

# Part 1      General Eligibility Rules

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## 1      Who can get TAFDC?

TAFDC covers low-income

- families with children *and*
- pregnant women.

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## 2      Which families with children can get TAFDC?

A family can get TAFDC if there is a child living with one parent, two parents, or another relative. 106 C.M.R. §§ 203.580, 203.585.

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## 3      Can you get TAFDC if neither parent is in the home?

To get TAFDC, the child has to be *living with a relative*. Besides a natural or adoptive parent, the relative can be

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- any other blood or adoptive relative related as closely as first cousins (including aunts, uncles, grandparents, sisters, brothers),
- a stepmother, stepfather, stepbrother or stepsister, step-grandparent, *or*
- a spouse (or former spouse) of one of the blood or adoptive relatives listed above. 106 C.M.R. § 203.585. See also DTA Transitions, April 2004, p. 2.

### **Advocacy Reminders:**

- ✓ A non-parent relative does not have to have legal custody or guardianship in order to get TAFDC for a child (unless the child has previously lost TAFDC because of the time limit in another family, see **Question 36**, or would otherwise be ineligible because of the family cap. See **Question 35**).
- ✓ The non-parent relative has the choice of being included in the TAFDC grant or just getting benefits for the children. See **Question 29**.
- ✓ A child who is living with someone who is not a relative may be eligible for Emergency Aid to Elders, Disabled and Children (EAEDC) benefits or foster care benefits.

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# 4

## **Can you get TAFDC if the child is not in the home?**

You can get TAFDC for a child (and caretaking relative) if the child normally lives with you but is temporarily absent. This includes situations where the child is visiting the other parent, spends time with the other parent under a shared custody arrangement, is away at school or is in the hospital. It also includes situations where you have voluntarily placed the child in the care of the Department of Social Services or some other person or agency but you are still exercising care and control. 106 C.M.R. § 203.595.

In general, you cannot get TAFDC for a child who is temporarily absent for more than 120 *consecutive days*, unless you can show good cause for a longer period. You may be able to show that the absence is temporary

because it is for fewer than 120 days. You may have good cause for a longer period, if the child is hospitalized or in a residential school but comes home for visits or holidays, or there is a temporary family crisis.

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## 5 How young must children be to qualify?

The child must be either

- under 18, *or*
- 18 and attending secondary school (or equivalent) full-time with a reasonable expectation of graduating by her or his 19th birthday.  
106 C.M.R. §§ 203.570-203.575.

Children 16 or 17 must be in school full-time or register for the Employment Services Program (ESP); school age children under 14 must meet Learnfare rules. See **Questions 18** and **19**.

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

- ✓ If your child cannot graduate by age 19 because of a disability, ask for a reasonable accommodation. See **Question 24**.
- ✓ A child age 18 who has finished high school but is taking an MCAS remedial course is eligible until the child turns 19, takes the MCAS retest, or six months (which ever is soonest). The six-month period starts after successful completion of high school course work. See DTA Transitions, July 2003, p. 3.

# 6

## Can you qualify if you are pregnant and do not have a child living with you?

If you are pregnant and have no other children living with you, you can get TAFDC—for yourself only—beginning four months before your due date. If you are living with but not married to the baby’s father, his income should *not* be counted until the baby is born. 106 C.M.R. §§ 203.565, 204.235(c).

You should begin the application process several weeks before your eligibility date in order to get benefits as soon as you are eligible.

**Example:** Carolyn is pregnant and is due on December 18. She can get TAFDC beginning on August 18. She should apply in July.

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

- ✓ A pregnant woman not yet eligible for TAFDC may be eligible for EAEDC cash benefits if she is disabled. She is usually eligible for medical benefits as soon as she becomes pregnant through MassHealth or Healthy Start.
- ✓ Pregnant women are also eligible for food stamps (SNAP), WIC (Women, Infants and Children) benefits, and Emergency Assistance.

