

# Part 4 Financial Eligibility

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## 64 What is financial eligibility?

You must be financially eligible to get TAFDC benefits. To be financially eligible, your **countable** income and assets must be within TAFDC eligibility limits. If you are within TAFDC eligibility limits, the amount of your grant is figured by comparing your countable income, after any allowable deductions, with the payment standard for your family size. These rules are discussed in more detail in this Part.

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## 65 What is the difference between income and assets?

In general, income is money that “comes in.” An asset is money or property you already have. 106 C.M.R. § 204.100.

Some assets and income do not count. See **Questions 66** and **70**.

### *Advocacy Reminder:*

- ✓ DTA must treat money either as income or as an asset. It cannot treat money both as income and as an asset in the same month. Some money and property is not counted as income and is also not counted as an asset.

## 66 What assets count?

You are financially eligible only if your TAFDC household has **countable assets of \$2,500 or less**. 106 C.M.R. § 204.110.

### Noncountable Assets

The following items **do not count** as assets

- the home you live in,
- the first \$15,000 of the fair market value of one car or other vehicle per family (see **A Note About Cars** below),
- household and personal belongings,
- an asset that you do not have ready access to (such as assets tied up in legal proceedings), unless you transferred the asset during the 12 months before you applied for TAFDC (see **Question 67**),
- any assets of an SSI recipient, including accounts you have access to that are restricted or dedicated for the use of the SSI recipient (see DTA Transitions, July 2002, p. 2),
- federal and state earned income credits in the month of receipt and the following month, *and*
- assets used to produce income, such as a vehicle used for self-employment.

This is not a complete list of noncountable assets. Check the regulations for a complete list. 106 C.M.R. §§ 204.120, 204.140; DTA Online Guide (Noncountable Assets).

### Countable Assets

The following items **do count** as assets

- cash on hand (unless listed as noncountable),
- bank accounts that you have access to,

- the fair market value of a “non-luxury” vehicle in excess of \$15,000, as well as the greater of the full fair market value or the full equity value of all other vehicles owned by a family member, see DTA Operations Memo 2014-46 (July 10, 2014),
- the cash surrender value of life insurance and burial insurance,
- state and federal income tax refunds, see DTA Transitions, June 2013, p. 6,
- real estate other than your home unless it qualifies for a six-month exclusion and you are trying to sell it. See DTA Operations Memo 2013-52 (Oct. 3, 2013); 106 C.M.R. §§ 204.120-204.140; DTA Online Guide (Countable Assets).

***Advocacy Reminders:***

- ✓ DTA has the authority to grant a waiver to allow a vehicle that would otherwise put your family over the asset limit. You could ask for a waiver if a vehicle that otherwise puts you over the asset limit is necessary to accommodate a disability; is needed for a family member to get to work, education or training, or medical care; is needed for a domestic violence survivor’s safety plan; or is needed for other good reasons.
- ✓ If your vehicle puts you over the asset limit and you need it to transport a disabled family member, you can also ask DTA to modify the car rule under the Americans with Disabilities Act. See **Question 24**. If you need the car for a domestic violence survivor’s safety plan, you can ask for a domestic violence waiver. See **Questions 28** and **48**.
- ✓ Is your car worth less than DTA says because of its condition? DTA determines car value using the Kelly Blue Book, [www.kbb.com](http://www.kbb.com). See DTA Field Operations Memo 2010-22 (Apr. 21, 2010). You can challenge the fair market value by giving DTA a written estimate from a licensed auto dealer.
- ✓ DTA says that you can only claim the \$15,000 exclusion for a vehicle that is used primarily for transportation. See Online Guide (Asset Types—Vehicles). This requirement is not in the statute.
- ✓ An asset may be noncountable if you do not have access to it because of domestic violence. For example, if your abuser has your car it may

be noncountable. See DTA Transitions, Nov. 2009, p. 5, Apr. 2001, p. 8.

- ✓ If your bank account goes over \$2,500, DTA may take steps to close your case without checking to see if any of the money in your bank account is not countable. See DTA Operations Memo 2014-57 (Oct. 10, 2014). (Consult an advocate if that is a problem for you.
- ✓ A leased vehicle is not counted. DTA Transitions, Nov. 2009, p. 5.
- ✓ Prepaid funeral arrangements usually cannot be converted into cash and are usually noncountable. DTA Transitions, Feb. 2013, p. 7.

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## 67 How does DTA treat assets you no longer have?

If you spent, gave away or otherwise transferred any money or property during the year before you applied for TAFDC, DTA may say you are not eligible. DTA should not disqualify you if

- at the time of the transfer you thought you had enough left to live on for a year after the transfer,
- you spent the money on
  - ▶ shelter, fuel, utilities, or food (up to the need standard for your family size), *and/or*
  - ▶ necessary medical expenses (including health insurance premiums),
- you spent the money on transportation costs (less than \$150/month), replacement or purchase of basic household furniture or appliances, repairing your dwelling, court-ordered judgments, certain government obligations like taxes, or a prepaid funeral arrangement and burial plot,
- you spent the money on expenses related to your work or education,

- you spent the money on something that is not an “extraordinary expense” (something you would not normally buy) and the amount you spent was less than 25% of your average monthly income (based on the previous six months of your income),
- you or the person who made the transfer was legally incompetent or coerced, *or*
- the transfer was the result of a court action. 106 C.M.R. § 204.135.

