

Part 2 Assistance Units

29 Who has to be in the assistance unit?

An assistance unit is all the members of a household who are counted in determining the amount of the grant.

Certain people have to be in the assistance unit, whether they want to or not. This is a way of forcing their income to be counted in determining the eligibility of other members of the household. Mandatory assistance unit members are

- a natural or adoptive parent, or parents, living with a dependent child, *and*
- most siblings – including half-siblings but not step-siblings – living with the dependent child. 106 C.M.R. § 704.305.

Example 1

Ms. Ward has two children, Michael and Rachel. The children have different fathers. Rachel's father pays child support. Ms. Ward would like to exclude Rachel from the TAFDC unit, so that the child support would not count against the grant for Michael and so that she could use the child support for Rachel. Under the rule, however, Rachel has to be in the unit with her half-brother Michael. See **Question 65** for who gets the child support.

Example 2

Nina Santiago and her partner Jose Hernandez have one child, Awilda. Ms. Santiago's child, Victor, also lives with them. Jose is not Victor's father, and has no obligation to support him. But under the rule,

Awilda has to be in the assistance unit with Victor, and Mr. Hernandez has to be in the assistance unit with Awilda, his daughter. As a result, Mr. Hernandez's income counts in determining everyone's eligibility.

Advocacy Reminder:

- ✓ The assistance unit rule is not required by statute. DTA could eliminate the assistance unit rule if it wanted to. For more information email info@masslegalservices.org.
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30 Who cannot be in the assistance unit?

Certain people cannot be included in the assistance unit, even if they live in the same household. These people may or may not have their income counted in determining the family's eligibility.

People who are excluded and whose income does ***not*** count are

- Supplemental Security Income (SSI) recipients,
- the spouse of a non-parent grantee, and
- children getting foster payments or adoption assistance. 106 C.M.R. §§ 704.305, 704.325. The adoptive parents can get TAFDC for themselves. Foster parents can get TAFDC for themselves if they qualify as a relative. See **Question 3**.

People who are excluded and whose income ***does*** count if they are otherwise mandatory members of the assistance unit (see **Question 29**) are

- people who are sanctioned (for not cooperating with child support, a Pathways to Work Plan, the Work Program, Learnfare, immunization, parent under 20 school attendance, third-party medical insurance, or direct deposit requirements, or for an intentional program violation),
- ineligible noncitizens, and

- people who have not met an eligibility rule such as the Social Security number requirement. 106 C.M.R. §§ 701.230, 704.305.

Also, you are excluded if you have an outstanding default or arrest warrant in Massachusetts, you are fleeing prosecution or punishment for a felony, or you are violating a condition of probation or parole. 106 C.M.R. § 701.110. See **Questions 22** and **23**. You may also be excluded if you were convicted of a drug-related felony for conduct that occurred after August 22, 1996, you were released from prison less than 12 months ago, and you do not meet any of the other exceptions listed in **Question 23**. Contact your local legal services program, **Appendix D**, if you need help dealing with any of these problems.

Advocacy Reminders:

- ✓ It may be illegal for DTA to remove you from the grant for not cooperating with child support. Also, if you have income that is being counted in figuring the grant amount, DTA may be reducing your grant for not cooperating with child support by more than the amount permitted by law. For more information, email info@masslegalservices.org.
- ✓ You may have grounds to challenge a sanction or disqualification if you had good cause for not meeting a DTA requirement or DTA did not comply with its obligations before imposing the sanction or disqualification.

31 What happens if you are excluded from the assistance unit?

Effect on grant. If you are excluded from the assistance unit you lose your portion of the grant (usually about \$100). If you are sanctioned for not cooperating with child support, you lose your portion of the grant or 25% of the maximum grant for your family size, whichever is more.

Effect on education, training, child care and transportation. If you

are excluded from the assistance unit because you are not a citizen, but you have work authorization or are an otherwise lawfully present immigrant, you are eligible for education, training, child care and transportation on the same basis as other TAFDC recipients. See DTA Field Operations Memo 2002-18A (Oct. 10, 2002).