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# 7

## What if you just moved to Massachusetts? What if you are homeless?

You have to live in Massachusetts to get TAFDC, but

- You do not have to have a permanent or fixed address—you can be homeless. You need to show you live in the area covered by the office where you applied. DTA must accept an oral or written statement from someone who knows about your situation, or your own statement.
- Even if you just arrived in Massachusetts, you can qualify if you intend

to live here or came for a job or to look for work, provided you are not currently receiving public assistance in another state.

- Certain temporary absences from the state are allowed. 106 C.M.R. §§ 203.650-203.660.

DTA may try to deny you if you came to Massachusetts so you or your child can go to school here. 106 C.M.R. § 203.650(A)(3). But you should qualify if you intend to live here even if you came to go to school. You can show you intend to live here by registering to vote or by making plans to stay after graduation.

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# 8

## What if you are not a citizen?

Some non-citizens are eligible for TAFDC. If you are a non-citizen who is not eligible for yourself, you can apply for eligible children. There are four groups of non-citizens who meet non-citizen eligibility rules.

- Refugees and other non-citizens granted special legal status because they are fleeing persecution, including
  - ✓ persons who entered the U.S. as *refugees*,
  - ✓ persons granted *asylum* after entering the U.S.,
  - ✓ persons granted *withholding of deportation or removal*,
  - ✓ certain *Vietnamese Amerasians* (generally individuals fathered by U.S. military members during the Vietnam conflict),
  - ✓ certain Cuban or Haitian nationals who have parole status, orders of supervision, or meet other rules for *Cuban/Haitian entrants*, **or**
  - ✓ *victims of trafficking* in human beings.

Persons in this group meet non-citizen rules without any waiting period and whether or not they have become lawful permanent residents.

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- *Lawful permanent residents* (“green card” holders or “LPRs”) or non-citizens granted *parole* status (this is granted for humanitarian reasons) who
  - ✓ have had lawful permanent resident or parole status for a minimum of five years, *or*
  - ✓ previously were refugees or had another refugee group status (see above), *or*
  - ✓ are Afghan or Iraqi military interpreters and their families granted *Special Immigrant* status (as this Guide goes to press, benefits are limited to eight months from entry for Iraqis and six months from entry for Afghans until they have resided in the U.S. for five years or meet another eligible status), *or*
  - ✓ have been continuously present in the U.S. (with no long interruptions) since at least August 21, 1996 (even if lawful permanent resident or parole status was granted within the past five years).
- Veterans of the U.S. military and active duty military personnel who are lawfully residing in the U.S. (even if not LPRs), their spouses, unremarried surviving spouses, and their children; *and*
- Battered non-citizens who meet certain legal status requirements and were abused by a spouse or parent (and the children or parents of battered non-citizens), see **Question 9**.

See 106 C.M.R. § 203.675; DTA Field Operations Memo 2005-22 (June 1, 2005) (battered non-citizens); DTA Field Operations Memo 2007-52 (Sept. 28, 2007) (Cuban/Haitian entrants).

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

- ✓ A child born in the United States is a citizen regardless of the parent’s immigration status. Citizens also include most people born abroad to or adopted by a U.S. citizen. If your child is eligible but you yourself do not meet the non-citizen requirements, you can apply for and receive benefits for your citizen child but not for yourself. See **Question 30**.

