular Accident. The period of incapacity is expected to last for at least 30 days and two of the following persists:
- (a) ineffective speech or communication;
  - (b) significant disorganization of motor function in one or more extremities interfering with locomotion or use of fingers, hands and arms; and
  - (c) significant mental status abnormalities.
- (2) Epilepsy. Major motor seizures (or partial complex), documented by EEG and by clinically detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once a month, in spite of at least one month of prescribed treatment; expected to last at least 30 days with:
- (a) Daytime episodes (loss of consciousness and convulsive seizures); or
  - (b) Nocturnal episodes manifesting residuals which interfere significantly with activity during the day.
- (3) Epilepsy. Minor seizures (*petit mal*, psychomotor, or focal), documented by EEG and by detailed description of a typical seizure pattern, including all associated phenomena; occurring more frequently than once weekly in spite of at least one month of prescribed treatment: with alteration of awareness or loss of consciousness and transient postictal manifestations of unconventional behavior or significant interference with activity during the day; and expected to last for at least 30 days.
- (4) Parkinsonian Syndrome. This must include the following signs: significant rigidity; bradykinesia, or tremor in two extremities or one, if in dominant hand with significant loss of dexterity which, singly or in combination, result in sustained disturbance of gross and dexterous movements, or gait and station; and expected to last for at least 30 days.

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- (5) Spinal Cord or Nerve Root Lesions. This must be due to any course with disorganization of motor function expected to last for at least 30 days with significant and persistent disorganization of motor function in a single extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station.
- (6) Multiple Sclerosis. With disorganization of motor function expected to last for at least 30 days with:
  - (a) significant and persistent disorganization of motor function in two extremities, or one dominant upper extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station; or marked motor fatiguability;
  - (b) impairment of central visual acuity. Remaining vision in the better eye after best correction must be 20/100 or less and must be expected to last at least 30 days.
  - (c) contraction of peripheral visual fields. Contraction of peripheral vision fields in the better eye that is expected to last at least 30 days must be:
    - 1. To 20° or less from the point of fixation; or
    - 2. So the widest diameter subtends an angle no greater than 25°; or
    - 3. To 25% or less visual field efficiency; or
- (7) Myasthenia Gravis. This must be expected to last for at least 30 days with:
  - (a) significant difficulty with speaking, swallowing, or breathing while on prescribed therapy; or
  - (b) significant motor weakness of muscles of extremities on repetitive activity against resistance while on prescribed therapy.
- (8) Myotonic Muscular Dystrophy. This must include disorganization of motor function expected to last for at least 30 days with significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station.
- (9) Peripheral Neuropathies. With disorganization of motor function in spite of prescribed treatment expected to last for at least 30 days with significant and persistent disorganization of motor function in one extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station.
- (10) Subacute Combined Cord Degeneration (Pernicious Anemia). This must include disorganization of motor function as described below not significantly improved by prescribed treatment and expected to last for at least 30 days with:
  - (a) significant and persistent disorganization of motor function in one extremity, resulting in sustained disturbance of gross and dexterous movements, or gait and station; and
  - (b) unsteady, broad-based or ataxic gait causing significant restriction of mobility substantiated by appropriate posterior column signs.
- (11) Cerebral Trauma. Evaluate under the provisions for epilepsy - Major motor, epilepsy - minor motor, cerebral nervous system vascular accident or organic mental disorders.

(L) Mental Disorders.

- (1) The following definitions should be used when referencing 106 CMR 703.192.
  - (a) Need for Medical Evidence. The existence of a medically determinable impairment must be established by medical evidence consisting of clinical signs, symptoms and/or laboratory test findings. These findings may be intermittent or persistent depending on the nature of the disorder. Clinical signs are medically demonstrable phenomena which reflect specific abnormalities of behavior, affect, thought, memory, orientation or contact with reality. These signs are typically assessed by a psychiatrist. Symptoms or complaints are presented by the individual. Signs and symptoms generally cluster together to constitute recognizable clinical syndromes (mental disorders). Both symptoms and signs which are part of any diagnosed mental disorder must be considered in evaluating severity.

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(b) Assessment of Severity. For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Where “marked” is used as a standard for measure the degree of limitation, it means more than moderate, but less than extreme. A marked limitation may arise when several activities or functions are impaired or even when only one is impaired, so long as the degree of limitation is such as to seriously interfere with the ability to function independently, appropriately and effectively.

1. Activities of daily living including adaptive activities such as cleaning, shopping, cooking, taking public transportation, paying bills, maintaining a residence, caring appropriately for one’s grooming and hygiene, using telephones and directories, using a post office, *etc.* In the context of the individual’s overall situation, the quality of these activities is judged by their independence, appropriateness and effectiveness. It is necessary to define the extent to which the individual is capable of initiating and participating in activities independent of supervision or direction.

“Marked” is not the number of activities which are restricted but the overall degree of restriction or combination of restrictions which must be judged.

2. Social functioning refers to an individual’s capacity to interact appropriately and communicate effectively with other individuals. “Marked” is not the number of areas in which social functioning is impaired, but the overall degree of interference in a particular area or combination of areas of functioning.

3. Concentration, persistence and pace refer to the ability to sustain focused attention sufficiently long to permit the timely completion of tasks commonly found in work settings. In activities of daily living, concentration may be reflected in terms of ability to complete tasks in everyday household routines. Deficiencies in concentration, persistence and pace are best observed in work and work-like settings.

4. Documentation. The presence of a mental disorder should be documented primarily on the basis of reports from individual providers, such as psychiatrists, and facilities such as hospitals and clinics. Adequate descriptions of functional limitations must be obtained from these or other sources which may include programs and facilities where the individual has been observed over a considerable period of time.

Information from both medical and nonmedical sources may be used to obtain detailed descriptions of the individual’s activities of daily living; social functioning; concentration, persistence and pace; or ability to tolerate increased mental demands (stress). This information can be provided by programs such as community mental health centers, day care centers, sheltered workshops, *etc.* It can also be provided by others, including family members, who have knowledge of the individual’s functioning. In some cases descriptions of activities of daily living or social functioning given by individuals or treating sources may be insufficiently detailed and/or may be in conflict with the clinical picture otherwise observed or described in the examination or reports. Evidence may include treatment notes, hospital discharge summaries, and work evaluation or rehabilitation progress notes if these are available. It is necessary to resolve any inconsistencies or gaps that may exist in order to obtain a proper understanding of the individual’s functional restrictions.

Some individuals may have attempted to work or may actually have worked during the period of time pertinent to the determination of disability. This may have been an independent attempt at work, or it may have been in conjunction with a community mental health or other sheltered program which may have been of either short or long duration. Information concerning the individual’s behavior during any attempt to work and the circumstances surrounding termination of the work effort are particularly useful in determining the individual’s ability or inability to function in a work setting.

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5. Chronic Mental Impairments. Particular problems are often involved in evaluating mental impairments in individuals who have long histories of repeated hospitalizations or prolonged outpatient care with supportive therapy and medication. Individuals with chronic psychotic disorders commonly have their lives structured in such a way to minimize stress and reduce their signs and symptoms. Such individuals may be much more impaired for work than their signs and symptoms would indicate. The results of a single examination may not adequately describe these individuals' sustained ability to function. It is therefore, vital to include all pertinent and available information relative to the individual's condition, especially at times of increased stress.

6. Effect of Medication. Attention must be given to the effect of medication on the individual's signs, symptoms and ability to function. While psychotropic medications may control certain primary manifestations of a mental disorder, *e.g.*, hallucinations, such treatment may or may not affect the functional limitations imposed by the mental disorder. In such cases where overt symptomatology is attenuated by the psychotropic medications, particular attention should be included on the functional restrictions which may persist. These functional restrictions are important for the measure of impairment severity.

Neuroleptics, the medicines used in the treatment of some mental illnesses, may cause drowsiness, blunted effect, or other side effects involving other body systems. Such side effects must be considered in evaluating overall impairment severity. Where adverse effects of medications contribute to the impairment severity and the impairment does not meet the listings but is nonetheless severe, such adverse effects must be considered in the assessment of the disability.

7. Effect of Treatment. It must be remembered that with adequate treatment some individuals suffering with chronic mental disorders not only have their symptoms and signs ameliorated but also return to a level of function close to that of their premorbid status.

(2) Dementia with or without Delirium. Psychological, cognitive or behavioral abnormalities associated with a dysfunction of the brain. History and physical examination or laboratory tests demonstrate the presence of specific organic factor judges to be etiologically related to the abnormal mental state and loss of previously acquired functional abilities.

The required level of severity for these disorders is met when the requirements in 106 CMR 703.192(L)(2)(a) and (b) are satisfied, and they are expected to last for at least 30 days.

(a) Demonstration of loss of specific cognitive abilities or affective changes and the medically documented persistence of at least one of the following:

1. disorientation to time and place;
2. substantial memory loss impairment;
3. perceptual or thinking disturbances (*e.g.*, hallucinations, delusions);
4. change in personality;
5. disturbance in mood;
6. emotional liability (*e.g.*, explosive temper outbursts, sudden crying, *etc.*) and impairment in impulse control; or
7. loss of measured intellectual ability of at least 15 I.Q. points from premorbid levels or overall impairment index clearly within the moderately to severely impaired range on neuropsychological testing, *e.g.*, the Luria-Nebraska, Halstead-Reitan, *etc.*; and

(b) Resulting in at least one of the following:

1. marked restriction of activities of daily living;
2. marked difficulties in maintaining social functioning;



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3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors).

(3) Schizophrenic, Paranoid and Other Psychotic Disorders. Characterized by the onset of psychotic features with deterioration from a previous level of functioning.

The required level of severity for these disorders is met when the requirements in 106 CMR 703.192(L)(3)(a) and (b) are satisfied, or when the requirements in 106 CMR 703.192(L)(3)(c) are satisfied; and they are expected to last for at least 30 days.

(a) Medically documented persistence, either continuous or intermittent, of one or more of the following:

1. delusions or hallucinations;
2. catatonic or other grossly disorganized behavior;
3. incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:
  - a. blunt affect;
  - b. flat affect; or
  - c. inappropriate affect; or
4. emotional withdrawal and/or isolation; and

(b) Resulting in at least one of the following:

1. marked restriction of activities of daily living; or
2. marked difficulties in maintaining social functioning; or
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors); or

(c) Medically documented history of one or more episodes of acute symptoms, signs and functional limitations which at the time met the requirements in 106 CMR 703.192(L)(3)(a) and (b), although these symptoms or signs are currently attenuated by medication or psychosocial support, and one of the following:

1. repeated episodes of deterioration or decompensation in situations which cause the individual to withdraw from the situation or to experience exacerbation of signs or symptoms (which may include deterioration of adaptive behaviors); or
2. documented current history of two or more years inability to function outside of a highly supportive living situation.

(4) Affective Disorders. Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life, generally involving either depression or elation.

The required level of severity for these disorders is met when the requirements in 106 CMR 703.192(L)(4)(a) and (b) are satisfied, and they are expected to last at least 30 days.