***Advocacy Reminders:***

- ✓ DTA should only count the amount of money you spent or transferred that exceeds the \$2,500 TAFDC asset limit (in combination with the other countable assets you had at the time).
- ✓ DTA may try to apply the transfer of assets rule to recipients whose assets go over the \$2,500 limit. See See DTA Operations Memo 2014-57 (Oct. 10, 2014). This may be illegal. Check with an advocate if this happens to you.
- ✓ The transfer of assets rule is often very unfair and may be illegal. Check with an advocate for legal help if DTA says you are not eligible because of the transfer of assets rule.

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## 68 What if you are expecting money from an accident or illness?

If you are expecting money from an accident or illness *and* you need TAFDC because of that accident or illness, you have to assign your right to the money to DTA. This includes money from a lawsuit or Workers’ Compensation. DTA will reimburse itself from the accident or illness money for the TAFDC and medical benefits you needed because of the accident or illness. 106 C.M.R. § 702.800.

If you are receiving TAFDC, DTA will apply the lump sum rule to the balance of money that you get from the settlement. See **Questions 85-87**. If you are not receiving TAFDC and you apply for benefits after you get the money, DTA may apply the transfer of assets rule. See **Question 67**.

*Advocacy Reminders:*

- ✓ If child support has been paid to the state for the time period covered by the assignment, DTA should *not* reimburse itself again for TAFDC benefits that were paid back through child support payments. Similarly, DTA should not reimburse itself for TAFDC benefits you repaid to DTA after DTA said you were overpaid. Be sure to tell your lawyer about any payments that reduce DTA’s claim before the lawyer turns any money from the lawsuit over to DTA.
- ✓ The 2014 law discussed in **Question 69** may provide a way for you to save some of the money.

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## 69 What if you want to try to save money?

DTA is required by a 2014 state law to allow you to save money for specified purposes and not have the savings count towards the \$2,500 asset limit. The 2014 law calls these accounts “economic independence accounts.” The specified purposes include saving for first and last months rent, a security deposit, education or training, or any other expense that DTA determines will help you get off benefits, including paying off your debts.

Under the 2014 law, you have to put some of your TAFDC benefits into the account, but DTA could make the required contribution only \$1. That would allow you to save other money such as your tax return, the earned income credit, gifts from family members, or money that would otherwise be countable under the lump sum rule. See **Questions 66, 78, and 85**. It would allow you to participate in a savings program for your children’s education without having the money count against your asset limit.

DTA has not yet implemented this provision. Consult an advocate if you would like to establish a noncountable savings account.

## 70 What income is not counted?

DTA looks at total monthly income to decide eligibility, but not all income counts. 106 C.M.R. § 204.250.

The following items **do not count** as income:

- income of any SSI recipients in the family, including child support received for a child receiving SSI,
- foster care payments you receive for a foster child,
- SNAP benefits (food stamps),
- federal and state earned income credits and tax refunds (may count as an asset, see **Question 66**),
- federal higher education (college level) grants, loans and work study,
- other higher education grants and scholarships that cannot be used to meet current living expenses,
- up to \$7,500 in relocation payments received by a tenant to leave a foreclosed property plus additional amounts you can verify are being used for relocation expenses, DTA Transitions, Jan. 2008, p. 7,
- any loan that cannot be used to meet current living expenses,
- payments from a reverse mortgage (loan that allows homeowner to withdraw equity from property), see DTA Transitions, Apr. 2007, pp. 4-5,
- training stipends up to \$130 per month,
- reimbursements for training expenses,
- Youthbuild or Americorps earnings or payments to participants,
- earnings of a child under 14,

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- earnings of a child who is a full-time student working part-time), see DTA Online Guide (Noncountable Income – TAFDC);
- certain restricted cash gifts from persons who are not financially responsible for anyone in the TAFDC household (see **Question 78**),
- the first \$50 a month in child support,
- the first \$90 a month in child support or other income paid for a child excluded under the family cap,
- housing subsidies received under any Massachusetts or federal housing program, *and*
- assistance from social service or other organizations.

This is not a complete list of noncountable income. The regulations describe over 30 types of noncountable income. Check the regulations for a more complete list. 106 C.M.R. § 204.250.

### ***Advocacy Reminders:***

- ✓ DTA has discretion to make additional types of income noncountable. Advocates can work with DTA to expand the list of noncountable income sources.
- ✓ DTA sometimes counts the earned income of children under age 18 who are not full-time students working part-time. Check with an advocate.
- ✓ Some employees get “credits” that can be used to pay for benefits such as health insurance, child care, or life insurance. The “credits” may show up on your pay stub as income, but they are not counted for TAFDC or SNAP (food stamps) unless you have the option of taking the credits as cash. See DTA Transitions, Jan. 2006, p. 7 and Feb. 2006, p. 3.
- ✓ Payments from a publicly supported employment program, such as the federal Workforce Innovation and Opportunity Act, are usually not counted for TAFDC or SNAP. This includes some programs that provide summer employment for youth as well as other programs. Consult an advocate if DTA is counting payments from a publicly



supported employment program in case the payment should not be counted.