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- ✓ If you are an eligible non-citizen parent, but your child does not meet non-citizen rules (for example, if your child is a lawful permanent resident who entered the U.S. within the past five years), you may be eligible for yourself because you have a dependent child in your care even though the child is not eligible for benefits. 106 C.M.R. § 203.560. See DTA Transitions, Nov. 2002, p. 2; May 2007, p. 3.
- ✓ There are different non-citizen eligibility rules for EA, see **Question 112**, and for food stamps (SNAP). See Food Stamp Advocacy Guide: An Advocate's Guide to the Food Stamp Program in Massachusetts, available at <http://www.masslegalhelp.org/income-benefits>.
- ✓ A disabled adult who does not meet TAFDC noncitizen requirements may qualify for EAEDC (Elders, Disabled and Children benefits) if he or she meets all EAEDC requirements. DTA Field Operations Memo 2008-43 (Aug. 15, 2008). Disabled noncitizen children should also qualify for EAEDC. DTA has not yet issued instructions stating that disabled noncitizen children can qualify for EAEDC, but DTA hearing officers have approved benefits for them.
- ✓ Receiving TAFDC cash assistance may cause “public charge” problems for non-citizens who want to become permanent residents because the immigration authorities may think you will not be able to support yourself. Consult an immigration specialist if you may want to adjust your status. If you are already a lawful permanent resident or you are a refugee or asylee waiting to become a lawful permanent resident, receiving TAFDC will not affect your ability to become a citizen and will not affect your immigration status unless you leave the U.S. and then try to reenter. More information on public charge and related matters is available from the U.S. Citizen and Immigration Service, [http://www.uscis.gov/files/article/public\\_cqa.pdf](http://www.uscis.gov/files/article/public_cqa.pdf); January 22, 2008 the National Immigration Law Center, [www.nilc.org](http://www.nilc.org), and the Mass. Immigrant and Refugee Advocacy Coalition, [www.miracoalition.org](http://www.miracoalition.org).
- ✓ DTA cannot report you to immigration authorities unless you are under a *final order of deportation* and you show DTA a copy of the final order. 106 C.M.R. § 203.675. You can choose not to provide DTA with information about your non-citizen status. See DTA's brochure, “What Immigrants Need to Know,” attached to DTA Field Operations Memo 2004-34 (Sept. 30, 2004).

# 9

## What are the special non-citizen eligibility rules for battered immigrants and their families?

Non-citizens abused by a spouse or parent (and the children or parents of abused non-citizens) may be eligible for TAFDC even if they do not meet the non-citizen rules in **Question 8**. You may be eligible if you are no longer living with your abuser *and* you meet one of the following:

- Your U.S. spouse or parent is a U.S. citizen or legal permanent resident and filed a petition (usually called a Form I-130) to get you legal status. The petition can be either approved or pending.
- You have a pending or approved self-petition for legal status as a victim of domestic violence. This is called a VAWA (Violence Against Women Act) petition or form I-360. It is available to non-citizens who are married to U.S. citizens or legal permanent residents but are no longer living with them.
- You have legal permanent resident status (a green card), and you got your green card through a petition by your spouse or because you self-petitioned as victim of domestic violence.
- You are the dependent child of someone who qualifies as a battered non-citizen even if you are not listed on the petition. 106 C.M.R. § 203.675(A)(8); see DTA Field Operations Memo 2005-22 (June 1, 2005).

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

- ✓ Battered non-citizens who qualify under the above rules do not have to wait five years to get TAFDC.
- ✓ DTA will ask you for proof of your immigration status and copies of any petitions. Tell your DTA worker if you cannot get the documents you need because the abuser has them. Contact an advocate if you need help.
- ✓ If you filed a self-petition under VAWA, it is likely your children will not be listed on notices from the Department of Homeland Security, but

your children have the same protections under the special rules for battered non-citizens.

- ✓ There are a number of codes on immigration documents that may show that a non-citizen meets battered non-citizen criteria. Some of these are listed in DTA Field Operations Memo 2005-22 (June 1, 2005). For additional information, consult an immigration law specialist.
- ✓ You may qualify as a battered non-citizen even if the abuser was not your spouse or parent if your spouse or parent consented to or did not intervene to stop the abuse. 106 C.M.R. § 203.675(A)(8)(a).

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## 10 Do you have to have a social security number?