(a) Medically documented persistence, either at least one of the following:

1. depressive syndrome characterized by at least three of the following:
  - a. anhedonia or pervasive loss of interest in almost all activities;
  - b. appetite disturbance with change in weight;
  - c. sleep disturbance;
  - d. psychomotor agitation or retardation;
  - e. decreased energy;
  - f. feelings of guilt or worthlessness;

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- g. difficulty concentrating or thinking;
- h. thoughts of suicide; or
- i. hallucinations, delusions or paranoid thinking; or
- 2. Manic syndrome characterized by at least two of the following:
  - a. hyperactivity;
  - b. pressure of speech;
  - c. flight of ideas;
  - d. inflated self-esteem;
  - e. decreased need for sleep;
  - f. easy distractibility;
  - g. involvement in activities that have a high probability of painful consequences which are not recognized; or
  - h. hallucinations, delusions or paranoid thinking; or
- 3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes); and
- (b) Resulting in at least one of the following:
  - 1. marked restriction of activities of daily living;
  - 2. marked difficulties in maintaining social functioning;
  - 3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in working settings or elsewhere); or
  - 4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors).

(5) Mental Retardation and Autism. Mental retardation refers to a significantly subaverage general intellectual functioning with deficits in adaptive behavior initially manifested during the developmental period (before 22 years of age). (Note: The scores specified in 106 CMR 703.192(L)(5)(a) through (d) refer to those obtained on the WAIS, and are used only for reference purposes. Scores obtained on other standardized and individually administered tests are acceptable, but the numerical values obtained must indicate a similar level of intellectual functioning.) Autism is a pervasive developmental disorder characterized by social and significant communication deficits originating in the developmental period.

The required level of severity for this disorder is met when the requirements in 106 CMR 703.192(L)(5)(a), (b), (c), or (d) are satisfied.

- (a) Mental incapacity evidenced by dependence upon others for personal needs, *e.g.*, toileting, eating, dressing, or bathing, an inability to follow directions, such that the use of standardized measures of intellectual functioning is precluded;
- (b) A valid verbal, performance, or full scale IQ of 59 or less;
- (c) A valid verbal, performance, or full scale IQ of 60 through 69 and a physical or other mental impairment imposing additional and significant work-related limitation of function; or
- (d) A valid verbal, performance, or full scale IQ of 60 through 69 or in the case of autism, gross deficits of social and communicative skills with one of the following:
  - 1. marked restriction of activities of daily living;
  - 2. marked difficulties in maintaining social functioning;
  - 3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
  - 4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration or adaptive behaviors).

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(6) Anxiety Related Disorders. In these disorders, anxiety is either the predominant disturbance or it is experienced if the individual attempts to master symptoms; for example, confronting the dreaded object or situation in a phobic disorder or resisting the obsessions or compulsions in obsessive compulsive disorders.

The required level of severity for these disorders is met when the requirements in 106 CMR 703.192(L)(6)(a) and (b) are satisfied, or when the requirements in 106 CMR 703.192(L)(6)(a) and (c) are satisfied, and the incapacity is expected to last at least 30 days.

(a) Medically documented findings of at least one of the following:

1. generalized persistent anxiety accompanied by two out of four of the following signs or symptoms:
  - a. motor tension;
  - b. autonomic hyperactivity;
  - c. apprehensive expectation; or
  - d. vigilance and scanning; or
2. a persistent irrational fear of a specific object, activity, or situation;
3. recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror and sense of impending doom occurring on the average of at least once a week;
4. recurrent obsessions or compulsions which are a source of marked distress; or
5. recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress; and

(b) Resulting in at least one of the following:

1. marked restriction of activities of daily living;
2. marked difficulties in maintain social functioning;
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behaviors); or

(c) resulting in complete inability to function independently outside the area of one's home.

(7) Psychophysiological Disorders. Physical symptoms for which there are no demonstrable organic findings or known physiological mechanisms.

The required level of severity for these disorders is met when the requirements of 106 CMR 703.192(L)(7)(a) and (b) are satisfied, and the incapacity is expected to last for at least 30 days.

(a) Medically documented by evidence of one of the following:

1. a history of multiple physical symptoms of several years duration, beginning before age 30, that have caused the individual to take medicine frequently, see a physician often and alter life patterns significantly;
2. persistent nonorganic disturbance of one of the following:
  - a. vision;
  - b. speech;
  - c. hearing;
  - d. use of a limb;
  - e. movement and its control (*e.g.*, coordination disturbance, psychogenic seizures, akinesia, dyskinesia); or
  - f. sensation (*e.g.*, diminished or heightened); or
3. Unrealistic interpretation of physical signs or sensations associated with the preoccupation or belief that one has a serious disease or injury; and

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(b) Resulting in two of the following:

1. marked restriction of activities of daily living;
2. marked difficulties in maintaining social functioning;
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation on work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behavior).

(8) Personality Disorders. A personality disorder exists when personality traits are inflexible and maladaptive and cause either significant impairment in social or occupational functioning or subjective distress. Characteristic features are typical of the individual's long term functioning and are not limited to discrete episodes of illness.

The required level of severity for these disorders is met when the requirement of 106 CMR 703.192(L)(8)(a) and (b) are satisfied, and the incapacity is expected to last at least 30 days.

(a) Deeply ingrained, maladaptive patterns of behavior associated with one of the following:

1. seclusiveness or autistic thinking;
2. pathologically inappropriate suspiciousness or hostility;
3. oddities of thought, perception, speech and behavior;
4. persistent disturbances of mood or affect;
5. pathological dependence, passivity, or aggressivity; or
6. intense and unstable interpersonal relationships and impulsive and damaging behavior; and

(b) Resulting in two of the following:

1. marked restriction of activities of daily living;
2. marked difficulties in maintaining social functioning;
3. deficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner (in work settings or elsewhere); or
4. repeated episodes of deterioration or decompensation in work or work-like settings which cause the individual to withdraw from that situation or to experience exacerbation of signs and symptoms (which may include deterioration of adaptive behavior).

(9) Substance Addiction Disorders. Physical changes or behavioral changes associated with the regular use of legal substances that affect the central nervous system when accompanied by an impairment listed elsewhere in these standards.

The required level of severity for these substance addiction disorders is met when the requirements in any of the following disorders in 106 CMR 703.192(L)(9)(a) through (i) are satisfied, and the incapacity is expected to last for at least 30 days.

(a) Organic Mental Disorders. Evaluate under Dementia with or without Delirium (106 CMR 703.192(L)(2)).

(b) Depressive Syndrome. Evaluate under Affective Disorders (106 CMR 703.192(L)(4)).

(c) Anxiety Disorders. Evaluate under Anxiety Related Disorders (106 CMR 703.192(L)(6)).

(d) Personality Disorders. Evaluate under Personality Disorders (106 CMR 703.192(L)(8)).

(e) Peripheral Neuropathies. Evaluate under Neurological System Impairments (106 CMR 703.192(K)).

(f) Liver Damage. Evaluate under Digestive System Impairments (Diseases of the Liver) (106 CMR 703.192(E)(2)).

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- (g) Gastritis. Evaluate under Digestive System Impairments (Diseases of the Liver) (106 CMR 703.192(E)(2)).
  - (h) Pancreatitis. Evaluate under Digestive System Impairments (Gastrointestinal Disorders) (106 CMR 703.192(E)(1)).
  - (i) Seizures. Evaluate under Neurological System Impairments (Epilepsy - Major Motor Seizure and Epilepsy - Minor Motor Seizure) (106 CMR 703.192(K)(2) and (3)).
- (M) Immuno-suppressive Disorders.
- (1) Indicator Diseases Diagnosed Definitively. The required level of incapacity associated with the following is met when the incapacity is expected to last for at least 30 days.
    - (a) Candidiasis of the esophagus, trachea, bronchi, or lungs.
    - (b) Coccidioidomycosis, disseminated (at a site other than or in addition to lungs or cervical or hilar lymph nodes).
    - (c) Cryptococcosis, extrapulmonary.
    - (d) Cryptosporidiosis with diarrhea persisting over one month.
    - (e) Cytomegalovirus disease of an organ other than liver, spleen, lymph nodes in an individual over one month of age.
    - (f) Genital Herpes, chronic, recurrent, wide spread, resistant to therapy.
    - (g) Herpes Simplex virus infection causing a mucocutaneous ulcer that persists longer than one month, or bronchitis, pneumonitis, or esophagitis for any duration affecting an individual over one month of age.
    - (h) HIV Encephalopathy (also called “HIV dementia”, “AIDS dementia”, or “subacute encephalitis due to HIV”).
    - (i) Histoplasmosis, disseminated (at a site other than or in addition to lungs or cervical or hilar lymph nodes).
    - (j) Isoporiasis with diarrhea persisting over one month.
    - (k) Kaposi’s Sarcoma at any age.
    - (l) Leukoencephalopathy, progressive multifocal leukoencephalopathy.
    - (m) Lymphoma of the Brain (primary) at any age.
    - (n) Lymphoid Interstitial Pneumonia and/or Pulmonary Lymphoid Hyperplasia (LIP/PLH complex) affecting a child younger than 13 years old.
    - (o) Any Mycobacterial Disease caused by mycobacteria other than *M. Tuberculosis*, disseminated (at a site other than or in addition to lungs, skin, or cervical or hilar lymph nodes).
    - (p) Pneumocystis Carinii Pneumonia.
    - (q) Pelvic Inflammatory Disease, chronic, recurrent, resistant to therapy.
    - (r) Salmonella (Nontyphoid) septicemia, recurrent.
    - (s) Systemic Toxoplasmosis.
    - (t) Toxoplasmosis of the brain.
    - (u) One of the following with documented HIV infection:
      - 1. Anal Squamous Cell Carcinoma;
      - 2. Invasive Carcinoma of Cervix FIGO stage II or more;
      - 3. Nocardiosis;
      - 4. Non-Hodgkins Lymphoma; or
      - 5. Strongyloidiasis, extra-intestinal.
  - (2) Individuals should be considered to have an impairment that equals the severity of the listings with or without documented evidence of HIV infection and must have the following laboratory and clinical features:
    - (a) A T4 Lymphocyte Count of Less than or Equal to 200 Cells/mm<sup>3</sup> (or 25% or less T4 lymphocytes); or
    - (b) One or more of the following persisting over a two-month period:
      - 1. Anemia (Hematocrit value less than 30%);
      - 2. Granulocytopenia (absolute neutrophil count less than or equal to 1000/mm<sup>3</sup>);

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3. Thrombocytopenia (platelet count less than or equal to 40,000/mm<sup>3</sup>);
  4. Documented Fever (daily greater than or equal to 100.4°F or 38°C);
  5. Undesired Weight loss greater than or equal to 10% of baseline;
  6. Oral Recurrent Candidiasis;
  7. Oral hairy leukoplakia;
  8. Recurrent Herpes Zoster;
  9. Persistent, Unresponsive Diarrhea;
  10. Mucosal (including vulvovaginal candidiasis other than listed in 106 CMR 703.192(M)(1)(a) or new added vulvovaginal conditions);
  11. Persistent dermatological conditions such as Eczema or psoriasis; or
  12. Persistent or recurrent radiographically documented Sinusitis; and
- (c) Interference with activities of daily living resulting in marked restriction of activities such that the individual needs help with most activity including climbing stairs, shopping, cooking and housework.

(N) Neoplastic Diseases - Malignant. Intractable pain, and/or ongoing therapy side effects, disease process or treatment which has caused a disability covered elsewhere in these standards.

(O) Medically Equivalent Impairment(s) and Combinations of Impairments.