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## 71 What income is counted?

Earned and unearned income is counted unless it is specifically excluded.

### Earned income

Countable earned income includes wages, tips, salary and earnings from self-employment. 106 C.M.R. § 204.210(A). Subtract business expenses from self-employment income. There are special rules for business expense deductions if you get income from rent. 106 C.M.R. § 204.210(E).

### Unearned income

Countable unearned income includes social security (but not SSI), unemployment compensation, veterans' and other pension benefits, and income from trusts. 106 C.M.R. § 204.210(B).

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## 72 What happens if your child's father (or mother) pays child support?

When you get TAFDC, you have to assign your child support (and spousal support) rights to the state. The Department of Revenue (DOR) then collects the support. 106 C.M.R. §§ 203.700-203.710. DTA should send you the first \$50 a month in support that DOR collects. This is called a child support "pass through."

The assignment of child support does not cover back support (arrearages) for the period before you began receiving TAFDC. DOR should send this money directly to you. DTA may then try to count this money as income for TAFDC and may try to apply the lump sum rule. See **Question 85**. Consult an advocate if you get a back child support payment from DOR.

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If the child support DOR collects for a month is *more* than your grant plus \$50, DTA should send you the difference. If this happens for two months in a row, DTA should close your TAFDC case and you should get the child support instead (and the month should not count towards your 24 months if you are subject to the time limit). 106 C.M.R. § 204.230, DTA Online Guide (Acosta Payment). Even if the child support is less than your grant plus \$50, you can close your case to keep your 24-month time limit clock from running or for any other reason. If you close your TAFDC case DOR must send the support money directly to you. There may be several weeks' delay before DOR starts sending you the support.

You can keep all of the child support paid for a child excluded by the family cap (whether the child's parent pays the support to you directly or DOR collects the support and then pays it to you). The first \$90 per month does not count against the grant whether it is current support or back support. 106 C.M.R. § 204.250(HH).

### ***Advocacy Reminders:***

- ✓ You are entitled to the \$50 a month child support pass through for children who are on the grant, plus a \$90 a month exclusion for each family cap child who is not on the grant.
- ✓ The regulations say you have to assign the family cap child's right to medical insurance, but do not require you to assign the family cap child's right to cash support. 106 C.M.R. §§ 203.700, 203.710. Consult an advocate if you do not want to assign child support rights for a family cap child.
- ✓ Support paid for a child receiving SSI does not count against the TAFDC grant but some of it does count against the SSI benefit. 106 C.M.R. § 204.250(A)(1). See also DTA Transitions, Mar. 2002, p. 7.
- ✓ Massachusetts has not yet taken advantage of a federal law that allows the state to increase the pass through from \$50 a month to \$100 a month for one child and \$200 a month for two or more children. Under this option families get more of the child support that is paid for their children.

## 73 Does DTA ever count money as income even if you do not get it?

DTA counts the money you don't get that is withheld from your paycheck such as the money withheld for taxes, union dues, health insurance, and retirement accounts. DTA also counts money that is withheld from your paycheck to pay child support, back taxes, or a debt.

DTA may also try to count money that is withheld from social security or other benefits to pay back an overpayment. DTA Transitions, May 2013, p. 8. This may be illegal. Consult an advocate.

In some cases, DTA counts money as income to you even if all of it was paid to someone else. This is called "deeming." 106 C.M.R. § 204.210(D).

The following questions deal with deeming from a stepparent or ineligible non-citizen parent, **Question 74**, and grandparent deeming, **Question 75**.

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## 74 How does DTA count income of a stepparent or ineligible non-citizen parent?

Your income is counted in figuring your stepchildren's eligibility if you are a stepparent and the child's natural or adoptive parent is also in the home. This is true even though you have not adopted your stepchildren and do not have a legal responsibility to support them. 106 C.M.R. § 204.210(D)(1)(a).

Your income is also counted in figuring your children's eligibility if you are a parent who is an ineligible non-citizen who cannot be in the assistance unit or has chosen not to apply. See **Questions 8** and **32**. 106 C.M.R. § 204.330. See also DTA Transitions, June 2003, p. 2.

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Income of a stepparent or ineligible non-citizen parent who lives with a dependent child is counted after deducting

- \$150 a month from earned income,
- support payments paid to people outside the TAFDC unit, *and*
- the Need Standard (see **Question 84**) for the stepparent or ineligible parent and any dependents living with him or her who are not included in the TAFDC unit. 106 C.M.R. § 204.235(A).

### *Example*

Sonia Novik is a lawful permanent resident who got her status two years ago and does not meet non-citizen eligibility requirements. She has two children ages two and three who are citizens. She earns \$600 a month. She pays rent. DTA will subtract \$150 a month for work expenses and the Non-Exempt Monthly Need Standard for one person of \$418 a month (with the rent allowance). DTA will count \$32 against a two-person grant for the children.