You must provide a social security number for every person in your family who is applying for benefits. You can provide the numbers orally or in writing. You do not have to show any social security cards. 106 C.M.R. § 701.230. DTA will do a computer check to see if the social security numbers you gave match the people in your family.

If you do not have a social security number for someone in your family who is applying for benefits, you must apply for a number and must provide verification from the Social Security office that you have applied. If you are not sure about a number, you must ask Social Security to check the number and provide verification of your request. Your TAFDC cannot be delayed or denied while you are waiting for a number.

You do not have to apply for or give DTA a Social Security number if you are not seeking TAFDC for yourself because of your immigration status. You can still get TAFDC for your children if they qualify for social security numbers.

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

- ✓ DTA will check your number with Social Security, so it is important to give DTA the correct number. If you are not sure, ask Social Security to check. You can get TAFDC while Social Security is checking.

- ✓ If you are a non-citizen who meets TAFDC or food stamp (SNAP) non-citizen requirements but you are not eligible for a regular SSN, Social Security must issue you a non-work SSN. This may apply to a battered non-citizens who has applied for legal status as a victim of domestic violence. See **Question 9**.

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# 11 Do you have to tell DTA anything about the father of your child?

You have to assign to the state any rights you have to child support for any child for whom you are applying for or receiving assistance.

*Unless you have good cause*, you have to cooperate with the Child Support Enforcement Unit of the Department of Revenue (DOR) to get child support from the child's father, prove he is the father (establish paternity), and get a support order. You have to go to court if there is a court proceeding. You can be sanctioned if you do not cooperate. If you are sanctioned, you will be removed from the grant and your grant will be reduced by your share of the grant or 25% of the payment standard for your family size, whichever is larger. 106 C.M.R. § 203.700. See **Question 28** for more details about the consequences of sanctions.

You will be asked for specific information about the child's father. If you do not have specific information, you will have to provide all the information you have and a sworn statement documenting your efforts to get the information. You should not be sanctioned if you have given all the identifying information you have. 106 C.M.R. § 203.700; 830 C.M.R. § 18.18A.1.

You have good cause for not providing child support information or otherwise cooperating with child support enforcement if you are afraid that doing so will cause you or your child any physical or emotional harm or if you got pregnant by rape or incest. You can verify good cause with statements from social services agencies or from people who know your situation. 106 C.M.R. §§ 203.745-203.760. DOR may try to seek support from the father even if you are not required to cooperate because of good cause. You should get notice of this. Check with an advocate if this is a problem for you.

If you have been sanctioned for not cooperating and want to remove the sanction, tell DTA you want to cooperate and sign DTA's form saying you will cooperate. DTA should remove the sanction within 73 days or earlier if DOR tells DTA you have cooperated. 106 C.M.R. § 203.770; DTA Field Operations Memo 2001-22 (April 25, 2001).

The support rules apply to mothers as well as fathers. A mother who does not live with the child can also be ordered to pay child support. Nonparent caretaker relatives must also meet child support cooperation rules for at least one of the child's parents.

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

- ✓ DTA may tell you to sign a Mother's Affidavit to collect the information DOR needs to get an order for genetic testing to establish paternity. You do not have to sign the Mother's Affidavit. It is DOR's job, not DTA's job, to establish paternity. DTA cannot sanction you for not signing. DTA Field Operations Memos 2003-25 (Oct. 3, 2003) and 2004-13 (Mar. 19, 2004).
- ✓ You do not have to assign child support for a child who receives SSI.
- ✓ Consult an advocate if you do not want to assign child support for a family cap child. See **Question 32**.
- ✓ It may be illegal for DTA to remove you from the grant for noncooperation and in some cases DTA may be reducing the grant for noncooperation by more than the law allows. Consult an advocate.

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## **12 Can you get TAFDC if you are a teen parent?**

You can get benefits if you are a teen parent or a pregnant teen but you must meet special "living arrangement" and "school attendance" rules. There are different rules for *minor teen parents* (under age 18) and *adult teen parents* (18 and 19). 106 C.M.R. §§ 203.600-203.640.