- (1) If an applicant or client has an anatomical, physiological or psychological impairment(s) that is not specifically included in the medical standards specified in 106 CMR 703.192(A) through (N) but is documented by medically acceptable clinical and/or diagnostic techniques and is medically equal in severity to a medical standard, the applicant or client shall be considered as having impairment that meets a medical standard for purposes of 106 CMR 703.191. For purposes of determining if an impairment is medically equal in severity to a medical standard, the medical standard that is most closely analogous to the impairment shall be used.
- (2) In making the determination required by 106 CMR 703.192(O)(1), the applicant's or client's description of his or her symptoms (including pain) shall be taken into consideration to the extent that:
  - (a) such symptoms are the result of a physical or mental impairment(s) as defined in 106 CMR 703.192 that is confirmed by acceptable clinical and/or laboratory diagnostic techniques; and
  - (b) such physical or mental impairments could reasonably produce such symptoms.

An applicant or client must have a physical or mental impairment to be determined disabled. Symptoms alone are not sufficient.
- (3) If a specific medical finding required to meet a medical standard specified in 106 CMR 703.192(A) through (N) is not indicated by the competent medical authority (*see* 106 CMR 701.600: *Definition of Terms*) on the medical report but a medical finding of equal clinical significance is indicated, the latter medical finding may be substituted for the required medical finding.
- (4) If an applicant or client has more than one impairment and none of the impairments separately are medically equivalent to a medical standard specified in 106 CMR 703.192(A) through (N), the impairments shall be considered to meet a medical standard if they, in combination with each other, are medically equivalent to a medical standard. For purposes of determining if an impairment is medically equal in severity to a medical standard, the medical standard that is most closely analogous to the combined impairments shall be used.

703.193: EAEDC Vocational Factors(A) Basic Work Activity.

- (1) If the Department's agent determines that an applicant or client does not have an impairment or combination of impairments that either meets or is equivalent to a medical standard specified in 106 CMR 703.192, or an impairment that is included in the SSI Listing of Impairments as specified in 106 CMR 703.191(A)(1)(b), the agent shall determine if the applicant or client has an anatomical, physiological, or psychological (or combination thereof) impairment(s) that:
  - (a) is documented by medically acceptable clinical and/or laboratory diagnostic techniques;
  - (b) is expected to last for at least 30 days; and
  - (c) has more than a nominal effect on the applicant's or client's physical and/or mental capacity to perform on a sustained basis one or more basic work activities.
- (2) If the applicant or client has an impairment, or combination of impairments, that meets the requirements of 106 CMR 703.193(A)(1) and the impairment is a physical impairment, as defined in 106 CMR 703.193(B)(5), the Department's agent shall use the vocational factors specified in 106 CMR 703.193(C) to determine if the applicant or client has an impairment or combination of impairments that substantially reduces or eliminates the applicant's or client's ability to support himself or herself for purposes of 106 CMR 703.191(A). If the impairment is a mental impairment as defined in 106 CMR 703.193(B)(4), the agent shall use the vocational factors specified in 106 CMR 703.193(D) to determine if the applicant or client has an impairment or combination of impairments that substantially reduces or eliminates the applicant's or client's ability to support himself or herself for purposes of 106 CMR 703.191(A).
- (3) If an applicant or client does not have an impairment, or combination of impairments, that meets the requirements of 106 CMR 703.193(A)(1), the applicant or client shall not be considered as having an impairment or combination of impairments that substantially reduces or eliminates the applicant's or client's ability to support himself or herself for purposes of 106 CMR 703.191(A).
- (4) If the applicant or client has more than one impairment, the Department's agent shall determine if the impairments in combination with each other satisfy the requirements of 106 CMR 703.193(A)(1).
- (5) For purposes of 106 CMR 703.193(A)(1), basic work activities mean those activities that are required to do most jobs. Basic work activities include walking, standing, sitting, lifting, pushing, pulling, reaching, seeing, hearing, speaking, understanding, carrying out and remembering simple instructions, use of judgment, responding appropriately to supervision and coworkers, and dealing with changes in a routine work setting.

(B) Definitions. The following definitions shall apply to 106 CMR 703.193.

- (1) Direct entry means a person has the education and/or vocational training or past work experience to enter a job without further formal training beyond basic orientation.
- (2) Education means formal schooling, other training, and/or work experience which contributes to an ability to meet an educational requirement for a job; for example, reasoning ability, communication skills, and arithmetic ability.
- (3) Illiterate means an inability to read and write a simple message such as instructions or inventory lists even if the individual can sign his or her own name.
- (4) Mental Impairment means a psychological impairment documented by medically acceptable clinical and/or laboratory diagnostic techniques.
- (5) Physical Impairment means an anatomical or physiological impairment or combination of anatomical and/or physiological impairments documented by medically acceptable clinical and/or laboratory diagnostic techniques.
- (6) Previous Work Experience means work experience which occurred within the past five years.

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(7) Sedentary Work means work activity that may involve occasional lifting, but no more than ten pounds at a time, (*i.e.*, carrying articles like docket files, ledgers and small tools) and frequently (from  $\frac{1}{3}$  to  $\frac{2}{3}$  of the time) may require an individual to exert a negligible amount of force by lifting, carrying, pushing, pulling or otherwise moving objects.

Sedentary work involves walking and/or standing a minimum of two hours per day and sitting up to six hours per day with normal breaks.

(8) Semi-skilled means work requiring some skills but does not require doing more complex job duties; may require alertness and attention to watching machine processes; inspecting, testing or looking for irregularities; tending or guarding equipment, property or persons; requiring dexterity and coordination.

(9) Skilled means work requiring judgment to determine the machine and manual operations to be performed in order to obtain the proper form, quality or quantity of material to be produced; may require laying out work, estimating quality, determining suitability and quantity of materials; making precise measurements; dealing with people, facts or figures or abstract ideas at a high level of complexity.

(10) Transferable Skills means skilled or semi-skilled work activities that were done in past work and can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work.

(11) Unable to Communicate in English means the inability to understand English and give simple oral or written instructions in English.

(12) Unskilled means work requiring little or no judgment to do simple duties that can be learned by rote or by demonstration on the job in a short period of time; it may or may not require considerable strength; a person can usually learn to do the job in 30 days and little specific vocational preparation and judgment are needed.

(C) Physical Impairment.

(1) An applicant or client who has a physical impairment as defined in 106 CMR 703.193(B)(5) that meets the requirements of 106 CMR 703.193(A)(1) shall be considered as having an impairment or combination of impairments that substantially reduces or eliminates the applicant's or client's ability to support himself or herself for purposes of 106 CMR 703.191(A), if:

- (a) he or she cannot do the full range of sedentary work;
- (b) he or she can do the full range of sedentary work but not more and is determined disabled under 106 CMR 703.193(C)(4); or
- (c) he or she can do more than the full range of sedentary work and is determined disabled under 106 CMR 703.193(C)(6).

(2) If an applicant or client has both a physical and a mental impairment, the Department's agent shall first determine if based on the applicant's or client's physical impairment alone he or she has an impairment that substantially reduces or eliminates the applicant's or client's ability to support himself or herself pursuant to 106 CMR 703.193(C). If the applicant or client is determined not to have such a physical impairment, the agent shall proceed to make the determination required by 106 CMR 703.193(D) for mental impairments.

(3) The determination of whether or not an applicant or client can do the full range of sedentary work or more will be made solely on the applicant's or client's functional capacity. In determining an applicant's or client's functional capacity, the Department's agent shall consider if the statements of the competent medical authority (*see* 106 CMR 701.600: *Definition of Tems*) are consistent with the diagnoses, clinical findings and the statements of the applicant or client, including statements as to symptoms as set forth in 106 CMR 703.192(O).

(4) If an applicant or client can do the full range of sedentary work but not more, the grid specified in 106 CMR 703.193(C)(5) shall be used in determining if an applicant or client is or is not disabled for purposes of 106 CMR 703.191(A).



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(5) Grid.

Age	Education	Previous Work Experience	Decision
55 or older	Illiterate or unable to communicate in English	Unskilled or none	Disabled
55 or older	Less than 12 <sup>th</sup> grade - at least literate	Unskilled or none	Disabled
55 or older	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills not transferable	Disabled
55 or older	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills transferable	Not Disabled
55 or older	High school graduate or more - does not provide for direct entry into skilled work	Unskilled or none	Disabled
55 or older	High school graduate or more - provided for direct entry into skilled work	Unskilled or none	Not Disabled
55 or older	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Disabled
55 or older	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Not Disabled
50 - 54	Illiterate or unable to communicate in English	Unskilled or none	Disabled
50 - 54	Less than 12 <sup>th</sup> grade - at least literate	Unskilled or none	Disabled
50 - 54	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills not transferable	Disabled
50 - 54	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills transferable	Not Disabled
50 - 54	High school graduate or more - does not provide for direct entry into skilled work	Unskilled or none	Disabled
50 - 54	High school graduate or more - provided for direct entry into skilled work	Unskilled or none	Not Disabled
50 - 54	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Disabled
50 - 54	High school graduate or more - does not provide for direct entry into skilled work	Skilled or semiskilled - skills not transferable	Not Disabled
Younger Individual Age 45-49	Illiterate or unable to communicate in English	Unskilled or none	Disabled
Age 45- 49	Less than 12 <sup>th</sup> grade - at least literate	Unskilled or none	Not Disabled
Age 45- 49	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills not transferable	Not Disabled
Age 45- 49	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills transferable	Not Disabled
Age 45- 49	High school graduate or more	Unskilled or none	Not Disabled
Age 45- 49	High school graduate or more	Skilled or semiskilled - skills not transferable	Not Disabled
Age 45- 49	High school graduate or more	Skilled or semiskilled - skills not transferable	Not Disabled
Younger Individual Age 18 - 44	Illiterate or unable to communicate in English	Unskilled or none	Not Disabled
Age 18 - 44	Less than 12 <sup>th</sup> grade - at least literate	Unskilled or none	Not Disabled
Age 18 - 44	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills not transferable	Not Disabled
Age 18 - 44	Less than 12 <sup>th</sup> grade	Skilled or semiskilled - skills not transferable	Not Disabled
Age 18 - 44	High school graduate or more	Unskilled or none	Not Disabled
Age 18 - 44	High school graduate or more	Skilled or semiskilled - skills not transferable	Not Disabled
Age 18 - 44	High school graduate or more	Skilled or semiskilled - skills not transferable	Not Disabled

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(6) If an applicant or client can do more than the full range of sedentary work, the vocational factors as set forth in the grid at 106 CMR 703.193(C)(5) shall be applied to the applicant or client. If under the grid, the applicant or client is determined to be "not disabled," the applicant or client shall not be considered disabled for purposes of 106 CMR 703.191(A).

In all other cases, the Department's agent shall do a further review, based on the applicant's or client's functional capacity and the factors set forth in this section, to determine if there is a significant amount of full-time work in the northeast regional economy that the applicant or client could do. If a significant amount of such full-time work does not exist, the applicant or client shall be considered disabled for purposes of 106 CMR 703.191(A). The vocational factors that are to be considered in this further review are as follows:

(a) Physical Activity.

1. the kinds and amount of physical activity the applicant or client can perform with his or her impairment(s) on a regular and sustained basis;
2. whether such physical activity is consistent with the applicant's or client's physical impairment(s);
3. the kinds and amount of non-exertional limitations on the applicant's or client's physical activity, including, but not limited to, vision, hearing, speaking, posture, reaching and feeling; and
4. the possible effects, if any, the applicant's or client's medications may have on his or her work capacity.

(b) Age. The extent to which the applicant's or client's age may affect his or her ability to adjust to changes in work routine or work environment.