### *Advocacy Reminders:*

- ✓ There is no stepparent deeming to the *child* of a teen parent. For example, a 16-year-old with a baby who lives with her mom and her mom's husband should not have her mom's husband's income deemed unless her mom is also part of the assistance unit.
- ✓ There is no stepparent deeming where the stepparent is the primary caretaker for the child, the natural or adoptive parent is not in the home, and the stepparent is not on the grant. In this situation, the stepparent is treated like any other non-parent relative who is not receiving assistance for herself. See **Question 32**. See DTA Transitions, Oct. 2004, p. 4.
- ✓ There is no stepparent deeming for MassHealth, but stepparent income is counted if the applicant is the stepparent for her or his spouse or child.

## 75 How is grandparent income counted towards the baby of a teen parent?

If you are a teen parent under 18 and you live with your child's grandparent (your own parent or the baby's other grandparent) the grandparent's income is counted after deducting 200% of the federal poverty guideline for the grandparent, grandparent's spouse and other dependents who are not receiving assistance. 106 C.M.R. § 204.236. This is true even though your baby's grandparents have no legal responsibility to support your baby.

Family Size	200% of Poverty Monthly
1	\$1,962
2	2,655
3	3,348
4	4,042
These are the 2015 amounts. They usually go up in January or February each year. See <a href="http://www.mass.gov/dta/eligibility">http://www.mass.gov/dta/eligibility</a> .	

### *Example*

Sherry is 17. Sherry and her baby live with Sherry's mother, Grace Ryan, and Sherry's 15-year-old sister. Grace Ryan earns \$33,000 per year before taxes, or \$2,750 per month. Subtract 200% of the federal poverty level for a family of two (\$2,655) from Grace's monthly earnings. The difference, \$95 a month, is counted as unearned income against the grant for Sherry and her baby.

### *Advocacy Reminders:*

- ✓ Only the income of a grandparent counts. Do not count income of the teen's stepparent (grandparent's spouse) or the teen's siblings. 106 C.M.R. § 204.236.

- ✓ There is no grandparent deeming if a teen parent lives with a non-parent relative such as an aunt, uncle, older sibling, or her own grandparents, and the relative is not receiving TAFDC.
  - ✓ There is no grandparent deeming if the teen parent is 18 or 19.
  - ✓ There is no grandparent deeming if the teen has left the home and the grandparents are caring for the teen's baby. The grandparents can get a one-person grant for the baby excluding their income. See **Question 32**.
  - ✓ There is no grandparent deeming for MassHealth unless the grandparent applies for MassHealth as part of the family group.
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## **76** What if a stepparent, parent or grandparent refuses to give income information?

If DTA cannot determine your eligibility because you cannot provide information from a stepparent, parent, or grandparent, your family is not eligible. 106 C.M.R. §§ 204.235, 204.236, 204.315.

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## **77** What is in-kind income (and how can you avoid having it counted)?

In-kind income is something you get free, such as free rent, utilities or food. SNAP (food stamps), MassHealth, housing subsidies and other benefits are *not* counted as in-kind income. DTA counts in-kind income in figuring the grant amount, but not for the Gross Income Eligibility or Net Income tests. 106 C.M.R. § 204.210(C). DTA reduces the grants of homeless families in an emergency shelter or motel by \$148.50 a month, because the family receives free shelter and utilities. DTA does not reduce the grants of homeless families receiving rental assistance or families

placed in short term housing arrangements. DTA Operations Memo 2011-48 (Nov. 3, 2011); DTA Online Guide (HomeBASE Impact DTA Programs/Requirements).

DTA does not count in-kind income if it is

- for only part of a need listed in the In-Kind Chart (for example, part of the rent), *or*
- for a need not listed in the In-Kind Chart (for example, diapers, clothing, school fees). 106 C.M.R. § 204.510.

<b>In-Kind Chart</b>	
<b>Items received free</b>	<b>Amount counted as in-kind income</b>
Rent or mortgage	
Unheated facility	\$102.00 per month
Heated facility	\$126.30 per month
Fuel	\$ 27.90 per month
Utilities	\$ 18.60 per month
Food (individual)	\$ 41.80 per month

***Example***

Carol and her child live rent-free with Carol’s mother. Because Carol does not pay rent or utilities, DTA counts \$126.30 per month as income to Carol. Carol can avoid having the free rent and utilities counted by paying her mother a small amount each month for rent and utilities (for example, \$10). If her mother is on TAFDC (or EAEDC or SSI) Carol can pay the money directly to the mortgage and utility companies so that the payments will not count against her mother’s grant, or her mother can deduct the payments as business expenses. See 106 C.M.R. § 204.210(E).

***Advocacy Reminder:***

- ✓ Be sure to tell DTA if you are moving from an emergency shelter, motel, or temporary housing so DTA will know that it should stop reducing your grant by \$148.50 a month.