# 13

## What are the school attendance rules for teen parents?

Unless you already have a high school diploma or GED certificate or will turn age 20 within 60 days, you must be

- in school (primary, middle or high school) full-time,
- in a special program for teens called the Young Parents Program, *or*
- in a GED program combined with other volunteer or educational activities totaling 20 hours per week. 106 C.M.R. §§ 203.610, 203.630.

There are *no* exemptions from the school attendance rule except for lack of child care and school vacations or other “good cause.” See **Question 60**.

If you do not meet the school rules and do not have good cause, DTA will remove you from the grant for 30 days. If you still do not meet the requirements, DTA will cut off all TAFDC benefits for you and your child.

You can get free child care. Your parents or other relatives do *not* have to care for your baby unless you want them to. If appropriate child care is not available, you are exempt from the school requirement. DTA should pay for transportation to school and child care if you need it. If you do not have transportation, you have good cause for not complying. See **Question 60**.

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

- ✓ DTA is responsible for finding you a program if you cannot find one on your own. You should not be sanctioned if there are no educational activities for you to attend.
- ✓ You should not be sanctioned if you do not have child care or transportation.
- ✓ If you are a teen parent who has finished high school but you failed the MCAS exam, you are exempt from time-limited benefits and Work Program requirements until you retake MCAS or for a period of six

months (whichever is sooner). DTA Transitions, Sept. 2003, p. 2. You may be exempt for other reasons, too. See **Question 38**.

- ✓ You should not be sanctioned if you are on a wait list for a program that will open up within 60 days.
- ✓ You should not be sanctioned during summer and other vacations.
- ✓ You should not be sanctioned if you will turn age 20 within the next 60 days.
- ✓ DTA will give you a voucher to pay for the GED test and any retest. DTA Transitions, Oct. 2004, p. 2.

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## 14 What is the living arrangement rule for minor teen parents?

If you are under 18, DTA may say you have to live in a teen group home (structured setting) *unless* you

- live with one or both of your parents,
- live with an adult age 20 or older who is related to you *or* your baby—not including the baby’s father if you are not married to him (see **Questions 2 and 3** for a list of relatives),
- live with a legal guardian,
- are 17 and the teen specialist says you can live on your own,
- will turn age 18 within the next 60 days,
- live with your husband if you are married, *or*
- are a “graduate of a DSS independent living program.” 106 C.M.R. §§ 203.620-203.640.

# 15 **What if you are a minor teen parent and your parent’s home is not safe for you or there is some other reason you cannot live there?**

You do not have to live with your parent if someone in your parent’s home is abusive, neglectful, or abuses drugs or alcohol, or if there are other “extraordinary circumstances” why you cannot live there.

“Extraordinary circumstances” include situations such as

- your parent lives out of state,
- there is no room in your parent’s home,
- your parent’s housing violates health and sanitary codes,
- living with your parent will violate your parent’s lease and result in eviction,
- your parent refuses to help you buy food and other things your baby needs,
- you are in a special residential program.

If you do not want to live with a parent or other adult relative, a teen specialist will review your case and may visit your parent’s home. If the teen specialist confirms that you should not live in your parent’s home because there is abuse, neglect, addiction, or other extraordinary circumstances, you do not have to live with your parent. (If you are under 18, it is “neglect” if your parents will not let you live with them.)

The teen specialist may recommend that you live in a home for teen parents. You will have 30 days to move to the teen living program. If you do not go to the program, your TAFDC will be denied or will stop. You have a right to appeal any loss of benefits. If there is no place available in a home for teen parents, you will be allowed to live on your own with your baby until a place is available. 106 C.M.R. § 203.630.