(c) Education/Vocational Skills.

1. the years of formal education, if any, that the applicant or client has completed;
2. training and past work experience of the applicant or client;
3. whether the applicant or client has transferable skills;
4. if the applicant or client is literate and able to communicate in English; and
5. the period of time that has lapsed between the applicant's or recipient client's education, training or past work experience and the beginning of his or her impairments.

(d) Work in the Regional Economy.

1. For purposes of determining the amount of full-time work that exists in the northeast regional economy of the United States within the range of work ("sedentary". "light". "medium". "heavy" and "very heavy" as those terms are defined in the Dictionary of Occupational Titles) that the applicant or client can perform, the Department's agent may rely on the Dictionary of Occupational Titles, Occupational Outlook Handbook and Labor Market Surveys.
2. A significant amount of such work exists in the north-east regional economy if there is a significant number of full-time jobs in one or more occupations that the applicant or client could do with his or her functional capacity and vocational qualifications. It is not necessary for such work to exist in the immediate area where the applicant or client lives; for job vacancies to exist; or for the applicant or client to be hired if he or she applied for such work.

(D) Mental Impairment. For an applicant or client who has a mental impairment as defined in 106 CMR 703.193(B)(4), including the combination of mental and physical impairments, the Department's agent shall consider in combination with the applicant's or client's functional capacity the factors specified in 106 CMR 703.193(C)(6) and the following factors in determining whether there is a significant amount of full-time work in the northeast regional economy that the applicant or client could do. If a significant amount of such full-time work does not exist, the applicant or client shall be considered disabled for purposes of 106 CMR 703.191(A). The factors are:

- (1) whether there is any impairment to memory, concentration, pace and persistence, social functioning, independence, and anhedonia;
- (2) whether the applicant's or client's medication may have side effects that may limit those abilities specified in 106 CMR 703.193(D)(1);

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- (3) the applicant's or client's ability to:
  - (a) understand, remember and carry out simple instructions;
  - (b) make simple work-related decisions;
  - (c) accept supervision and to ask questions or request assistance;
  - (d) complete tasks in a timely manner; and
  - (e) adjust to changes in work routine or work environment; and
- (4) the applicant's or client's past work experience.

703.200: TAFDC Dependent Child

The primary nonfinancial TAFDC requirement is the presence of a dependent child. A dependent child is a child who is younger than 18 years old. A child who is a full-time student in grade 12 or below, or in a vocational or technical training program of the equivalent level designed to lead to gainful employment who is expected to graduate or complete the course of study or training before his or her 19<sup>th</sup> birthday, is also considered a dependent child.

703.210: TAFDC Dependent Child: Pregnancy

- (A) Requirements. Assistance may be provided for an otherwise eligible pregnant woman:
  - (1) when verified that the child is expected to be born within 120 days of the date of application, or, if the pregnant woman is a teen parent (*see* 106 CMR 701.600: *Definition of Terms*), at any time during her pregnancy if she is meeting the school attendance requirements found in 106 CMR 703.181; and
  - (2) if such child had been born and was living with her, the child would meet the nonfinancial and financial TAFDC requirements.

*See* 106 CMR 704.235(C): *Income Deemed to a Pregnant Woman* for the determination of financial eligibility for pregnant women.

- (B) Verification. Pregnancy and the due date shall be verified by a statement from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*.

703.220: TAFDC Dependent Child: Younger than 18 Years Old

- (A) Requirements. Except as defined in 106 CMR 703.170, school attendance is not required for a child younger than 18 years old for TAFDC eligibility. A child between 16 and 18 years of age who is not attending school, however, must be participating in the ESP program.
- (B) Verification.
  - (1) Age must be verified. Age is verified by a birth or baptismal certificate. If the applicant or client does not have and cannot obtain a birth or baptismal certificate, age is verified by:
    - (a) Family Bible or genealogical records;
    - (b) Passport;
    - (c) Hospital birth record or Notification of Birth Form (NOB-1) signed by an appropriate hospital official;
    - (d) United States Census records;
    - (e) Social Security benefit records;
    - (f) Immigration and Naturalization records;
    - (g) Court records (*e.g.*, adoption, separate support, adjudication of paternity); or
    - (h) An affidavit of a third person, if the applicant or client has demonstrated that he or she has tried to obtain the appropriate documents listed in 106 CMR 703.220(B)(1)(a) through (g). *See* 106 CMR 702.340(B).
  - (2) Any of the following documents, if dated at least six months before the date of application, and if they contain the child's age, are also acceptable:
    - (a) School records;
    - (b) Insurance policies;
    - (c) Employment records;
    - (d) Newspaper records and local histories;

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- (e) Indian agency records;
- (f) Child Welfare service records;
- (g) Voluntary social service records;
- (h) Church records;
- (i) Head Start Program records;
- (j) Day care center records; or
- (k) Other governmental records.

703.230: TAFDC Dependent Child: 18 Years of Age

(A) Requirements. To remain eligible as a dependent, a child who has reached his or her 18<sup>th</sup> birthday shall:

- (1) Be a full-time student in grade 12 or below in a school not beyond the secondary level or in a full-time vocational or technical training program of the equivalent level designed to lead to gainful employment; and
- (2) Be reasonably expected to graduate or complete the course of studies or training before reaching his or her 19<sup>th</sup> birthday.

Eligibility shall continue through the end of the month in which the student graduates, up to his or her 19<sup>th</sup> birthday.

(B) Student Status.

- (1) Requirements. A child 18 years of age is considered a student if he or she is attending a full-time course of training or study.
- (2) Definition of Full-time. Full-time school attendance is defined as 30 hours per week or the full-time schedule determined by the school.
- (3) Verification.

(a) Verification of full-time student status must be verified by one of the following:

- 1. a letter from a school authority;
- 2. a notice of grades for the current semester, provided the notice is dated within 45 days of the application date or eligibility review interview date; or
- 3. any other relevant document from the school and/or instructor.

(b) During the summer months, if the verification listed in 106 CMR 703.230(B)(3)(a) is unavailable, full-time student status may be verified by:

- 1. a report card from the last semester of the previous school year; or
- 2. a course schedule or other notice of attendance for the next school year.

If the documents listed in 106 CMR 703.230(B)(3) are unavailable, and if the worker is unable to obtain documentation through collateral contact, the self-declaration of the student may verify full-time status.

(C) Gainful Employment.

(1) Requirements. A course of study prepares a student for gainful employment if the school, institution or program is accredited or approved and the course leads to a certificate or diploma.

(a) If in school, the student must be in a supervised educational or vocational training program approved by the school district or by the Massachusetts Department of Elementary and Secondary Education (DESE). The program may be part of the regular school program or one specially arranged for the individual child's educational or vocational needs.

(b) If in a vocational or technical training program, the program must be approved by DESE.

(2) Verification. If verification is necessary, the accreditation or approval of the school, institution or program is verified by school or institution documents or other appropriate material.

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

703.300 TAFDC Relationship and Living Arrangement

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

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

703.310: TAFDC Relationship

(A) Requirements.

- (1) The grantee must be related to the dependent child in one of the following ways:
  - (a) A blood relative, including a mother, father, sister, brother, niece, nephew, aunt, uncle, first cousin, first cousin once removed (second or third cousins are not included under this definition), or any of these relatives of the preceding generation as denoted by prefixes of grand, great, great-great, or great-great-great-grandparents; blood relatives include those of half-blood;
  - (b) A stepfather, stepmother, stepbrother, or stepsister;
  - (c) A parent by legal adoption or any of the adopting parent's blood relatives as defined above, natural children, or adopted children; or
  - (d) A spouse of any person named in 106 CMR 703.310(A)(1)(a) through (c), even if the marriage has been terminated by death or divorce.
- (2) To determine if the grantee or the grantee's spouse may be included in the assistance unit, *see* 106 CMR 704.300 through 704.325.

(B) Verifications. Relationship must be verified by:

- (1) a birth certificate showing the names of the parents; or
- (2) For school-aged children, school records showing the address of the child and the name and relationship of the relative responsible for the child.

If neither is available, relationship is verified in the same manner as age. *See* 106 CMR 703.220(B).

Marital relationship is verified by a marriage license or certificate of marriage.

703.320: TAFDC Establishment of Paternity

(A) Requirements. Paternity is established for purposes of TAFDC eligibility when the alleged father of a child:

- (1) Is legally married to the mother (or was legally married to her at the time of the conception or birth of the child);
- (2) Has entered into a common-law marriage with the mother in a state or county in which the common-law marriage is valid;
- (3) Has been found to be the father by a court;
- (4) Has completed a legally binding agreement acknowledging paternity and his obligation to support the child and the agreement has been signed by both the father and the mother; or
- (5) Has completed a voluntary acknowledgment of paternity with the Department of Revenue (DOR) Child Support Enforcement Division (CSED).

(B) Verifications. The establishment of paternity is verified by:

- (1) The child's birth certificate showing the name of the father;
- (2) Relevant marriage or court records; or
- (3) A copy of the acknowledgment of paternity from the Child Support Enforcement Division (CSED).

703.330: TAFDC Living Arrangement

(A) Requirements. A dependent child must be living with his or her relative (*see* 106 CMR 703.310) in a place of residence maintained by such relative as a home. This requirement is met if:

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- (1) The child is physically present in the home and the grantee exercises responsibility for the day-to-day care and control of the child, even if the child is under the jurisdiction of a court (for example, receiving probation services or protective supervision) or if legal custody of the child is held by a public or private agency;
- (2) The child spends time with a second parent as a result of a shared custody agreement. Only one of the child's natural or adoptive parents may be the eligible grantee for that child at any one time;
- (3) The child is temporarily absent from the home except as specified in 106 CMR 703.330(A)(5); and
  - (a) the temporary absence of the child is not expected to last more than 120 consecutive days; or
  - (b) the temporary absence meets a good cause exception specified in 106 CMR 703.330(A)(6).

Temporary absences for a child include attendance at educational institutions or specialized schools, hospitalization, employment, visits, a voluntary placement with the Department of Children and Families and similar temporary situations; or

- (4) The grantee is temporarily absent from the home and the absence:
  - (a) is not expected to last more than 120 consecutive days; or
  - (b) meets a good cause exception specified in 106 CMR 703.330(A)(6).

Temporary absences for a grantee include hospitalization, employment, visits and similar short-term situations.

- (B) The living arrangement requirement is not met if the temporary absence is because:
  - (1) the child has been removed from the household by a court order after a care and protection hearing; or
  - (2) the only child in the assistance unit has been temporarily removed by the Department of Children and Families (DCF) in accordance with DCF procedures.
- (C) Good cause for an absence more than 120 consecutive days exists when the grantee has regular contact with the child and continues to exercise care and control of the child, and:
  - (1) the child or grantee is hospitalized;
  - (2) the child is attending a residential school and returns to the home for visits, vacations or holidays; or
  - (3) there is a temporary family crisis situation.

The Commissioner or designee must approve a temporary absence based on a family crisis.
- (E) If the grantee does not notify the Department within five calendar days of the date he or she learns that the temporary absence of the child will exceed 120 consecutive days, the grantee shall be determined ineligible.

703.340: Residence

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

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(4) Under 106 CMR 703.340(A)(1)(a), the primary determination of residency is intent. Except as specified in 106 CMR 703.340(A)(2) or (3), the applicant or client meets the residency requirements if he or she has no present intent to leave Massachusetts, although not intending to stay in Massachusetts permanently.

