

# Part 3      Time Limit and Work Program Rules and Exemptions

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## 36      What is the time limit rule and when does your time limit start over?

Certain families are limited to a total of **24 months** of TAFDC benefits in any **five-year period**. You are eligible for a new five-year period and 24 months of additional benefits five years after your last five-year period started. 106 C.M.R. § 203.200.

The 24-month time limit runs if the family is not exempt (see **Question 38**) and

- receives a TAFDC cash grant for a full calendar month,
- receives a FEP payment (see **Question 92**), *or*
- is considered a TAFDC family, but is not receiving a cash grant because the benefit amount is less than \$10 a month.

The 24-month time limit clock (but not the five-year period) stops running if the family stops receiving assistance or becomes exempt from the time limit and Work Program. See **Question 38**. If the family goes back on assistance,

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the 24-month clock starts running again. DTA will add the new months to the full calendar months already used before the family stopped receiving assistance or became exempt.

The 24-month time limit clock also runs against the children of a parent who received assistance. But sometimes a child can get a waiver if another relative or parent has custody or guardianship, or the parent who received assistance is dead, incarcerated, institutionalized, or incapacitated.

If you reach the time limit and still need assistance, you may be able to get an extension, a domestic violence waiver, or an exemption. See **Questions 41-49**.

Maximum grants for families subject to the time limit and Work Program are lower than grants for exempt families. But families subject to the time limit and Work Program are allowed to deduct more of their earnings in figuring countable income. See **Questions 77-80** for the grant amounts and eligibility calculation.

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

- ✓ Check to see if you are eligible for an additional 24 months of benefits because your five-year period has started over.
- ✓ A month counts against your 24-month time limit only if you received TAFDC as a nonexempt household for the full calendar month. If your case was closed for part of a month or you were exempt for part of a month, that month does not count.
- ✓ You have the right to challenge DTA's calculation of your time clock. See **Question 122**.
- ✓ A month counts towards your 24-month time limit if you are a TAFDC participant and you are receiving a very small grant, you are receiving no grant (because of the \$10 minimum rule), or you are receiving a grant only because your child support is assigned to the state. See **Question 68**. You may decide you are better off closing your case so that you do not use up your 24 months. If you close your case, you should still be eligible for MassHealth and food stamps (SNAP). See **Question 95** on eligibility for child care after your case closes.

## 37 What is the Work Program?

Most parents and other caretakers who are subject to the time limit are also subject to the Work Program. See **Questions 51-60** for more details on the Work Program.

Even if you are not exempt from the Work Program, you may have good cause not to participate. See **Question 60**.

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## 38 Who is exempt from the time limit and Work Program?

You are exempt from the time limit and Work Program if

- you are a disabled parent or caretaker (in a two-parent family, both parents must be disabled or meet another exemption),
- you are needed to care for a disabled child, or a disabled spouse, sibling, half-sibling, parent, grandparent or child's other parent,
- you are the caretaker of a child under age two who is not excluded by the family cap,
- you are the caretaker of a child excluded by the family cap who is under three months old,
- you are a teen parent under age 20 and you are attending either a full-time high school or a full-time GED and training or work program that totals at least 20 hours a week,
- you are a pregnant woman in your last 120 days of pregnancy,
- you are not the parent of the child you are caring for and you are not receiving benefits for yourself (see **Question 29**), *or*

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- you are age 60 or older. 106 C.M.R. § 203.100.

If you are ineligible for benefits for yourself and you cannot work for pay because of your immigration status, you are not subject to the time limit but you can be required to do a work activity other than paid work or job search. 106 C.M.R. § 203.400(A)(3). See **Question 54**.

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

- ✓ If you qualified for any one of these exemptions for even part of the month, the whole month does not count towards your 24-month time limit.
- ✓ You can ask for an exemption at any time—even if you reached your time limit and lost benefits. Review the exemptions to see if you might qualify for one. See **Questions 39-43**.