In some cases, you may be able to live on your own if you are 17 years old, are in school full-time, have reliable day care, are in a teen parenting program, and the teen specialist determines that your current living arrangement is safe and healthy for your baby. 106 C.M.R. § 203.640. The Commissioner of DTA will make the final decision about whether you can live on your own. You have the right to appeal this decision. See **Part 9**.

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## 16 Are there any living arrangement rules for teen parents who are 18 or 19?

DTA rules allow you to live on your own if you are an adult teen parent (ages 18 and 19) *and* you meet the school attendance rules or you have graduated from high school or have a GED. 106 C.M.R. § 203.640. However, if you are homeless, DTA will not place you in a DTA-funded shelter unless there is no room in a teen group home. DTA Transitions, April 2002, p. 6.

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## 17 Can you get your own grant if you are living with a parent?

There are different rules for minor teen parents (under 18) and adult teen parents (18 and 19).

If you are a minor teen parent (under 18) who lives with a parent and your parent is receiving TAFDC, you must be included in your parent's grant. If you are a minor teen parent who lives with a parent and your parent is not receiving TAFDC, you can get your own grant but your parent's income above 200% of the federal poverty level may be counted in figuring eligibility for you and your child. See **Question 71**.

If you are a teen parent living with an adult relative (aunt, uncle, grandparent) who is not your parent and is not receiving TAFDC, the relative's income and assets do not count.

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Once you turn age 18, you do not have to be included in your parent's grant and your parent's income does not count.

**Note:** If you are under age 22, even if you get your own TAFDC grant, you may not be able to get separate food stamps (SNAP) if you live with a parent. A parent you live with has to be part of your food stamp household so a parent's income may make you ineligible. 106 C.M.R. § 361.200(A).

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

- ✓ If you are a minor teen parent receiving TAFDC with other family members, you can choose not to receive TAFDC for your baby. 106 C.M.R. § 204.305(C). You might want to do this if you are getting child support for the baby. DTA Transitions, Aug. 2004, p. 3. See **Question 29**.

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# 18

## What are the school requirements for children (“Learnfare”)?

Every school age child under age 14 must meet DTA's school attendance requirements. If a child who has too many unexcused absences, you will lose that child's portion of the grant. This is called “Learnfare.” 106 C.M.R. § 203.900. Learnfare does not apply to your child if you are disabled. For disability, see **Question 39**. Children who are taught at home must provide documentation of an approved home school arrangement.

You will be put on TAFDC “probation” if your child had more than eight unexcused absences during the previous school quarter. A quarter is 45 school days. If the child has more than three unexcused absences during any month in the probation period, you will lose the child's share of the grant. Probation continues until the child has six months in a row with no more than ten unexcused absences.

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

- ✓ DTA cannot terminate the family grant even if the only child on the grant is under a “Learnfare” sanction. DTA Transitions, Aug. 2004, p. 3.

# 19

## How do you verify school attendance and which absences are excused?

The school will verify school attendance directly with DTA if you give DTA the name of the school and permission. You do not need to bring in proof unless the school report is wrong or unless you do not consent to having the school release this information to DTA.

Under the rules, an absence is excused if it was caused by

- the child's illness (you can sign the note if the absence was less than five days; for absences of five days or longer, you need a doctor's note or hospital records),
- religious holidays,
- death of a family member (verified by death certificate or notice in the paper),
- the child's disability, *or*
- a crisis (must be approved by the local welfare office). 106 C.M.R. § 203.900.

You do not need to provide proof unless your child's school reports more than 8 unexcused absences in the quarter.

Sometimes the school will report an absence as unexcused, even though your child was absent for a good reason. If you get a notice saying you are on probation or losing part of your grant because your child had too many absences, find out what the school reported to DTA and double check the dates to be sure DTA is not using old information. If the school reported some absences as unexcused and there was a good reason your child was absent, bring your worker proof of the reasons. You can also appeal any reduction in benefits. See **Part 9**.

**Note:** Children who are expelled or suspended are not exempt from Learnfare, even if the school provides no alternative education. There may be ways to get the child back into school or an alternative program. Check with an advocate.