## 78 Do gifts count as income?

### Gifts from Persons with No Financial Responsibility

A friend, charity or relative (except for a parent of a minor child or a spouse) does not have financial responsibility for people receiving TAFDC. The following gifts from people who do not have financial responsibility do not count as income:

- gifts of less than \$30 in a three-month period,
- gifts (cash or non-cash) that are restricted for a specific purpose or paid to a vendor *and* are not countable as in-kind income. See **Question 77**. 106 C.M.R. §§ 204.210, 204.250(N), (AA), 204.510; DTA Transitions, May 2004, p. 2.

### Gifts from Persons with Financial Responsibility

A parent of a minor child or a spouse has financial responsibility for the child or spouse. The following gifts from a parent or spouse do *not* count as income:

- gifts (other than child support) of less than \$30 in a three-month period,
- non-cash gifts to the recipient or money paid directly to a vendor on the recipient's behalf that are not countable as in-kind income (see **Question 77**). 106 C.M.R. §§ 204.210, 204.250(N), 204.510.

#### *Example 1*

Ms. Padilla and her baby are on TAFDC. Ms. Padilla's sister gives her \$200 specifically to help pay Ms. Padilla's \$500 rent. Ms. Padilla's sister is not legally responsible, so the gift is not countable as income.

#### *Example 2*

The father of Ms. Rosen's baby gives \$200 directly to Ms. Rosen's landlord. The gift is not countable as income since the money is paid to the landlord and not to Ms. Rosen.



Be aware, however, that if a parent pays money directly to a vendor as part of a child support agreement, DTA may try to count the money as income.

You must turn over to DTA any cash child support you get for a child who is receiving TAFDC. 106 C.M.R. § 204.230. DTA will pass through to you the first \$50 in current support. See **Question 72**.

If you have a child excluded by the family cap, the first \$90 in income paid for the child from any source does not count against your TAFDC.

***Advocacy Reminders:***

- ✓ Countable gifts (cash or non-cash) from non-legally responsible persons and countable non-cash gifts from legally responsible persons that cover the full expense of a need listed in the In-Kind Chart (for example, rent) are counted at the in-kind value, not the actual value.
- ✓ One-time gifts that are countable are also treated as lump sum income. See **Question 85**. Recurring gifts that are countable are treated as income only in the month the gift is received. Gifts that are noncountable should not be counted as lump sum income.
- ✓ To avoid risking a fraud referral, it is better to report changes that may affect eligibility such as receipt of gifts, even though DTA should not count these gifts if they meet the non-countable income rules.

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## 79 How do you figure monthly income?

DTA looks at the income you expect to get in the month. If you get the income on a weekly basis, DTA multiplies the weekly amount by 4.333, which is the average number of weeks in a month. If you get the income every two weeks, DTA multiplies the biweekly income by 2.167. 106 C.M.R. § 204.290. This is called “prospective budgeting.”

DTA should use the “best estimate” of the income you expect to receive. 106 C.M.R. § 702.920. If your job stopped or you expect to work fewer hours in the coming month, DTA should count the income you expect to receive, not the income you received before.

### ***Advocacy Reminder:***

- ✓ DTA will average the income of workers who have a contractual annual salary. 106 C.M.R. § 204.290(A)(4); DTA Transitions, Sep. 2010, p. 4. DTA should not average the income of school employees and others who get their income during only part of the year but do not have an annual contract or are paid on an hourly basis. DTA may average the income of a teacher who is paid during the school year but has an annual contract. DTA should not average the income of a school cafeteria worker who is paid during the school year and does not have an annual contract.

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## **80 What deductions can you take from income?**

If you pass the Gross Income Eligibility test, see **Question 82**, you can take the following deductions from your income.

### **Earned income deductions**

If you have earned income, you are allowed deductions from earnings in calculating your TAFDC. Because your earnings are not counted dollar-dollar-for dollar against the grant, you have more income (from combined TAFDC and earnings) than if you were not working.

Start with your monthly gross earned income and deduct in the following order:

- \$150 for work expenses. This is a flat amount regardless of how much your work expenses really are.
- \$30 earned income disregard, *plus* the following earned income disregards:
  - ▶ 1/3 of what is left after the \$150 and \$30 deductions if you are exempt from the time limit, *or*
  - ▶ 1/2 of what is left after the \$150 and \$30 deductions if you are not exempt from the time limit.

To get either the \$30 plus 1/3 or \$30 plus 1/2 disregards you have to be a *recipient* or have received TAFDC within the past four months. 106 C.M.R. §§ 204.260, 204.280, 204.285.

DTA may deny you the \$150 work expense deduction and the \$30 and 1/3 or \$30 and 1/2 disregards if you did not report your earned income on time, see **Question 116**, you quit a job without good cause, or you are under a sanction or otherwise excluded from the assistance unit. 106 C.M.R. §§ 204.270, 204.280, 204.285, 204.310. Denying the disregards because you are under sanction or otherwise excluded from the assistance unit may not be legal. Consult an advocate.

- Dependent care costs. Deduct actual dependent care costs (including costs of transportation to and from child care) up to \$200 a month per dependent depending on the age of the dependent and the number of hours you work. 106 C.M.R. §204.275. Determine the maximum deduction you can take for each dependent using the table at the end of **Appendix A**.