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# 39

## How do you qualify for a disability exemption?

You qualify for a disability exemption if you have an illness or impairment expected to last for at least 30 days, *and*

- you are an SSI or Social Security disability recipient,
- your condition matches the signs, symptoms and test results in DTA’s list of medical impairments, *or*
- your impairments reduce your ability to work considering your age, education, and work experience. 106 C.M.R. §§ 203.530-203.545.

If you are not receiving SSI or Social Security disability benefits, you must complete a form called a “Disability Supplement” that asks questions about your condition, doctors, hospital stays, medicine, and the impact of your disability on your ability to work. Your worker is supposed to help you complete the Disability Supplement if you ask for help. You may also take the form home and get help from a nurse, social worker or friend. In

addition, your doctor if you have one will be asked to provide detailed information about your condition.

The Disability Evaluation Service (DES) will review the medical information and your Disability Supplement and decide whether you meet DTA's disability rules. You can appeal a decision that you are not disabled.

***Advocacy Reminders:***

- ✓ The EAEDC Advocacy Guide explains the DTA disability rules and procedures in more detail. See <http://www.masslegalservices.org/cat/2202>. There are some differences in the procedures for EAEDC and TAFDC disability. For example, for EAEDC, you cannot apply for disability status unless your doctor fills out a medical report form. This is not a requirement for TAFDC.
- ✓ You are not required to chase down medical records but it may help your case if you can. If you need a specialist to evaluate your condition, be sure to say this on your Disability Supplement. Be sure to describe any pain, unusual fatigue, medicines, treatment and side effects. If DES schedules an examination, it is very important that you go. Be sure to call in advance if you must reschedule.
- ✓ Even if you are disabled, you can volunteer for education and training services. See **Question 91**. If you need special services because of your disability, DTA is required to provide "reasonable accommodation." See **Question 24**.

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## **40 Are you subject to the time limit and work rules while DTA evaluates your disability claim?**

You will be considered disabled and eligible for an exemption while DTA and the Disability Evaluation Service evaluate your *first* claim for a disability exemption. 106 C.M.R. § 203.530(F).

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If your claim is denied, you will be considered non-exempt as of the month you claimed disability. Months when your claim of disability was pending will count towards your 24-month time limit.

If your claim is denied, you can apply for a disability exemption later. The second time you will not be considered disabled until a decision is made on your claim, unless you are applying for the exemption in a new five-year eligibility period. 106 C.M.R. §§ 203.100(A)(4), 203.530(F); DTA Transitions, March 2002, p. 7. See **Question 36** for more information on when the five-year period begins and ends.

Even if you do not qualify for a disability exemption while your new claim is evaluated (because you were already denied the exemption during your current five-year eligibility period), you may have “good cause” because of physical or mental health reasons for not meeting work activity, employment development plan, or time limit extension requirements. 106 C.M.R. § 701.380. To show you have good cause, you must

- make a new disability exemption request, *and*
- have a doctor or psychologist fill out a “Good Cause Medical Statement” form for you. Ask your DTA worker for this form. See DTA Field Operations Memo 2002-13 (May 22, 2002).

If you do not have a doctor who is familiar with your condition, DTA should grant you “good cause” if you bring in a letter from a social worker or someone who knows you explaining that because of your disabilities you need more time to get a doctor to complete the “Good Cause Medical Statement.” This is called “disability accommodation.” See DTA Transitions, Nov. 2003, p. 10. Check with an advocate if you need help.

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# 41

## How do you qualify for an exemption as the caregiver for a disabled child?

You qualify for an exemption if you are the caregiver for a disabled child if

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- the child's doctor verifies the disability on a DTA form *or* the child receives SSI (Supplemental Security Income) benefits, *and*
- the child's doctor verifies that you are needed to care for the child, *and*
- if the child attends school full time or is otherwise out of the home, you show that the child needs your care during the day or night so you cannot work full time. The doctor can explain on the form why you are needed, or you can do your own statement and provide support for it from someone else. 106 C.M.R. § 203.100.