(5) Under 106 CMR 703.340(A)(1)(b), the primary determination of residency is the purpose for which the relative entered Massachusetts. Except as specified in 106 CMR 703.340(A)(2), the applicant or client meets the residency requirements if he or she entered Massachusetts with a specific job commitment or to seek work with no immediate intent to leave Massachusetts at the end of the job commitment.

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

(1) If the applicant or client claims intent to make his or her home in Massachusetts, residence is verified by one or more of the following:

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

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

- (a) a collateral contact with a person who can verify where the applicant or client lives; or
- (b) a written statement signed by the applicant or the client or by a person known to the household declaring where the household lives.

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

- (a) a signed statement from the employer making the job commitment; or
- (b) current documentation from a One-stop Career Center.

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

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

If one or more members of the filing unit was receiving public assistance in another state, the earliest eligibility date in Massachusetts will be in accordance with 106 CMR 702.150: *Date Assistance Begins*.

703.350: Disqualifying Absences

An applicant or client is not eligible while:

- (A) a patient in a mental institution;
- (B) an inmate of a penal or other public institution;
- (C) absent from the United States and such absence is not temporary as specified in 106 CMR 703.360; or
- (D) permanently residing outside of Massachusetts.

703.360: Temporary Absence

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

An absence of more than 30 calendar days or 90 days in aggregate over the course of a calendar year shall create a rebuttable presumption that Massachusetts residency has been abandoned and eligibility for assistance has ended. The client may disprove this presumption as follows:

- (1) Notifying the Department before the start of the absence, or during the first 30 calendar days of the absence, that it will be more than 30 calendar days. In addition, verification of intent to retain residency must also be provided. Evidence to prove intent to retain residency may include any of the documents listed in 106 CMR 706.400(C)(1)(b); or
- (2) A Fair Hearing officer finds that there was a need for the absence to last more than 30 consecutive calendar days or 90 days in aggregate over the course of a calendar year and that Massachusetts residency has not been abandoned.

If a client is unable to appear at the Fair Hearing for medical reasons, he or she must provide a signed and dated statement from a competent medical authority (*see* 106 CMR 701.600: *Definition of Terms*) verifying the client cannot, for medical reasons, return to Massachusetts. The client must also provide written testimony verifying the need for the absence to exceed 30 consecutive calendar days or 90 days in aggregate over the course of a calendar year and of his or her intent to retain Massachusetts residency.

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

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

703.400: Citizens, Noncitizens, and Canadian-born Indians

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

(A) A citizen of the U.S., defined as an individual born in one of the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, or Guam; or otherwise meets the citizenship requirements as specified in 106 CMR 703.410;

(B) A noncitizen who meets one of the requirements of 106 CMR 703.430 for TAFDC and 106 CMR 703.440 for EAEDC; or

(C) An American Indian Born in Canada. A statement must be signed under penalty of perjury that the information contained in the citizenship status of each member in the assistance unit is true. Failure to comply will result in an individual's ineligibility (*see* 106 CMR 704.315: *Failure to Cooperate*).

When a grantee is ineligible for assistance because of his or her noncitizen status, he or she must be excluded from the assistance unit but may be an ineligible grantee for dependent children who do meet eligibility requirements. If an ineligible grantee has a legal obligation to support his or her child, he or she is subject to other TAFDC provisions including, but not limited to, work requirements as specified in 106 CMR 703.150, if applicable.



703.410: Citizens

(A) Persons Born in the U.S., District of Columbia, Commonwealth of Puerto Rico, Virgin Islands or Guam. For TAFDC, Citizenship must be verified when the information on the application is questionable. If verification is necessary, citizenship is verified by the sources listed in 106 CMR 703.220 that indicate place of birth or citizenship.

For EAEDC, citizenship is verified by a source that indicates the place of birth or one of the verifications specified for age in 106 CMR 320.500 that is a public governmental record and indicates citizenship or place of birth.

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

- (1) U.S. passport;
- (2) Naturalization certificate or citizenship certificate;
- (3) Military service papers that show citizenship;
- (4) U.S. Citizen Identity Card (Form I-179);
- (5) U.S. Citizen Resident's Card (Form I-197);
- (6) Proof that at least one natural or adoptive parent was:
  - (a) a U.S. citizen at the time of the person's birth; and
  - (b) that the parent had resided in the U.S. before the birth of this person;
- (7) Proof that:
  - (a) both parents became naturalized citizens before this person either turned 18 years of age or married while younger than 18 years old; and
  - (b) at the time the second parent or surviving parent was naturalized, this person:
    1. was residing in the U.S. with lawful admission for permanent resident status or
    2. began to reside permanently in the U.S. while younger than 18 years old;
- (8) Proof that:
  - (a) at least one of the child's parents is a U.S. citizen by birth or naturalization;
  - (b) the child is younger than 18 years old; and
  - (c) the child is residing in or has resided in the United States in the legal and physical custody of the U.S. citizen parent pursuant to a lawful admission for permanent residence.
- (9) Proof that, at the time of this person's birth, one parent was a U.S. citizen residing in the U.S. for more than five years, two years of which were after the parent was 14 years of age.

703.420: American Indians Born in Canada

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

(B) Verifications. Canadian-born Indian status shall be verified by:

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

703.430: TAFDC Noncitizen Status

An individual included as a member of the filing unit as a noncitizen must verify that he or she is present in the U.S. under one of the eligible noncitizen statuses described in 106 CMR 703.430(A). The status of a noncitizen included in the assistance unit must be verified at application, at eligibility reviews or whenever the status of the noncitizen changes or is questionable. Verification of an eligible noncitizen status must be presented prior to the determination of TAFDC eligibility for that individual.

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When a noncitizen applying for TAFDC indicates an inability or unwillingness to provide information about, or acceptable verification of, their noncitizen status that individual shall be ineligible. In such cases, the Department shall not continue efforts to obtain documentation or ask additional questions. Likewise, if a noncitizen applying for TAFDC indicates an inability or unwillingness to provide, or apply for, a Social Security Number due to immigration status that individual shall be ineligible. The Department shall not continue efforts to obtain documentation. TAFDC eligibility will be determined in accordance with 106 CMR 704.330: *Circumstances Governed by Legal Support Obligations for TAFDC* for the remaining members of the assistance unit who can verify an eligible noncitizen status.

The Commissioner or designee is required to report to the U.S. Citizenship and Immigration Services (USCIS) information about noncitizens known to be in the U.S. unlawfully. Known to be in the U.S. unlawfully means that (a) the Department has seen a Final Order of Deportation or other determination of the USCIS or Executive Office of Immigration Review that the noncitizen is present unlawfully and (b) the noncitizen has applied for TAFDC or EAEDC benefits for himself or herself and the Department has determined him or her ineligible due to unlawful presence.

(A) Eligible TAFDC Noncitizen Status. [Note: formerly found at 106 CMR 203.675(A): *Eligible Noncitizen Status*]. A noncitizen's eligibility for TAFDC depends on the section of the Immigration and Nationality Act (INA) under which the noncitizen is present in the U.S., the date that status was granted, and the meeting of additional criteria. Eligible noncitizen statuses for TAFDC are:

(1) Veterans and Active Duty Personnel. A noncitizen lawfully residing in the U.S. is an eligible noncitizen when he or she is:

- (a) a veteran of the U.S. Armed Forces with honorable discharge not related to his or her noncitizen status;
- (b) a person on active duty in the U.S. Armed Forces, other than active duty for training, who fulfills the minimum active-duty service requirement of 24 months or the period for which the person was called to active duty;
- (c) a spouse of the veteran or person who died during active duty if:
  - 1. the spouse has not remarried; and
  - 2. the couple was married for at least one year or for any period if a child was born of the marriage or was born before the marriage;
- (d) a spouse or unmarried dependent child of the veteran or person on active duty described in 106 CMR 703.430(A)(1)(a) or (b). For purposes of 106 CMR 703.430(A)(1)(d), an unmarried dependent child is a child who is or could be claimed as a deduction on the veteran's tax return and who meets the definition of a dependent child as specified in 106 CMR 703.200(B);
- (e) a Hmong or other Highland Lao veteran who fought on behalf of the Armed Forces of the U.S. during the Vietnam conflict and has been lawfully admitted to the U.S. for permanent residence; or
- (f) a member of the organized military forces of the Government of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order dated July 26, 1941, including organized guerrilla forces under commanders organized by the U.S. Army for service prior to July 1, 1946.
- (g) an Iraqi or Afghani with Special Immigrant status. These individuals and their families are considered to be Refugees and are Eligible Qualified Noncitizens with no time limit on benefits or need to meet the five-year bar. They are eligible for TAFDC benefits from the date the individual or family has been granted Special Immigrant status.

(2) Legal Permanent Resident. A noncitizen present in the U.S. as a legal permanent resident is an eligible noncitizen if one of the following conditions are met:

- (a) The legal permanent resident status was granted before August 22, 1996;
- (b) The legal permanent resident status was granted on or after August 22, 1996 and five consecutive years have elapsed from the date the legal permanent resident status was granted;
- (c) The legal permanent resident status, regardless of the date the legal permanent status was granted, was a status adjustment by USCIS and prior to the status adjustment the noncitizen was:
  - 1. a refugee under the INA, section 207;
  - 2. an asylee under the INA, Section 208;

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3. a noncitizen whose deportation was being withheld under the INA, 243(h) or 241(b)(3);
4. a Cuban/Haitian entrant of the Refugee Education Assistance Act of 1980, section 501(e) or under the INA, section 212(d)(5); or
5. an Amerasian immigrant under the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 section 584; or
- (d) The noncitizen, who entered the U.S. before August 22, 1996, whose legal permanent resident status was granted on or after August 22, 1996, and who has been continuously present in the U.S. from the latest date of entry prior to August 22, 1996 until the legal permanent resident status was granted. Continuous presence is interrupted by a single absence from the U.S. of more than 30 days or a total of aggregated absences of more than 90 days.
- (3) Refugee. A noncitizen present in the U.S. as a refugee under section 207 of the INA is an eligible noncitizen.
- (4) Asylee. A noncitizen present in the U.S. as an asylee under section 208 of the INA is an eligible noncitizen.
- (5) Withholding of Deportation Noncitizen. A noncitizen whose deportation is being withheld under the INA, section 243(h) or 241(b)(3) is an eligible noncitizen.
- (6) Parolee. A noncitizen present in the U.S. as a parolee under the INA, section 212(d)(5) is an eligible noncitizen as specified in 703.430(A)(6)(a) through (c):
  - (a) The parolee status was granted before 8/22/96 and the noncitizen is being paroled for a period of at least one year;
  - (b) The parolee status is granted on or after August 22, 1996, the noncitizen is eligible after five consecutive years have elapsed from the date the parolee status was granted; or
  - (c) The noncitizen who entered the U.S. before August 22, 1996, whose parolee status was granted on or after August 22, 1996, and who has been continuously present in the U.S. from the latest date of entry prior to August 22, 1996 until the parolee status was granted is an eligible noncitizen. Continuous presence is interrupted by a single absence from the U.S. of more than 30 days or a total of aggregated absences of more than 90 days.
- (7) Conditional Entrant. A noncitizen present in the U.S. as a conditional entrant under the INA, section 203(a)(7) as in effect prior to April 1, 1980 is an eligible noncitizen as specified in 106 CMR 703.430(A)(7)(a) through (c):
  - (a) The conditional entrant status was granted before August 22, 1996;
  - (b) The conditional entrant status is granted on or after August 22, 1996, the noncitizen is eligible after five consecutive years have elapsed from the date the conditional entrant status was granted; or
  - (c) The noncitizen who entered the U.S. before August 22, 1996, whose conditional entrant status was granted on or after August 22, 1996, and who has been continuously present in the U.S. from the latest date of entry prior to August 22, 1996 until the conditional entrant status was granted. Continuous presence is interrupted by a single absence from the U.S. of more than 30 days or a total of aggregated absences of more than 90 days.
- (8) Battered Noncitizens. A noncitizen who is battered is an eligible noncitizen when he or she has proof of the battering and meets the following conditions:
  - (a) The noncitizen must have one of the following:
    1. a Form I-130 petition filed by his or her spouse or parent;
    2. a Form I-130 petition filed as a widow(er) of a U.S. Citizen;
    3. an approved self-petition under the Violence Against Women Act or a pending self-petition under the Act with a notice of prima facie determination (including those filed by a parent); or
    4. an application for cancellation of removal or suspension of deportation filed as a victim of domestic violence;
  - (b) The noncitizen, the noncitizen's child or the noncitizen child's parent has been abused in the U.S. under any of the circumstances in 106 CMR 703.430(A)(8)(b)1. through 3.:
    1. The noncitizen has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household, if the spouse or parent consents to or acquiesces in the battery and cruelty;