DTA may try to deny you the dependent care deduction if you did not report your earned income on time, you quit a job without good cause, or you are under sanction of otherwise excluded from the assistance unit. 106 C.M.R. §§ 204.275, 204.280, 204.285. Consult an advocate if DTA tries to deny you the dependent care deduction.

Working recipients are almost always eligible for free subsidized child care. Deduct dependent care costs only if you have actual out-of-pocket costs. For example, you can deduct costs of transporting your child to and from child care if you have to pay those costs. Be sure to take the other deductions *before* deducting child care costs.

## Unearned income deductions

You can deduct the first \$50 a month in child support for children who are included in the grant. You can deduct the first \$90 in income from any source for a family cap child.

### ***Advocacy Reminders:***

- ✓ If you were not a recipient in the previous four months and you pass the Gross and Net Income Eligibility tests, see **Questions 82-83**, and qualify for TAFDC you should then be considered a recipient and your

benefits should be calculated after deducting the \$30 1/3 or \$30 and 1/2 from your earned income.

- ✓ Because the Gross and Net Income Eligibility limits are higher in September, see **Questions 82** and **83**, a family may qualify in September with income that would have made the family ineligible in previous months. Once the family qualifies it will continue to be eligible for the \$30 1/3 or \$30 and 1/2 deductions from earned income.

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## 81 How much income can you have and still get TAFDC?

There are three main steps to determining income eligibility. You need to

- pass the Gross Income Eligibility Test,
- pass the Net Income Eligibility Test, *and*
- figure out the grant amount.

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## 82 What is the Gross Income Eligibility Test?

The Gross Income Eligibility Test compares gross countable income with DTA's Gross Income Eligibility Standards. It screens out some families who would otherwise be eligible based on their net income after deductions.

There are *four* different Gross Income Eligibility Standards, depending on whether you are exempt from the time limit and Work Program or non-exempt (subject to time limit and Work Program), see **Question 41**, and whether you qualify for the rent allowance. 106 C.M.R. §§ 204.400-204.405; DTA Operations Memos 2011-48 (Nov. 3, 2011).

Compare your total monthly gross countable income to the eligibility standard for your unit's size and exempt status. Include gross earnings, gross unearned countable income, deemed income, and child support. Do not include the first \$50 in child support paid for a child in the assistance unit, the first \$90 in child support or other income for a family cap child, money earned by your children, or in-kind income. 106 C.M.R. § 204.260. Figure gross monthly income by multiplying weekly income by 4.333 and biweekly income by 2.167. See **Question 79**. Use the standard *with* the rent allowance if you live in private, unsubsidized housing. Use the lower standard *without* the rent allowance if you do not pay rent or you live in a teen parent living program, see **Questions 14-16**, or you live in public or subsidized housing and the rent of at least one of the occupants is based on a percentage of income. 106 C.M.R. § 705.910.

If your monthly gross countable income is equal to or less than the Gross Income Eligibility Standard, go on to the Net Income Eligibility Test. If not, the family is not eligible.

***Advocacy Reminders:***

- ✓ The assistance unit does not include SSI recipients or foster children. Do not count their income and do not include them in the assistance unit size. See **Question 30**.
- ✓ The financial eligibility test is not required by state or federal statute. The main effect of the financial eligibility test is to deny supplemental cash assistance to low income working families.
- ✓ DTA should not ask you for verification that you pay for private, unsubsidized housing unless the amount you report raises questions. DTA Operations Memo 2011-21 (June 29, 2011).
- ✓ Some programs, such as tax credit programs, subsidize owners, not tenants. Unless you are in a teen living program, DTA rules do not consider you to be living in subsidized housing unless the rent is a based in whole or part on a percentage of a tenant's income. See DTA Transitions, Apr. 2001, p. 5.

<b>Exempt from Time Limit and Work Program  Monthly Gross Income Eligibility Standard</b>		
Assistance unit size	No rent allowance (no rent, or public or subsidized housing)	With rent allowance (private, unsubsidized housing)
1	\$ 717.80	\$ 791.80
2	908.35	982.35
3	1,097.05	1,171.05
4	1,278.35	1,352.35
5	1,465.20	1,539.20
6	1,657.60	1,731.60
7	1,844.45	1,918.45
8	2,029.45	2,103.45
9	2,214.45	2,288.45
10	2,401.30	2,475.30
Increment	194.25	194.25
<b>Important Note:</b> The Gross Income Eligibility Standard goes up by \$370 <i>per child</i> in September when the \$200 clothing allowance is paid.		

<b>Not Exempt from Time Limit and Work Program                      Monthly Gross Income Eligibility Standard</b>		
Assistance unit size	No rent allowance (no rent, or public or subsidized housing)	With rent allowance (private, unsubsidized housing)
1	\$ 699.30	\$ 773.30
2	884.30	958.30
3	1,069.30	1,143.30
4	1,245.05	1,319.05
5	1,428.20	1,502.20
6	1,613.20	1,687.20
7	1,796.35	1,870.35
8	1,973.95	2,047.95
9	2,155.25	2,229.25
10	2,336.55	2,410.55
Increment	190.55	190.55
<p><b>Important Note:</b> The Gross Income Eligibility Standard goes up by \$370 <i>per child</i> in September when the \$200 clothing allowance is paid.</p>		

## 83 What is the Net Income Eligibility Test?

The Net Income Eligibility Test compares net countable income with the Need Standard. 106 C.M.R. § 204.260(B).