Ask your DTA worker for the form to bring to your child's doctor.

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

- ✓ You do not need to be related to the child you are caring for. The child you are caring for does not have to be receiving TAFDC. DTA Transitions, May 2007, p. 3.
- ✓ Only one parent in a two-parent household may claim this exemption even if both are needed to care for the child.

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# 42

## **How do you qualify for an exemption as the caregiver for a disabled spouse or other family member living in your home?**

You qualify for an exemption as the caregiver for a disabled spouse, sibling, half-sibling, the other parent of your child, or your or your spouse's parent(s) or grandparent(s) if

- the disabled person receives SSI or Social Security disability benefits, *or*
- the disabled person is a recipient of TAFDC and meets the requirements for TAFDC disability, *or*

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- the disabled person is not a recipient of TAFDC and a medical provider has verified the disability, *and*
- you provide written medical evidence of the severity of the disability, the reason you have to be home to care for the person, and your inability to work full time outside the home because you must be home to care for the person. 106 C.M.R. § 203.100.

Ask your DTA worker for the form to bring to the doctor.

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# 43

## Can you get a waiver of welfare rules because of domestic violence?

If you (or your child) are a survivor of domestic violence, you may request a waiver of welfare requirements, including the time limit, the Work Program, the family cap, teen parent, and child support requirements, and the one-year drug felon bar. You can also ask to have your Employment Development Plan (see **Question 93**) changed if you cannot comply with it because of domestic violence.

To get a requirement waived, you will need to show that the requirement will make it harder for you or your child to escape domestic violence or will penalize you or your child for past violence. You can verify your claim for a waiver on the basis of domestic violence with your own statement, plus court or medical records or the statement of at least one other person with knowledge of the circumstances. The statements will have to explain why the welfare rule should be waived. 106 C.M.R. § 203.110.

You can get a domestic violence waiver form from your worker or a DTA Domestic Violence Specialist. If you want, the Domestic Violence Specialist will help you fill out the domestic violence waiver request form and help you get counseling, legal and other services to deal with the violence or the effects of the violence.

DTA will not consider a request to waive the time limit until you reach your 22d month of time limited benefits, and can take a month or more to decide on your waiver request. This may be illegal. Check with an advocate if you need to know sooner so you can plan for the future.

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**Example 1:** Katherine Farrell was living with her boyfriend who hit her if she would not have sex with him. She moved out with her 4-year-old child Sam and applied for TAFDC benefits. Sam was upset by the beatings and is misbehaving at home and in school. Ms. Farrell takes him to psychologist appointments, goes to frequent meetings at the school, and spends lots of extra time with him. She does not feel she can work or go to education or training right now. She requests a waiver of the time limit and the Work Program, explaining why she cannot meet Work Program requirements. Her child's psychologist writes a statement for her.

**Example 2:** Susan Moriarty's husband Tom was controlling and physically abusive. He would not let her leave the house without him and would not let her go to school to get her GED. She finally left with her 6-year-old daughter, Paula, and began receiving TAFDC. Ms. Moriarty wants to finish her GED, but the GED program is only 10 hours a week, and DTA says she must participate in a work activity for 24 hours a week. She and her therapist think trying to go do another activity plus school will put too much stress on her. She can ask for a waiver of the Work Program hours requirement because making her comply would penalize her for past domestic violence. She can support her request with a statement from her therapist. See **Question 52** on whether Susan can count study time outside of class hours towards her weekly hours requirement if she does not seek or is not approved for a waiver.

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

- ✓ When you ask for a domestic violence waiver, be sure to explain the connection between the violence and the reason you need a waiver. In the two examples, Ms. Farrell and Ms. Moriarty need more time to deal with the consequences of past violence.
- ✓ You can appeal a denial of a domestic violence waiver. See **Question 122**.
- ✓ The welfare rule you are asking to be waived should not be applied while your waiver request is pending. See DTA Field Operations Memo 97-49 (Sept. 1, 1997).