***Advocacy Reminder:***

- ✓ If a child is removed from your grant for Learnfare noncompliance, DTA should reinstate the child on the grant if you provide verification of Learnfare compliance within 30 days. DTA Transitions, Aug. 2004, p. 3.

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## 20 What are the immunization rules?

You must show proof of immunization (shots) or appointment for immunization for every pre-school child in your family. Proof includes a note from the doctor (on letterhead), a copy of a bill for a well-child visit, or a DTA form signed by your doctor. You can also meet the immunization rules if DTA pays for licensed child care or you have a statement from a Head Start or licensed child care program that the child is enrolled. 106 C.M.R. § 203.800. See **Question 28** on the consequences of sanctions for not meeting the immunization requirements.

You do not have to have your child immunized if it would violate your religious beliefs, if a doctor determines that your child should not be immunized for medical reasons, or if you decide after consulting with a doctor that you do not want your child immunized for health reasons. If you do not wish to immunize your child for these reasons, you will be asked to provide a written statement from you or your doctor. 106 C.M.R. § 203.800(B)

The state is supposed to make sure you can get your child's shots. Be sure to tell your DTA worker if you are having trouble scheduling an appointment for shots or getting the doctor to verify that your child's shots are up to date.

You do not have to provide proof of immunization for school-age children. 106 C.M.R. § 203.800.

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## 21 What if you are on strike?

DTA rules deny TAFDC benefits to the entire family if the parent is on strike. If the striker is not a parent, then the other members of the family are eligible. 106 C.M.R. § 203.920. See DTA Field Operations Memo 2003-20 (Aug. 18, 2003).

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

- ✓ Strikers are not barred from MassHealth or EAEDC and may be eligible for food stamps (SNAP).
- ✓ The striker bar may be illegal; there is no statute authorizing it.

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## 22 What if you have an outstanding default or arrest warrant?

You are not eligible for TAFDC if you have an outstanding default or arrest warrant issued by any Massachusetts court. 106 C.M.R. § 701.110(C). A default warrant may be issued when you miss a court date or when you do not pay a fine, court costs, restitution or other monies ordered by the court or by state law. For example, a default warrant may be issued when someone fails to pay speeding tickets or child support.

DTA will give you 30 days to show that you have resolved the default or arrest warrant or show that the court made a mistake in issuing it. If you do not bring in proofs to DTA within 30 days, you will get a notice reducing your TAFDC by the incremental amount for one person. You have a right to appeal this reduction. See **Part 9**. The rest of your family should remain eligible. **Question 28** explains how your income should be counted in figuring your family's eligibility.

If you get a notice from DTA or the Bureau of Special Investigations (see **Question 132**) that you have an outstanding warrant, or you already know that you have one, you should contact an advocate immediately for advice

and possible referral to a lawyer who can represent you. Because different courts have different ways of handling warrants, you should try to obtain a court-appointed lawyer or a private attorney to help you resolve the warrant.

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## 23 What if you have a criminal history or are fleeing prosecution or punishment?

You are not eligible for TAFDC benefits for yourself if

- you are violating a condition of probation or parole imposed after September 25, 1996,
- you are fleeing prosecution for punishment for a felony (or a high misdemeanor committed in New Jersey), *or*
- you were convicted of a drug-related felony for conduct that occurred after August 22, 1996, you were incarcerated for the felony, you were released from prison less than 12 months ago, and you are subject to the time limit (see **Question 39** for exemptions from the time limit) and you were not granted a domestic violence waiver (see **Question 43**). 106 C.M.R. § 701.110(B).

Other criminal history or activities that do not fall within these dates and conditions should not disqualify you from benefits.

If you get a notice from DTA that your TAFDC has been denied or reduced because of one of these situations, contact an advocate immediately. You have a right to appeal the denial or reduction. See **Part 9**. The rest of your family should remain eligible for benefits. **Question 28** explains how your income should be counted in figuring your family's eligibility.