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2. The noncitizen's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to or acquiesces in the battery or cruelty, and the noncitizen did not actively participate in the battery or cruelty; or
3. The parent of a noncitizen child has been battered or subjected to extreme cruelty in the U.S. by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent, if the spouse consents to or acquiesces in such battery or cruelty;
- (c) There is a substantial connection between the battery or extreme cruelty and the need for SNAP benefits;
- (d) The battered noncitizen, child, or parent no longer resides in the same household as the abuser; and
- (e) The noncitizen meets one of the following conditions:
  1. has resided as a qualified noncitizen in the U.S. for five years;
  2. was born on or before August 22, 1931 and was lawfully residing in the U.S. on August 22, 1996;
  3. is a child younger than 18 years old;
  4. is disabled as defined by 106 CMR 361.210: *Elderly or Disabled Individuals*; or
  5. is a veteran or active duty personnel as defined by 106 CMR 362.240(F): *Veterans and Active Duty Personnel*.
- (9) Cuban/Haitian Entrants. A noncitizen present in the U.S. as a Cuban/Haitian entrant under the Refugee Education Assistance Act of 1980, section 501(e) or under the INA, section 212(d)(5) is an eligible noncitizen.
- (10) Amerasian. A noncitizen from Vietnam who is present in the U.S. as an Amerasian immigrant (as defined in of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988, section 584) is an eligible noncitizen.
- (11) Victims of Severe Forms of Trafficking. A noncitizen who is present in the U.S. having been issued a letter of certification by the U.S. Department of Health and Human Services (HHS) as proof of the victim of severe forms of trafficking status (as defined in the Trafficking Victims Protection Act of 2000) is an eligible noncitizen.

(B) Verification of TAFDC Noncitizen Status. The noncitizen must give acceptable verification of status for each member of the assistance unit at application or whenever the status of the noncitizen changes or is questionable. Acceptable verification includes:

- (1) A Permanent Resident Alien Card or Alien Registration Receipt Card (I-551, I-151);
- (2) An Arrival/Departure Document (I-94), or a stamp or attached document in a foreign passport;
- (3) An unexpired Reentry Permit (I-327), a Refugee Travel Document (I-571);
- (4) An Employment Authorization Document, Temporary Resident Card or other work authorization issued by USCIS (I-688, I-688 B and I-766);
- (5) Written or electronic documentation from the USCIS, a court, the Board of Immigration Appeals, a foreign Passport, a foreign Exit Visa or other official document that indicates the noncitizen has applied for or been granted a status described in 106 CMR 703.430(A);
- (6) A receipt or other documentation from USCIS that the noncitizen has applied for replacement of documents;
- (7) An affidavit, signed under the pains and penalty of perjury, of an attorney that he or she has personal knowledge that the noncitizen has filed a specific application with USCIS or that the noncitizen has a specific pending request with USCIS;
- (8) Documentation of continuous residence in the U.S. which commenced prior to January 1, 1972, including but not limited to rent receipts, library cards, bank statements, insurance policies, church membership or an affidavit of a third person;
- (9) A letter of certification issued by the U.S. Department of Health and Human Services (HHS) stating the non-citizen was a victim of a severe form of trafficking; and
- (10) Confirmation of the noncitizen's immigration status through a Systemic Alien Verification for Entitlements (SAVE) program check.

(C) Ineligible TAFDC Noncitizen Status. An individual present in the United States under conditions or sections of the Immigration and Nationality Act (INA) not in accordance with Department regulations is ineligible for TAFDC.

703.440: EAEDC Noncitizen Status

A noncitizen must verify that he or she is present in the U.S. under one of the eligible noncitizen statuses as described below. The status of a noncitizen must be verified at application, at eligibility reviews or whenever the status of the noncitizen changes or is questionable. A noncitizen unwilling or unable to provide acceptable verification of an eligible noncitizen status shall be ineligible for EAEDC.

(A) Eligible EAEDC Noncitizen Status. [Note: 106 CMR 703.440 was formerly found at 106 CMR 320.620(A): *Eligible Noncitizen Status*] A noncitizen's eligibility for EAEDC depends on the section of the Immigration and Nationality Act (INA) under which the noncitizen is present in the U.S., and meeting additional noncitizen requirements. Eligible noncitizen statuses for EAEDC are:

- (1) A noncitizen who meets the criteria for an eligible noncitizen under TAFDC regulations at 106 CMR 703.430(A)(1), (3) through (5) and (8) through (11).
- (2) A noncitizen present in the U.S. regardless of the date of entry into said status as:
  - (a) a legal permanent resident;
  - (b) a conditional entrant under the INA, section 203(a)(7) as in effect prior to April 1, 1980;
  - (c) a parolee present under the INA, section 212(d)(5).
- (3) A noncitizen permanently residing in the U.S. under color of law (PRUCOL). A noncitizen is considered PRUCOL when the individual is known to the U.S. Citizenship and Immigration Services (USCIS) and there is no evidence that the USCIS is engaged in deportation proceedings against the noncitizen.

PRUCOL includes, but is not limited to, noncitizens:

- (a) with a pending application for asylum or adjustment of status or a pending relative petition;
- (b) with either an approved or pending application for temporary protected status, or suspension or stay of deportation removal;
- (c) who qualify based on their continuous presence in the U.S. prior to January 1, 1972;
- (d) who are granted voluntary departure;
- (e) who are living under orders of supervision;
- (f) who are granted deferred action status or a "U" visa; and
- (g) who have either an approved or pending petition for status or relief which noncitizens are eligible for under the provisions and benefits of the INA, Presidential Order and/or discretion of federal Departments.

(B) Verification of EAEDC Noncitizen Status. The noncitizen must provide acceptable verification of status for each member of the assistance unit at application or whenever the status of the noncitizen changes or is questionable. Acceptable verification includes those verifications described under TAFDC regulations at 106 CMR 703.430(B) or documents showing that the noncitizen meets the criteria of PRUCOL at 106 CMR 703.440(A)(3).

(C) Additional EAEDC Noncitizen Requirements.

- (1) Requirements. A noncitizen applying for EAEDC benefits must meet the following criteria, unless good cause as specified in 106 CMR 703.440(C)(3) exists:
  - (a) be ineligible for or not have unreasonably failed to apply for SSI, TAFDC, Unemployment Compensation and Veterans' Services benefits; and
  - (b) be engaged in efforts to become a citizen of the U.S., to the extent he or she is financially and physically or mentally able to do so, if he or she is eligible to become a citizen within the next three years. An individual must be a legal permanent resident to be eligible for U.S. citizenship.
- (2) Verifications. Acceptable verification of the noncitizen's efforts to become a citizen of the U.S. shall include:
  - (a) a written statement or letter from a community based organization which provides citizenship services, or an attorney representing the noncitizen, indicating that the noncitizen is either engaged in efforts to become a U.S. citizen or is not eligible for U.S. citizenship within the next three years;
  - (b) a written statement from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* indicating that the noncitizen's disability prevents him or her from engaging in efforts to become a U.S. citizen;

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- (c) a document from USCIS showing that an application for naturalization or a waiver of the naturalization requirements has been filed with USCIS;
  - (d) a statement from an attorney or an agency that has filed any formal or preliminary documents with USCIS; or
  - (e) a copy of a money order paid to USCIS for naturalization fees.
- (3) Good Cause Exceptions. Good cause for not meeting the additional noncitizen requirements includes, but is not limited to:
- (a) at application, there is an immediate need for assistance in accordance with 106 CMR 702.125: *Application Activities*; or
  - (b) a serious family situation or illness of another immediate family member prevents the legal permanent resident from engaging in efforts to become a U.S. citizen for the next 30 days.

(D) Ineligible Noncitizen Status. An individual present in the U.S. under conditions not described in 106 CMR 703.440 is ineligible for EAEDC.

703.450: EAEDC Decision of Noncitizen to Apply for Assistance

A noncitizen must be informed that receipt of public assistance may result in an adverse decision by USCIS should the person apply for a change in immigration status. It is important that an individual fully understand the implications of his or her immigration status before deciding whether or not to apply for, or to receive, public assistance.

703.460: EAEDC Disclosure of Information to USCIS

The worker is prohibited from disclosing information regarding persons on EAEDC without their consent. The noncitizen may request information from his or her own record and make a voluntary disclosure to USCIS.

703.500: TAFDC Cooperation with Child Support Requirements

Requirements.

- (A) A grantee, or a teen parent who is not the grantee, must:
- (1) assign to the Department of Transitional Assistance (DTA) any rights that he or she may have to child or spousal support or child support for a dependent child from any other person in accordance with 106 CMR 703.510;
  - (2) cooperate and continue to cooperate with DTA, and the Child Support Enforcement Division of the Department of Revenue (DOR) to:
    - (a) make reasonable efforts to furnish identifying information about any noncustodial parent;
    - (b) establish parentage;
    - (c) establish, modify or enforce a child support order for each dependent child; and
    - (d) pay to DOR any child and spousal support payments received from any noncustodial parent after an assignment has been made; and
  - (3) identify and provide information that would help DTA pursue any third-party liability for medical expenses.
- (B) A grantee, or a teen parent who is not the grantee, is not required to cooperate when there is good cause for noncooperation as specified in 106 CMR 703.521. DTA determines whether there is good cause for noncooperation.
- (C) When a grantee refuses to assign any rights that he or she may have to child or spousal support from any other person, assistance for the entire assistance unit shall be denied or terminated until such time as the requirements of 106 CMR 703.510 are met.
- (D) When a teen parent who is not the grantee refuses to assign any rights that he or she has to child or spousal support from any other person in accordance with 106 CMR 703.510, assistance for the teen parent and his or her dependent child shall be denied or terminated until such time as the requirements are met.

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

- (1) by the reduction of cash benefits by:
  - (a) an amount equal to his or her portion of the assistance grant, if applicable; and
  - (b) an additional reduction that together equal a reduction of not less than 25% of the Payment Standard for the current assistance unit size until such time as the requirements of 106 CMR 703.510 are met; and
- (2) if it is the grantee who will not cooperate, by the establishment of vendor payments, to the extent possible, for any cash assistance for which the remaining members of the assistance unit are eligible.