## 44 What can you do if you are getting close to the end of your time limit?

Your benefits will not end after 24 months if you get an *exemption*, a *waiver*, or an *extension*.

*Exemptions* include exemptions for disability, caring for a disabled child or other family member, caring for a child under age two who is not excluded by the family cap or a child under three months who is excluded by the family cap, the last 120 days of pregnancy, non-parent caretaker not on the grant, and other exemptions listed in **Question 38**.

*Waivers* include domestic violence waivers (see **Question 43**) and family cap waivers (see **Question 35**). If you get a waiver of the family cap, either because of domestic violence or because of “extraordinary circumstances,” the child is no longer excluded and qualifies the family for an exemption from the time limit until the child is two years old.

*Extensions* of the time limit are discussed in **Questions 45-50**.

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

- ✓ You can continue to receive benefits if you start a new five-year eligibility period even if you do not have an exemption, an extension or a waiver.  
See **Question 36**.
- ✓ If you are not the parent of the child you are caring for, you should continue to receive benefits for the child even if you have reached your time limit. See **Question 29**.

## 45 Can you get an extension of benefits past the time limit?

Under DTA rules, recipients who are working at least 35 hours a week at minimum wage or higher will be granted an extension if they are financially and otherwise eligible. In a two-parent family, both non-exempt adults must be working 35 hours a week.

You can also get an extension if you cannot work because you do not have child care, you are in a DTA-approved education or training program and need additional time to complete the program, you are participating in supported work, or you have been referred to job search/job readiness or a vocational evaluation after requesting an extension. 106 C.M.R. § 203.210; DTA Field Operations Memos 2007-13 and 2006-39 (March 12, 2007; Sept. 22, 2006).

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

- ✓ You may use informal (unlicensed) child care if you wish, but you have a strong case for an extension if licensed care is not available and you do not want to use informal care.
- ✓ DTA limits extensions to two to four months, but you can ask for as many extensions as you need. 106 C.M.R. § 203.210(B)(3); DTA Field Operations Memo 2007-13 (March 12, 2007). See **Question 48**.
- ✓ As this Guide goes to press, DTA is no longer making referrals to the career centers for formal job search/job readiness services. DTA Field Operations Memo 2008-56A (Nov. 12, 2008). Consult an advocate if DTA does not offer you a program that will qualify you for an extension.

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## 46 How do you request an extension of benefits past the time limit?

You request an extension of benefits on a form called the “24-Month Extension Request.” You can get the form from your DTA worker.

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You can ask for an extension once you have used 22 of your 24 months. DTA could allow requests for extensions to be made before the 22d month. This would give recipients more time to plan.

You can also ask for an extension after your 24 months of benefits have ended. You will need to file a new application for benefits with the extension request. If five years have passed since your time limit first started to run, you can just reapply for benefits without asking for an extension.

On the extension request form, be sure to tell DTA whether you or your children have any health or learning problems that make it hard for you to work or participate in community service or another activity; whether you lack reliable transportation to work or another activity or child care; whether you cannot get appropriate child care for the hours you need; and about any efforts you have made to find a job.

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

- ✓ If you ask for an extension, your worker will fill out a “24-Month Extension History Form” saying whether you have been sanctioned, did not go to job search, or did not comply with DTA rules. Ask for a copy of the worker’s completed 24-Month Extension History Form. If you disagree with what your worker said, or if you had a good reason for not going to job search or not complying with DTA rules, give your worker a written explanation to include with your extension request.

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# 47

## **When do you have to file your extension request to be sure that benefits do not stop before DTA makes a decision?**

Before your 24 months are up, you will get a written notice telling you that your case will close because of the time limit on a certain date (the closing date). *If you request an extension before the closing date, your benefits should not stop until a decision is made on your extension request.*

**Advocacy Reminder:**

- ✓ You do not have to wait until you get notice of the last check. You can request an extension once you reach the 22nd month. 106 C.M.R. § 203.210.

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# 48

## How long will your extension last?

Extensions are approved for specific periods depending on the extension activity.