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

- ✓ You cannot be denied food stamps (SNAP) because of a drug felony conviction.

- ✓ If you are facing drug-related criminal charges, make sure your defense lawyer knows about this rule and the effects a felony conviction could have on your benefits.
- ✓ A DTA hearing officer has ruled that a person who left another state to start a new life is not ineligible as a fleeing felon where the person was not trying to avoid punishment or prosecution.

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## 24 What if a disability makes it hard for you to meet DTA rules or use DTA services?

The federal Americans with Disabilities Act (ADA) requires DTA to provide equal access to programs and services to qualified people with disabilities. 42 U.S.C. § 12132; see 106 C.M.R. §§ 360.250, 701.390. See also DTA Field Operations Memos 2008-20 and 2007-08 (May 12, 2008; Feb. 6, 2007).

Under the ADA you are a person with a disability if you have a physical or mental disability that substantially impairs a major life activity, such as learning, understanding, walking, working, breathing, or caring for yourself. A temporary health problem like a broken leg may not be a disability under the ADA. You can be disabled under the ADA even if you are not receiving any benefits on the basis of disability and even if DTA has decided you do not qualify for an exemption from the time limit because of disability. See **Question 39**.

If a disability makes it hard for you to meet DTA rules or use DTA services, you can ask DTA to grant exceptions to the rules or modify the services. These are called “reasonable modifications” or “reasonable accommodations” under the ADA.

**Example 1:** Because of your disability, you need extra time or help getting information to DTA. DTA should give you the extra time or help.

**Example 2:** Because of a disability, your child will not finish high school by age 19. DTA should allow your child to continue to receive TAFDC benefits past the age of 18, the usual cut off date for children who will not finish school by age 19.

**Example 3:** You use a wheelchair and you need emergency shelter. DTA should place you in a shelter where you can use your wheelchair.

**Example 4:** You have trouble reading because of a learning disability. DTA should explain its notices to you and find you a training program that knows how to help you.

If you need special help or an exception because of a disability, you can ask your worker, the local office director, or any member of the “Accommodation Team” in each DTA local office. DTA should then fill out a form called a “Request for an ADA Accommodation.” DTA may ask for a copy of medical records or other evidence of the disability or permission to contact a doctor or other professional who can verify your disability. You may also need to document the connection between the disability and the special help or exception you are requesting. See DTA Field Operations Memos 2008-20 and 2007-8 (May 12, 2008; Feb. 6, 2007).

DTA must offer to screen you for a learning disability; you can also request to be screened at any time. If your screening shows a possible learning disability and you are willing or required to participate in work or education or training activities, DTA will set up and pay for an in-depth assessment to diagnose whether you have a learning disability. You can then use this diagnosis to request accommodations from DTA, from education and training programs, and on the GED exam. See DTA Field Operations Memo 2007-1 (January 10, 2007); 106 C.M.R. § 701.395.

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## **25** What are your rights if DTA denies your reasonable accommodation request?

The DTA local office should give you a written decision on your request for reasonable accommodation no later than 30 days from your request. If the local office denies your request in whole or in part, you can ask for DTA Central Office Accommodation Appeal Committee reconsideration by filling out the back of the form and giving it to your worker. The Committee has 10 days to make a decision on the reconsideration request. You can also file your request directly with the Committee if the local office does not decide

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your request in 30 days. DTA Field Operations Memo 2008-20 (May 12, 2008).

If the DTA Central Office Accommodation Appeal Committee denies your request for accommodation in whole or in part or does not make a decision in 10 days from your request for a decision, you can request a hearing by filling out the back of the form and sending it to the Division of Hearings.

Try to get a legal advocate to help you with your request for review and your appeal. See **Appendix B** for a list of legal services offices. See **Part 9** on appeal rights.