703.510: TAFDC Assignment of Right to Support

(A) Requirements.

- (1) The grantee, or a teen parent who is not the grantee, must assign to DTA any rights of spousal and child support and medical insurance benefits that he or she may have for a dependent child, that accrue during the period that assistance is received. The assignment of support rights applies to any rights:
  - (a) on the grantee's own behalf, unless he or she is an ineligible grantee;
  - (b) on behalf of the teen parent who is not the grantee; and
  - (c) on behalf of any family member for whom the grantee is applying or receiving assistance.
- (3) When a grantee refuses to assign any rights of spousal and child support and medical insurance benefits, the entire assistance unit is subject to sanction (*see* 106 CMR 703.500(C)).
- (4) When a teen parent who is not the grantee refuses to assign any rights of spousal and child support and medical insurance benefits, the teen parent and his or her dependent child are subject to sanction (*see* 106 CMR 703.500(D)).
- (5) Refusal of the grantee, or a teen parent who is not the grantee, to assign his or her rights does not abrogate the right of DOR to collect support for the amount of assistance provided.

(B) Verification. The grantee must complete the assignment of rights form prescribed by DTA.

703.520: TAFDC Establishment of Good Cause

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

(A) It is the grantee's, or the teen parent's, responsibility to:

- (1) state why good cause is claimed; and
- (2) provide evidence substantiating the good cause claim.

The burden of producing evidence to establish good cause is on the grantee, or the teen parent; however, the worker may be asked for help in obtaining evidence.

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

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

703.521: TAFDC Grounds for Good Cause

Good cause is present if:

- (A) The child was conceived as a result of incest or rape;
- (B) Legal proceedings for the adoption of the child are pending before a court;
- (C) The grantee, or a teen parent who is not the grantee, is currently being assisted by a public or licensed private social agency to determine whether adoption is appropriate, and the assistance has not exceeded three months; or
- (D) Cooperation would result in serious harm or emotional impairment to the child or the relative with whom the child resides.
- (E) Verification of Good Cause.
  - (1) A claim of good cause must be verified by one of the following:
    - (a) birth certificate or medical or law enforcement records that indicate that a child was conceived as the result of incest or rape. Acceptable medical records shall include records reflecting the judgment of disinterested third parties including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception is the result of rape;
    - (b) court documents or other records showing adoption proceedings are pending before a court;
    - (c) court, medical, criminal, child protective services, social service, psychological, or law enforcement records that indicate the putative or noncustodial parent might inflict physical or emotional harm on the child or relative;
    - (d) medical records regarding the emotional health history and present emotional health status of the relative of the child or the child for whom support would be sought, that indicate emotional harm would result from cooperation, or written statements from a mental health professional indicating such harm; or
    - (e) a written statement from a public or licensed private social agency that the grantee, or a teen parent who is not the grantee, is being assisted by the agency to resolve the issue of whether to keep the child or pursue adoption.
  - (2) When none of the items listed in 106 CMR 703.521(E)(1) is present or conclusive, a sworn statement from the grantee or the teen parent, and at least one other individual with knowledge of the circumstances that provide the basis for the claim of good cause, may support the claim of good cause.

703.522: TAFDC Circumstances under Which Cooperation May Be Against the Best Interests of the Child

- (A) Requirements. Cooperation in establishing paternity and securing support is only against the best interests of the child if cooperation of the grantee, or a teen parent who is not the grantee, is reasonably anticipated to result in:
  - (1) physical harm of a serious nature to the child for whom support is sought, or to the relative with whom the child is living which would reduce his or her capacity to care for the child adequately; or
  - (2) an emotional impairment that substantially affects the functioning of the child for whom support is sought, or of the relative with whom the child is living, and which would reduce his or her capacity to care for the child adequately.
- (B) For every good cause determination which is based in whole or in part upon anticipation of emotional harm to the child or relative, the worker must consider the following:
  - (1) the present emotional state of the individual subject to harm;
  - (2) the emotional health history of the individual subject to harm;
  - (3) the intensity and probable duration of the harm;
  - (4) the degree of cooperation to be required; and
  - (5) the extent of the child's involvement in the paternity establishment or support enforcement activity to be undertaken.



703.523: TAFDC Final Determination of Good Cause

(A) Requirements. After considering the evidence provided by the grantee, or teen parent who is not the grantee, the worker must determine:

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

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

(C) The written determination must:

- (1) contain the basis for the determination;
- (2) be reviewed and approved by the supervisor; and
- (3) be made a part of the case record.

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

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

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

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

703.524: TAFDC Assistance Pending Determination of Good Cause

Assistance will not be denied or discontinued, pending a determination of good cause, if the grantee, or a teen parent who is not the grantee, has provided evidence of at least one of the circumstances listed in 106 CMR 703.521 or 106 CMR 703.522, or made a credible claim that indicates further investigation is necessary to determine the existence of such good cause.

703.525: TAFDC Result of Sanction for Failure to Cooperate without Good Cause

(A) When a grantee, or a teen parent, is sanctioned for failure to cooperate with DOR without good cause, the grantee shall receive a notice informing him or her of:

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

(B) If the grantee appeals, he or she must prove by a preponderance of evidence that he or she, or the teen parent, did cooperate with DOR.

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

(D) When a sanctioned grantee or teen parent informs DTA that he or she is willing to cooperate with DOR and signs the required documents, DTA will send a copy to DOR within three business days of the date the form was signed.

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(E) If DOR has not informed DTA of the status of the case within 70 days from the date the document described in 106 CMR 703.525(D) is sent to DOR, the sanctioned grantee or teen parent shall be deemed to have cooperated with child support enforcement requirements and the sanction will be removed.

(F) Following the determination of noncooperation by DOR, if a sanctioned grantee or teen parent states that he or she wants to cooperate and DOR determines that he or she has cooperated, DOR shall notify DTA of the cooperation and the sanction will be removed.

(G) Following the determination of noncooperation by DOR, if a sanctioned grantee or teen parent states that he or she wishes to cooperate but fails to appear for the DOR-scheduled court date or appointment, DOR shall issue a determination of noncooperation to DTA. DTA shall keep the sanction in effect, or if necessary, reinstate the sanction.

703.526: TAFDC Periodic Review of Good Cause for Child Support Cooperation

The worker must review all good cause cases, except for those based on rape, incest, or emotional harm, at each eligibility review or whenever information is obtained that indicates a need to reconsider eligibility. Reverification of good cause shall not be required unless information is received that indicates a need to reconsider eligibility for good cause. If the worker determines that circumstances have changed and that good cause no longer exists, or if the grantee or teen parent who is not the grantee wishes to cooperate, the worker must remove the good cause and proceed to enforce the requirement.

703.530: TAFDC Department of Revenue (DOR) Activities

It is the responsibility of DOR to try to locate absent parents and obtain current support obligations and arrearages from parents who are delinquent in meeting such obligations.

703.540: TAFDC Cooperation in Obtaining Third-party Liability Coverage for Medical Services

To be eligible, each grantee or teen parent who is not a grantee must cooperate with the Department in identifying and providing information that would help the Department pursue third-party liability for medical services unless he or she has good cause for not cooperating. The grounds for good cause for not cooperating are the same as those for Child Support (*see* 106 CMR 703.521).

703.550: TAFDC Family Abandonment Penalty

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

703.600: EAEDC Elderly - 65 Years of Age or Older

(A) An elderly applicant or client is one who is 65 years of age or older and is awaiting determination of Supplemental Security Income (SSI) benefits. If the person is found to be ineligible for SSI benefits, she or he may be eligible for EAEDC provided the eligibility requirements for EAEDC are met.

(B) Verification that the applicant or client is awaiting SSI benefits will be established on a form prescribed by the Department. Ineligibility for SSI will be proven by the letter of denial from SSI.

703.610: EAEDC Participant in a Massachusetts Rehabilitation Commission Program

(A) An applicant or client who is actively participating in a Massachusetts Rehabilitation Commission (MRC) training and/or rehabilitation program (including post-secondary education) shall be considered to have a physical or mental disability without application of the medical standards defined in 106 CMR 703.192, provided the applicant or client meets all other nonfinancial and financial requirements of the EAEDC program.

(B) Verification of active participation in an MRC program must be provided at application, redetermination, or when there is a change in active participation status.

(1) At application, the following two items must be provided to verify that the EAEDC applicant is an active MRC participant:

(a) medical or psychiatric reports that are the basis of eligibility for MRC services. MRC shall provide these reports to DTA at the applicant's request; and

(b) a written statement, signed by the MRC counselor, that the individual is vocationally disabled and would continue to be so without completion of the specific rehabilitation program. The statement shall:

1. certify that the applicant is actively participating in a training or rehabilitation program; and
2. describe the program and its anticipated length.

(2) At redetermination, the client must provide a current statement from his or her MRC counselor (*see* 106 CMR 703.610(B)(1)(b)) verifying continued active MRC participation.

(3) At the time of any change in his or her participation status in an MRC program, the applicant or client must provide a written statement from MRC that explains the change. To be considered timely, such statement must be provided within ten days of the date of the participation status change (*see* 106 CMR 701.420: *Responsibility for Notification of Changes*).

703.620: EAEDC Caring for the Disabled

In order to be eligible for EAEDC as caring for the disabled, the following two conditions must be met:

(1) An applicant or client is required to care for a disabled person in the home in need of constant care; and

(2) if the constant care was not provided, the disabled person would be required to be institutionalized. Both elements must exist for an applicant or client of EAEDC to be categorically eligible.

The applicant or client must verify the person's disability, the need for constant care, and the risk of institutionalization without such care. These must be verified at application, redetermination, or time of any address change, by a written statement from the disabled person's physician on the physician's letterhead.

The income of the disabled person shall be considered in the determination of eligibility (*see* 106 CMR 704.340: *Eligibility Test for an EAEDC Person Caring for a Disabled Person*). If the income of the disabled person exceed those limits, the applicant or client is ineligible for EAEDC.

The EAEDC applicant or client must meet all other nonfinancial and financial requirements of the EAEDC program as specified in 106 CMR 703.000 and 704.000: *Overview of Financial Eligibility*.

703.700: EAEDC Caretaker Family

To be eligible for EAEDC, a caretaker family must meet all the requirements specified in 106 CMR 703.700(A)(1) through (3).

(A) An eligible caretaker family is defined as:

- (1) a dependent child younger than 18 years old;
- (2) the dependent child's siblings or half-siblings, if any; and
- (3) a caretaker who:

- (a) is 18 years of age or older;
- (b) does not meet the relationship requirement specified in 106 CMR 703.310;
- (c) is living in the same home as the dependent child; and

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(d) has legal custody or guardianship of the dependent child unless good cause exists. Good cause exists if obtaining legal custody or guardianship may place the caretaker or the dependent child at risk of serious harm or emotional impairment. A serious emotional impairment is one of such severity that it would significantly reduce the caretaker's or the child's capacity to care for himself or herself or significantly reduce his or her capacity to perform essential activities of daily living.

If the caretaker does not have legal custody or guardianship of the dependent child, the caretaker shall get legal custody or guardianship or provide verification of good cause for failure to obtain such custody or guardianship at the end of six months from the date assistance begins or six months from the date of the next eligibility review, whichever is later.