Extension Activity	Approval Period
Employment	3 months
Job Search/Job Readiness	2 months
Completing Education or Training	3 months (with subsequent 3 months if needed)
Vocational Evaluation/Support Work/Mass. Rehab. Comm'n	4 months initially, 3 months for second and subsequent extensions

DTA Field Operations Memo 2007-13 (March 12, 2007).

In October 2008, DTA suspended referrals to the career centers for formal job search/job readiness activities. Ask your worker if you can get an extension by directing your own job search. DTA did not suspend referrals to the Office of Refugees and Immigrants for job search services.

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# 49

## What if your extension request is denied?

DTA will send you a notice when it makes a decision on your extension request. If DTA denies your request, you can appeal. If you appeal the denial of an extension within 10 days of the date DTA sent notice of the denial, you

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should continue to receive benefits while you are waiting for a decision on the appeal. See **Question 123**.

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

- ✓ You can appeal the written notice terminating your benefits whether or not you filed an extension request or an appeal from the denial of an extension request. If you file the appeal within 10 days of the date DTA sent the notice, your benefits should continue until the appeal is decided. Consult an advocate for help with your appeal.

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## **50** How does DTA count income for families applying for or receiving an extension?

Because of a court order, DTA must allow families applying for or receiving an extension the same income deductions allowed for other families. This means you get a deduction from earned income of \$30 and one-half of the remainder in addition to the \$90 work expense deduction. See **Question 77**.

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## **51** What activities count as work?

Activities that count as work include

- a DTA-approved education or training activity, including
  - ✓ skills training,
  - ✓ adult basic education,
  - ✓ English-as-a-Second Language (ESL),
  - ✓ a GED program, including a Department of Education distance learning program, see DTA Field Operations Memo 2005-28 (July 1, 2005),

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- ✓ the Young Parents Program,
- ✓ post secondary education, including programs for an associate's degree, four-year or bachelor's degree, or graduate degree that are at least half time and for which funding is available from non-DTA sources, see 106 C.M.R. § 207.140,
- paid work, including college work study,
- unpaid work (DTA calls this “community service”),
- internships,
- baby-sitting for your grandchild so a teen daughter who lives with you can go to school,
- home-schooling your children, see TAFDC Update No. 11 (Jan. 25, 1996),
- participating in a substance abuse program while in a substance abuse shelter,
- the “Supported Work” program,
- Vocational Rehabilitation services,
- another program DTA expects will lead to a job,
- job search,
- housing search if you are staying in an emergency shelter.  
106 C.M.R. § 203.400(A)(2).

Education or training generally count towards the work requirement for only 12 months.

See **Question 92** for a list of DTA's Employment Services Program (ESP) activities. Most ESP activities count as work.

***Advocacy Reminders:***

- ✓ The 12 months of education or training that count towards the work requirement do not have to be consecutive. For example, you could participate in education for 3 months in the fall, do community service or another activity for one month, participate in education for 3 more months, and then work for 5 months in the summer. That way you will have only used 6 months of education instead of a whole year and will have another 6 months left.
  
- ✓ DTA generally limits job search as a work activity to six weeks, but may allow you to continue if you want. See DTA Field Operations Memo 2006-51 (Nov. 27, 2006). As this Guide goes to press, DTA has suspended referrals to the career centers for formal job search/job readiness. Consult an advocate if DTA won't count time you want to spend looking for a job.

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# 52

## **How many hours a week do you have to do a work activity?**

Required hours of work activity depend on the age of your youngest child who is not excluded by the family cap or the age of a family cap child if that is the only child living with you. You can meet the work requirement by doing one or a combination of activities for the required hours.

**Youngest child between age two and school age.** If you are not exempt and your youngest child is between the ages of two and age six or first grade (whichever is later) you must do 20 hours a week of work activity.

**Youngest child from school age through age eight.** If you are not exempt and your youngest child is age six or first grade (whichever is later) through eight years old, you must do 24 hours a week of work activity.