There are four different Need Standards, depending on whether you are exempt from the time limit and Work Program or non-exempt (subject to time limit and Work Program), see **Question 41**, and whether you qualify for the rent allowance. 106 C.M.R. §§ 204.410-204.415. See **Question 82** on who qualifies for the rent allowance.

To determine Net Income Eligibility, start with your monthly gross income. Take the deductions from earned income allowed in **Question 80** in the order given. Then add your net countable earnings to your gross countable unearned income and all but the first \$50 a month in child support and the first \$90 in income for a family cap child. This is your total net countable income.

Compare your total net countable income with the Need Standard for your family size and exempt status. If your total net countable income is equal to or less than the Need Standard (with the rent allowance, if you live in private, unsubsidized housing), you are eligible for TAFDC. 106 C.M.R. § 204.410, 204.415. If your total net countable income is above the Need Standard, you are not eligible.



<p align="center"><b>Exempt from Time Limit and Work Program Monthly Need Standard</b></p>		
Assistance unit size	No rent allowance (no rent, or public or subsidized housing)	With rent allowance (private, unsubsidized housing)
1	\$ 388	\$ 428
2	491	531
3	593	633
4	691	731
5	792	832
6	896	936
7	997	1,037
8	1,097	1,137
9	1,197	1,237
10	1,298	1,338
Increment	105	105
<p><b>Important Note:</b> The Need Standard goes up by \$200 <i>per child</i> in September when the \$200 clothing allowance is paid.</p>		

**Part 4 ■ Financial Eligibility**

<b>Not Exempt from Time Limit and Work Program Monthly Need Standard</b>		
<b>Assistance unit size</b>	<b>No rent allowance (no rent, or public or subsidized housing)</b>	<b>With rent allowance (private, unsubsidized housing)</b>
1	\$ 378	\$ 418
2	478	518
3	578	618
4	673	713
5	772	812
6	872	912
7	971	1,011
8	1,067	1,107
9	1,165	1,205
10	1,263	1,303
Increment	103	103
<p><b>Important Note:</b> The Need Standard goes up by \$200 <i>per child</i> in September when the \$200 clothing allowance is paid.</p>		

***A Note About the Need Standard***

The Need Standard is an arbitrary amount set by the Massachusetts legislature. It does not have anything to do with how much a person really needs to live.

## 84 How much will you get each month?

To figure your monthly TAFDC grant, go through the same steps as for the Net Income Eligibility Test. See **Question 83**. This time, however, do not count child support for a TAFDC child. See **Question 72** on what happens to the child support.

To figure out how much TAFDC you will get, subtract your total net countable income from the Payment Standard. (The Payment Standard is the same as the Need Standard.) 106 C.M.R. §§ 204.420, 204.425, 204.500.

**Part 4 ■ Financial Eligibility**

<b>Exempt from Time Limit and Work Program Monthly Payment Standard</b>		
Assistance unit size	No rent allowance (no rent, or public or subsidized housing)	With rent allowance (private, unsubsidized housing)
1	\$ 388	\$ 428
2	491	531
3	593	633
4	691	731
5	792	832
6	896	936
7	997	1,037
8	1,097	1,137
9	1,197	1,237
10	1,298	1,338
Increment	105	105
<b>Important Note:</b> The Payment Standard goes up by \$200 <i>per child</i> in September when the \$200 clothing allowance is paid.		

<p align="center"><b>Not Exempt from Time Limit and Work Program Monthly Payment Standard</b></p>		
Assistance unit size	No rent allowance (no rent, or public or subsidized housing)	With rent allowance (private, unsubsidized housing)
1	\$ 378	\$ 418
2	478	518
3	578	618
4	673	713
5	772	812
6	872	912
7	971	1,011
8	1,067	1,107
9	1,165	1,205
10	1,263	1,303
Increment	103	103
<p><b>Important Note:</b> The Payment Standard goes up by \$200 <i>per child</i> in September when the \$200 clothing allowance is paid.</p>		

***Advocacy Reminder:***

- ✓ If you were not a recipient in the previous four months and you pass the Gross and Net Income Eligibility tests, see **Questions 82-83**, and qualify for TAFDC, you should then be considered a recipient and your benefits should be calculated after deducting the \$30 and 1/3 or \$30 and 1/2 from your earned income. See **Question 80**.

## 85 What is lump sum income and why is it such a problem?

You are about to receive a settlement from an accident.

You finally got back money from unemployment compensation.

Your luck has finally changed—*or has it?*

Lump sum income is money that you do not get regularly, such as a lottery award, an inheritance, a lawsuit award or settlement, or an award for back unemployment compensation. 106 C.M.R. § 204.240.