Good cause is verified by the following:

1. a statement, signed by the caretaker, detailing the reason he or she believes obtaining legal custody or guardianship places him or her or the dependent child at risk of serious harm or emotional impairment, including any incidents which led him or her to believe this is true, and the approximate dates of such incidents; and
2. court, medical, criminal, child protective service, psychological, law enforcement, or school records, or other official documentation that demonstrate that there is a risk of serious harm or emotional impairment to either the caretaker or the dependent child.

If the documents listed in 106 CMR 703.700(A)(3)(d)1. and 2. are not available or inconclusive, a sworn detailed statement from the caretaker and at least one other individual with knowledge of the circumstances which supports his or her good cause claim.

(B) The filing unit (*see* 106 CMR 704.310: *Composition of the Filing Unit*) must include the dependent child and his or her siblings or half-siblings living in the same home, but it shall not include foster children.

(C) The assistance unit must include all the individuals specified in 106 CMR 703.700(A)(1) unless one or more of these persons:

- (1) is eligible for and/or receiving TAFDC or SSI; or
- (2) does not meet the EAEDC citizenship and alienage requirements (*see* 106 CMR 703.440 through 703.460). There must be at least one dependent child in an assistance unit unless all the dependent children and siblings or half-siblings living in the same home are eligible for and/or receiving SSI.

(D) The assistance unit (*see* 106 CMR 704.305) may include only the caretaker unless the only dependent child is a foster child (*see* 106 CMR 703.191, 703.600, 703.610 or 703.620).

(E) The assistance unit has been determined ineligible for TAFDC because the caretaker did not meet the relationship to the dependent child requirement (*see* 106 CMR 703.310).

(F) There is no option to exclude from the assistance unit the dependent child and/or any of the siblings or half-siblings of the dependent child living in the same home except as specified in 106 CMR 703.700(C).

(G) If the caretaker chooses to be included in the assistance unit, is between 18 and 59 years of age and is not in school, training, or gainfully employed, he or she must register for work with the Division of Career Services (DCS) as a condition of initial and continuing eligibility, and must:

- (1) actively seek employment;
- (2) maintain his or her registration with DCS;
- (3) accept a referral to or offer of suitable employment;
- (4) report to the Department on the results of any job referral; and
- (5) provide verification from DCS of his or her attempts to find employment and verification of any other efforts to obtain employment. Verification must be provided by the applicant or client at least once every three months or more frequently as required by the Department.

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For purposes of 106 CMR 703.700(G), the following shall apply:

- (6) To be considered in school, the caretaker must be regularly attending school full-time, a minimum of 20 hours per week;
- (7) To be considered gainfully employed, the caretaker must be working 30 or more hours per week earning at least the federal or state minimum wage, whichever is less; and
- (8) To be considered in training, the caretaker must be regularly attending a full-time training program for 80% of the full-time scheduled hours as specified by the training provider.

(H) If the caretaker chooses to be included in the assistance unit and the youngest dependent child in the household is 15 years of age or older, the caretaker must meet the TEMP requirements (*see* 106 CMR 703.710).

The Department determines whether the individual who has failed to comply with the requirements of 106 CMR 703.700(G) and (H) has an exemption as specified in 106 CMR 703.720 or has good cause as specified in 106 CMR 701.380: *Good Cause Criteria*.

703.710: EAEDC Transitional Employment for Massachusetts Parents (TEMP)

(A) As a condition of EAEDC eligibility, an individual must participate in Transitional Employment for Massachusetts Parents (TEMP) if:

- (1) he or she is the caretaker, as specified in 106 CMR 703.700;
- (2) he or she is included in the assistance unit; and
- (3) his or her youngest dependent child in the household is 15 years of age or older, unless the individual meets the criteria of 106 CMR 703.720 or has good cause as specified in 106 CMR 701.380: *Good Cause Criteria*.

(B) Activities. Activities may include, but are not limited to:

- (1) employment of 20 hours or more per week;
- (2) a volunteer community service placement in a public, quasi-public or nonprofit organization, excepting that such a placement cannot be in the office of an individual candidate's campaign for public office;
- (3) a combination of participation in employment search or education or training requirements as specified in 106 CMR 703.700(G) and a volunteer community service placement; and/or
- (4) a combination of employment of fewer than 20 hours per week and a volunteer community service placement.

A participant's TEMP Community Service Program placement may be changed at the Department's discretion. The TAO Director or designee must approve any change in a TEMP Community Service Program placement.

(C) Participation Criteria. The following are the criteria for participants in TEMP:

- (1) the caretaker must be a member of the assistance unit;
- (2) the caretaker must participate in a volunteer community service placement for 30 hours per week except if he or she is:
  - (a) meeting the employment search, education or training requirements as specified in 106 CMR 703.700(G)); or
  - (b) employed fewer than 20 hours per week;  
if so, then the adult caretaker must participate in a voluntary community service placement for 16 hours per week; and
- (3) the caretaker can fulfill TEMP participation requirements by:
  - (a) being employed for 20 hours or more per week; or
  - (b) participating in a volunteer community service placement approved by the Department.

For EAEDC eligibility purposes, a caretaker meeting the TEMP requirements shall be considered to have also met the applicable EAEDC requirements as specified in 106 CMR 703.700(G).

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- (D) Participation Requirements. The TEMP participant must:
- (1) attend the actual scheduled hours per week as specified in 106 CMR 703.710;
  - (2) be performing satisfactorily in TEMP, as defined by the provider; and
  - (3) provide verification of participation at time periods determined by the Department on a form prescribed by the Department.
- (E) Failure to Meet Participation Requirements.
- (1) If the caretaker fails to participate in TEMP, he or she shall be ineligible for assistance until he or she begins participation (*see* 106 CMR 703.710(C)) for a period of two consecutive weeks or is determined exempt from participation in TEMP.
  - (2) Assistance to the remaining member of the assistance unit shall be in the form of vendor payments, if possible.

703.720: EAEDC Exemptions

- (A) Requirements.
- (1) A grantee is exempt from registering for work with the Department of Career Services (DCS) and from participating in Transitional Employment for Massachusetts Parents (TEMP), if the grantee meets one of the following exemptions:
    - (a) is disabled;
    - (b) is essential to the care of one of the following disabled persons living in the home:
      1. a child,
      2. the grantee's spouse,
      3. the child's other parent, or
      4. the parent or grandparent of the grantee, the grantee's spouse, or the child's other parent; or
    - (c) is 60 years of age or older.
  - (2) An grantee who is exempt shall remain exempt until the grantee no longer meets the exemption criteria. A grantee must tell the Department as soon as his or her circumstances change that may affect his or her exemption status.
- (B) Verifications. A grantee who is claiming an exemption pursuant to 106 CMR 703.720(A)(1)(a) through (c) must provide the appropriate exemption verification.
- (1) A disabled grantee must meet the disability requirements of 106 CMR 703.191 excepting that the grantee shall be considered to have a temporary disability exemption when the competent medical authority states the disability's duration is less than 60 days.
  - (2) A grantee who claims to be essential to the care of a disabled child must provide:
    - (a) verification that the disabled child is receiving SSI; and/or
    - (b) written documentation from a competent medical authority that specifies the severity of the child's disability, the reason that the grantee is essential to the care of the disabled child and that the grantee is unable to be employed because he or she must be in the home.
  - (3) A grantee who claims to be essential to the care of one of the persons listed in 106 CMR 703.720(A)(1)(b)2., 3., or 4., must provide both of the following verifications:
    - (a) verification that the disabled person:
      1. is receiving SSI for disability, or Social Security for disability;
      2. if a TAFDC client, meets the requirements for disability (*see* 106 CMR 703.190);
      3. if an EAEDC client, meets the requirements for disability (*see* 106 CMR 703.191); or
      4. if not a TAFDC or EAEDC client, has written verification of the disability from the disabled person's competent medical authority as defined in 106 CMR 701.600: *Definition of Terms*; and
    - (b) written documentation from a competent medical authority as defined in 106 CMR 701.600: *Definition of Terms* that specifies the severity of the disability, the reason that the caretaker is essential to the care of the disabled person, and that the caretaker is unable to work because he or she must be in the home to care for the disabled person.
  - (4) Verification that the caretaker is age 60 or older shall be in accordance with 106 CMR 703.800)

703.800: EAEDC Age

Age is verified by one of the following documents provided the document proves the individual's age:

- (A) birth certificate;
- (B) hospital birth record;
- (C) court records (*e.g.*, adoption, separate support, adjudication of paternity);
- (D) Notification of Birth (NOB-1) signed by appropriate hospital official;
- (E) Social Security (RSDI) benefit records;
- (F) Immigration and Naturalization records;
- (G) baptismal certificate;
- (H) school records;
- (I) church records or a family Bible;
- (J) insurance policies;
- (K) employment records;
- (L) newspaper records and local histories;
- (M) Indian agency records;
- (N) child welfare service records;
- (O) voluntary social service records;
- (P) day care center records;
- (Q) Head Start Program records;
- (R) passport;
- (S) United States Census records;
- (T) driver's license;
- (U) other governmental records; or
- (V) an affidavit of a knowledgeable third person, if the applicant or client has demonstrated that he has tried unsuccessfully to obtain appropriate documents.

The applicant or client has the primary responsibility for obtaining verification. If the applicant or client cannot provide the verifications, the worker shall help the applicant or client obtain the needed information.

703.810: EAEDC Identification of the Applicant

The worker shall establish the identity of the applicant. Proof of identity shall be by:

- (A) a birth certificate;

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- (B) a hospital birth record;
- (C) a Social Security Card;
- (D) a driver's license;
- (E) a voter registration card;
- (F) military service papers;
- (G) a marriage license;
- (H) court records;
- (I) employment papers;
- (J) a passport;
- (K) a baptismal certificate;
- (L) other official government document; or
- (M) in the event that none of the above are available at the time of application, identity may be temporarily verified by a signed and dated third-party sworn statement from an authorized person from one of the following types of organizations:
  - (1) educational;
  - (2) emergency shelter;
  - (3) medical;
  - (4) rehabilitational;
  - (5) religious; or
  - (6) social services.

An applicant or client who has only temporarily established identity must take the necessary steps to obtain permanent verification of identity (*see* 106 CMR 703.810(A) through (M)) within the application time frames. Unreasonable failure to do so shall result in the denial or termination of assistance; no additional periods of eligibility may be established until such permanent identity verification is provided.

703.820: EAEDC Resident

The term "resident" means any person living within Massachusetts, even if homeless, and having no present intention of leaving, but not necessarily with the intention of remaining permanently.

Any person who enters Massachusetts for the purpose of obtaining EAEDC shall not be considered a resident. There is a rebuttable presumption that a person is not a resident when he or she enters and resides in the Commonwealth for the purpose of school attendance.

703.830: EAEDC Place of Residence

An applicant or client and his or her dependents must reside in Massachusetts, but there is no durational residence requirement in Massachusetts.

Residence in a nursing home, hospital, or other medical institution in Massachusetts shall not, in and of itself, be sufficient evidence of residence to qualify such person as a resident under 106 CMR 703.000.

An applicant or client who resides in a public, nonmedical institution (*e.g.*, a municipal infirmary, public psychiatric institution, or who temporarily enters a nursing home, public medical institution, or chronic hospital approved or licensed by the Department of Public Health) may be eligible for EAEDC assistance.



106 CMR DEPARTMENT OF TRANSITIONAL ASSISTANCE

REGULATORY AUTHORITY

106 CMR 703.000: M.G.L. c. 18, § 10.