**Youngest child age nine or older.** If you are not exempt and your youngest child is age nine or older, you must do 30 hours a week of work activity.

**Only child younger than age two but excluded by the family cap.** If the only child living with you is younger than two but excluded by the family

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cap, you must do 20 hours a week of work activity beginning when the child is three months until the child is age six or first grade (whichever is later). 106 C.M.R. § 203.400(A)(5).

**Note:** If you are in a homeless shelter and meeting your shelter housing search requirements, you meet the work activities requirement. You do not have to show that you are doing housing search for a set number of hours. DTA Field Operations Memo 2004-37 (Sept. 22, 2004).

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

- ✓ DTA has a duty to help you locate work activities that meet the hours requirements. For example, if you must do 30 hours of work activities a week and your training program is 20 hours a week, DTA should help you find a program or community service placement for the additional hours. If DTA cannot find an appropriate program or placement for you, you have good cause, see 106 C.M.R. § 701.380(A)(8) and **Question 60**, for not doing the additional hours.
- ✓ If you are in an education or training activity, each hour of participation (or each credit hour, if you are in college) counts as two hours towards the work requirement. In other words, if you are in college and you have 12 credit hours, you are counted as participating for 24 hours a week. If you are in a training program for 15 hours a week, you are counted as participating for 30 hours a week. DTA Field Operations Memo 2008-50 (Sept. 24, 2008). You should also be able to get credit for additional study or laboratory time if it is supervised.
- ✓ The federal Fair Labor Standards Act limits the number of hours you can participate in community service to meet the work requirement. See **Question 57**.

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## 53

### **What are the work rules for two-parent families?**

In a two-parent family where neither parent is exempt each parent must meet the required work activity hours each week based on the age of the youngest child. 106 C.M.R. § 203.400(A)(5).

## 54 What are the work rules for non-citizen parents?

Non-citizens who are included in the assistance unit are treated the same as citizens.

Non-citizens who are ineligible for benefits for themselves because of their immigration status but have work authorization or could work for pay are subject to the work rules on the same basis as citizens.

Non-citizens who are ineligible for benefits for themselves and cannot work for pay because of their immigration status can be required to do community service. Non-citizens without work authorization cannot be required to look for or take a paid job. 106 C.M.R. § 203.400(A)(3). Non-citizens should also be allowed to count education or training on the same basis as citizens. Consult an advocate if DTA will not let you count education or training.

Non-citizens have the same right as citizens to claim an exemption (for example, because of disability) or get a waiver (for example, because of domestic violence) or claim good cause for not meeting the work requirement (for example, because of lack of child care). See **Questions 38-43, 60**.

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## 55 When do you have to start a Work Program activity?

You have 60 days to look for and start a work program activity once you begin receiving TAFDC, start a new five-year eligibility period (see **Question 36**), or DTA decides you are subject to the Work Program. 106 C.M.R. § 203.400(A)(2); DTA Field Operations Memo 2006-52 (Nov. 24, 2006).

If your activity stops or no longer qualifies as “work,” you have 20 days to begin another activity.

If you cannot meet DTA's deadline for starting a work program activity, you may have good cause to start later. See **Question 60**. For example, you may need more time to arrange child care or a community service site may not be ready for you.

If you reapply for TAFDC, you have used your 60-day work search period already, and you do not have good cause for not participating in a work activity, you have 10 days to look for and start an activity (unless your case was closed because you did not meet the work activity requirements). DTA Field Operations Memo 2005-14 (March 9, 2005). See **Question 59**.

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## **56** How should you choose a Work Program activity?

You have the right to choose which Work Program activities you will use to meet the work requirement. You have the right to pick an education or training program (for up to 12 months) or any other countable activity.

Ask your worker about training or education programs that DTA pays for. Also ask about programs that other agencies pay for, such as adult basic education and training programs paid for by other agencies. In general, it is not good to borrow money to pay for an education or training program, except for college programs that qualify for low-interest loans and have a good track record of helping graduates get jobs.