If you or your children get this money while you are on TAFDC, you will be ineligible for TAFDC for a certain number of months. This number of months is equal to the amount of the lump sum divided by the monthly standard of need for your family size. 106 C.M.R. § 204.240(D). You can deduct the first \$600 in lump sum income. 106 C.M.R. § 204.250(B).

### *Example*

Martha and her two children get a TAFDC grant of \$633 a month. Martha gets a check from an accident settlement for \$6,000. She can deduct \$600 from the settlement. The rest, \$5,400, divided by her monthly standard of need, \$633, is 8.5. Martha and her children will be ineligible for TAFDC for eight months, and some of the lump sum will count against her grant when she goes back on TAFDC in the ninth month.

### *Advocacy Reminders:*

- ✓ The lump sum rules only apply to money you get while you are on TAFDC. But if you got a lump sum within the 12 months before you applied for TAFDC, you may be subject to the transfer of assets rules. See **Question 67**. See DTA Transitions, Jan. 2004, p. 2.
- ✓ There is no lump sum rule for SNAP (food stamps) or MassHealth.
- ✓ Applying the lump sum rule to any money other than inheritances, lottery or other contest winnings, or damage awards may be illegal.

For example, the lump sum rule should not apply to back child support. Consult an advocate.

- ✓ Money in a pension fund is an asset and should therefore not be countable as income when it is withdrawn, but DTA has said that a one-time withdrawal from pension funds may be considered lump sum income. DTA Transitions, Feb. 2014, p. 5. DTA's position may not be correct or legal.
- ✓ Retroactive TAFDC benefits are not countable as income and are therefore not subject to the lump sum rule, 106 C.M.R. § 204.250(DD), and are also not countable as an asset in the month of receipt or the following month. 106 C.M.R. § 204.140(X).

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## 86 Can you exclude any money from the lump sum rule?

You can exclude all money that is non-countable. See **Question 70**. You can exclude the \$600 deduction.

You can exclude money from a lawsuit or settlement that was intended to replace property or to reimburse you for expenses and which you actually used to pay for or replace these items. 106 C.M.R. § 204.240(A)(3), (A)(4), (B)(3), (B)(4); DTA Transitions, May 2010, p. 3.

You can exclude money that someone (like a landlord or a utility company) refunded to you if you originally paid them with your cash assistance benefits. 106 C.M.R. § 204.250(EE).

You can exclude up to \$7,500 in relocation payments you received to get you to leave a foreclosed property plus additional amounts you can verify are being used for relocation expenses. DTA Transitions, Jan. 2008, p. 7.

In addition, you can exclude money you spent for back bills you incurred while you were waiting for the lump sum, but only if you spent the money for

- medical care or health insurance,

## Part 4 ■ Financial Eligibility

- transportation costs (up to \$150 per month),
- purchase, replacement or repair of basic household furniture or specific appliances (does *not* include television or other electronic equipment) up to \$2,500,
- basic repairs to your home up to \$2,500, provided you own the home,
- court-ordered judgments, including child support or alimony,
- taxes and other debts to the government. 106 C.M.R. § 204.240(B)(4); DTA Transitions, Oct. 2006, p. 4.

If someone else paid for these things for you and you paid the person back after you got the lump sum, you can deduct what you paid. However, you must have written verification that you owed the money and used the lump sum to pay your debt.

Sometimes you can exclude money received because of injury to a legally incompetent person (a child is legally incompetent), if the money is placed in an irrevocable trust for the injured person and is restricted for certain purposes. You will need a lawyer to set up the trust. 106 C.M.R. § 204.240(B)(5).

### ***Advocacy Reminders:***

- ✓ DTA has the power to expand the exclusions from the lump sum rule so that recipients who get a lump sum of money can use it to pay back bills and build assets.
- ✓ Money you received before you applied for TAFDC is not subject to the lump sum rule, but may be treated as an asset. See **Questions 66-67**. DTA Transitions, May 2010, pp. 3-4.
- ✓ You should be able to exclude money you put into a savings account designated as an “economic independence account.” See **Question 69**. Consult an advocate or ask the lawyer who helped you get the lump sum.



## 87 What happens if you run out of money before the lump sum time is up?

You can get your lump sum period of ineligibility recalculated only if

- you had to spend the money or lost it because of a natural disaster,
- you had to spend the money on daily living expenses or no longer have the money because of domestic violence, see DTA Transitions, Feb. 2008, p. 4,
- you spent the money on the expenses listed in **Question 86**,
- you were not eligible for SNAP (food stamps) and spent the money on food, *or*
- your TAFDC standard of need has increased because your assistance unit is bigger than it was when your period of ineligibility was calculated or for some other reason. 106 C.M.R. § 204.240(E), (F).

### ***Advocacy Reminder:***

- ✓ Recalculation does not necessarily mean that you can get back on assistance right away. Because the lump sum rules are so complicated and because the consequences of spending your lump sum on disallowed expenses are so severe, it is important to check the rules ***before*** you get the money, whenever possible. If a lawyer is representing you in a lawsuit that may bring you money, make sure the lawyer is familiar with the lump sum rules before trial or settlement of the case. ***Do not rely on oral information from your case worker about how you can spend a lump sum.***