As long as you choose a countable activity, DTA should approve it and put it in your Employment Development Plan (EDP). See **Question 93**.

DTA will assign you to community service, see **Question 57**, if you do not choose and get approval for another activity or activities that meet the work requirement. You can switch from community service to another activity if you choose and get approval for the other activity.

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

- ✓ DTA is required by law to provide appropriate services for people with disabilities. Consult an advocate if you need special training, education, or

employment services because you have a physical or mental disability, including a learning disability. See **Question 24**.

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# 57

## Who decides where you do community service?

You can arrange your own community service placement, but DTA reserves the right to disapprove the site you arrange.

If you have not found your own placement or do not want to look for your own placement, DTA should refer you to an available and appropriate placement. 106 C.M.R. § 207.170(B)(2)(c); DTA Field Operations Memo 2003-21 (Aug. 29, 2003). DTA is supposed to call the community service site to confirm availability before referring you. If within 20 days you have not accepted the referral, found another community service site that DTA approves, started another allowable activity, or convinced DTA you have good cause, DTA will start the sanction process. See **Question 59**.

A community service referral may not be appropriate if the people there do not speak your language, the work is wrong for your education level, the site does not take into account any disability you have, it takes too long or costs too much to get there, or the placement requires you to work in the evening or early morning when your children are not in school or child care.

If DTA does not help you find a community service site, sends you to a site that does not exist, or sends you somewhere that is not appropriate, you should tell your worker you have good cause for not going there, see **Question 60**, file an appeal, see **Part 9**, and consult an advocate.

DTA says it can require you to do community service during your child's school hours. DTA says it can reassign you from one placement to another if it wants. 106 C.M.R. § 207.170(A). Consult an advocate if you have located a good placement, and DTA is telling you to change.

Under the federal Fair Labor Standards Act, you cannot be required to participate in community service for more hours than your TAFDC grant plus food stamps (SNAP) divided by the minimum wage (\$8/hour) divided by 4.333. DTA says it can require you to do another activity in addition to or

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instead of community service if you cannot meet your full work requirement with community service because of the Fair Labor Standards Act. 106 C.M.R. § 203.400(A)(2)(c). This may be illegal. Consult an advocate if it is a problem for you. DTA agrees that if there is no activity available for you to supplement your community service hours and no activity for you to do instead of community service, you must be given “good cause.” DTA Field Operations Memo 2008-53 (Oct. 20, 2008).

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

- ✓ DTA must subtract the value of child support collected and retained by the state in making the Fair Labor Standards Act calculation. DTA Field Operations Memo 2008-53 (Oct. 20, 2008).
- ✓ State law limits defines “community service” as a program at a public or private nonprofit employer. Because DTA regulations do not define “community service,” you could ask DTA to approve unpaid work at for profit employer, but DTA should not require you to do unpaid work at a for profit employer.

For other activities that count as work, see **Question 51**.

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## **58** What if you need child care or transportation to meet the Work Program rules?

You are eligible for free child care if you need child care to meet Work Program rules. See **Question 95**. If you cannot locate appropriate child care you have good cause for not meeting the rules. See **Question 60**.

DTA provides limited transportation help to Work Program participants. See **Question 99**. If you cannot meet the Work Program rules because you do not have transportation, you have good cause for not meeting the rules. See **Question 60**.

DTA will authorize child care for up to two weeks while you are waiting to start an activity. If you already have child care and have an activity scheduled

to start within a month, DTA will authorize child care for up to a month so you do not lose your child care arrangements. 106 C.M.R. § 207.210(A)(2). These rules allow you to get the child care you need to engage in a work activity for two weeks so you can get back on benefits after you have been cut off by the time limit or for not complying with work requirements.

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## 59 What happens if you do not meet the Work Program rules?

Unless you are exempt from the time limit, you can be sanctioned for not meeting Work Program rules. See 106 C.M.R. § 207.200.

If you are subject to the work requirement and not participating, DTA is supposed to refer you to a community service site. If you are not participating within 20 days of the referral, DTA issues a warning notice and 10 days after the warning notice sends another referral to community service or another activity you have selected and takes steps to reduce your benefits. In a two-parent family, you lose the grant for both parents even if only one parent did not meet Work Program rules.

Twenty days after the second referral, DTA sends another warning notice and 20 days after that DTA takes steps to cut off all cash assistance for your family. See DTA Field Operations Memo 2005-8 (Feb. 2, 2005). The termination notice will say you did not comply with your Employment Development Plan.

If your family's cash assistance is cut off because you (or the other parent) did not meet Work Program rules or comply with your Employment Development Plan, your family is not eligible until you have met the rules for two weeks. 106 C.M.R. §§ 207.200(B), 207.205.

DTA has a duty to find you an appropriate and available community service placement if you need one. See **Question 57**. If DTA does not find you an appropriate and available community service placement, you have good cause for not complying and should be put back on benefits even if you are not doing a work activity. See **Question 60**.

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A court has said that it may be illegal to cut benefits to the whole family because one person did not meet Work Program rules. Consult an advocate.

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

- ✓ You should not be sanctioned if you have good cause for missing the activity. See **Question 60**.
- ✓ You can appeal if your attendance was not recorded correctly or if DTA does not accept your good cause claim. See **Part 9**.
- ✓ If your benefits are cut off, you should get the child care and transportation services you need to cure the sanction. If you cannot cure the sanction because you do not have child care or transportation, tell DTA you have good cause and check with an advocate about what to do.
- ✓ Consult an advocate if DTA denies you education, training, child care, transportation or earnings deductions because you did not meet Employment Development Plan (EDP) or Work Program requirements.
- ✓ Your food stamps (SNAP) will not increase when you lose your share of the grant because of an EDP or Work Program sanction. 106 C.M.R. § 365.130. But your food stamps should go up if you lose all of your TAFDC, as long as you are complying with applicable food stamp requirements.
- ✓ You should not be sanctioned if you are exempt from the time limit and have participated in work or another activity as a volunteer. See **Question 91**.

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## 60

### **What if you have a good reason for not meeting Work Program rules?**

You should not be sanctioned if you have good cause for not meeting the Work Program rules or your Employment Development Plan. Good cause reasons include

- lack of appropriate child care, see **Question 97**,

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- illness or disability (yours or a family member's),
- lack of affordable and reliable transportation,
- lack of an appropriate and available community service site identified by DTA, see **Question 57**,
- a family crisis or emergency,
- the job does not pay minimum wage, violates health or safety standards or discriminates on the basis of sex, race, religion, ethnic origin or disability,
- the job is available because of a strike or lockout, *or*
- you are participating in housing search.  
106 C.M.R. § 701.380(A).

If DTA thinks you are not meeting the work requirement it will send you a form listing the good cause reasons. To stop DTA from reducing or cutting off your benefits, circle the good cause reasons that apply and return the form to your worker within 10 days.

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

- ✓ You may have good cause if no one at the work placement speaks your language or the placement is not appropriate for some other reason. See **Question 57**.
- ✓ If you have just been evicted or you are homeless, you may be able to claim good cause on the basis of family crisis or emergency.
- ✓ Domestic violence is good cause due to family crisis or emergency. You may also be able to get a domestic violence waiver. See **Question 43**.
- ✓ DTA says you do not have good cause based on lack of appropriate and available child care if the Child Care Resource and Referral Agency has referred you to child care. DTA Field Operations Memo 2005-1A (April 15, 2005). But you have a right (and a duty as a parent) to take into account what any reasonable parent would consider in deciding whether child care is appropriate. See **Question 97**. Consult an advocate and file an appeal if the Child Care Resource and Referral Agency has not referred

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you to child care you think is appropriate and you are denied good cause.  
See **Part 9**.

- ✓ You should be able to claim good cause if you cannot go to the Work Program activity for any reason beyond your control. If your worker will not approve your good cause claim, contact an advocate and file an appeal. See **Part 9**.