If you are excluded from the assistance unit for some other reason – for example, because you get SSI, you are under sanction, or you do not have work authorization – DTA may say you are not eligible to participate in a DTA-funded education or training program, can get child care only for work, for school (if you are a parent under 20), or for another work, education or training activity that DTA mandates, and can get transportation assistance only for an education, training or job search activity that DTA requires.

Contact your local legal services program, **Appendix D**, if you are denied services because you are excluded from the assistance unit.

Effect on how income is counted. DTA may try to count gross earnings of someone excluded from the assistance unit against the reduced grant (without any deductions for work expenses, child care, or earned income disregards). You may be able to argue that you should have 20 days to report. Email info@masslegalservices.org if DTA tries to deny you earnings deductions because you are excluded from the assistance unit.

- Because of a lawsuit, DTA no longer denies earnings deductions if you are excluded from the assistance unit because of a drug felony conviction. See **Question 23** for who can be excluded from the assistance unit because of a drug felony conviction.
- See **Question 67** for how DTA counts income if you are excluded from the assistance unit because you are an ineligible noncitizen.
- Income of SSI recipients and non-parents who are not receiving TAFDC does not count. See **Questions 31 and 3**

32 Who has a choice about whether to be in the assistance unit?

Certain people can choose whether to be in the assistance unit:

- A grantee relative who is not a parent, such as a grandparent aunt, or stepparent, does not have to be included in the assistance unit. (The spouse of a grantee relative who is not a parent cannot be included.) 106 C.M.R. §§ 704.305; 704.320(A). The income of the grantee relative does not count unless she or he is included in the unit. Also, grantee relative who is not a parent and who chooses not to be included in the unit is exempt from the time limit and work program. See **Question 36**. A grantee relative can make this choice at any time.
- A caretaker can choose whether to include non-sibling children, such as a niece or nephew, in the assistance unit. A child who is not included but still needs TAFDC can get her own full grant if she can show that being in the unit will cause homelessness or serious hardship because the child will lose the full benefit of her own grant. 106 C.M.R. § 704.305(A)(2).
- A woman who qualifies for benefits for herself on the basis of pregnancy has a choice about whether to include her children in the assistance unit. 106 C.M.R. § 704.305(A)(4). For example, if child support is more than the child's share of the grant (about \$100) plus the \$50 pass through, see **Question 65**, it is probably better for the child not to be in the assistance unit. But once the baby is born, the mother cannot get benefits for herself unless all children are included in the assistance unit.
- A parent under 18 who is getting TAFDC on her parent's grant can choose whether to get TAFDC for her child. The parent under 18 might not want to get TAFDC for the child if she is getting child support or Social Security benefits for the child. 106 C.M.R. § 704.320(B); DTA Transitions, Aug. 2004, p. 3.

- Noncitizens who do not want to be included in the assistance unit can choose not to provide proof of immigration status. See **Questions 30 and 33**.

Example 1

Jane lives with her aunt and cousins who get TAFDC benefits. Jane has income from child support, so her aunt does not include her in the TAFDC unit and her income does not count in determining the aunt's and cousins' TAFDC eligibility.

Example 2

Reggie lives with his aunt and cousins who get TAFDC benefits. Reggie has no income, so his aunt needs to get TAFDC for him. If Reggie is included in the assistance unit with his aunt and cousins, his aunt will get about \$130 a month for him. His aunt can get a full single person grant for Reggie if she can show that giving him only a \$130 grant would result in his becoming homeless (because she cannot afford to have him continue to live with her) or would otherwise cause Reggie serious hardship.

Example 3

Wretha is taking care of her grandchild, Laurene, who is six years old. Wretha chooses to receive a grant only for Laurene. Wretha does not have to meet the Work Program requirements. Benefits for Laurene will not be subject to the time limit.

33 Can you get TAFDC just for your children if you are not a citizen?

Yes. You have the right to exclude from the TAFDC application any noncitizen family members who do not want to apply. See DTA Field Operations Memo 2004-34 (Sept. 20, 2004); **Appendix E** (DTA Online

Guide Links).

- You can apply just for your U.S. citizen children or for children who meet noncitizen eligibility requirements. See **Questions 8-10**.
- You do not have to give information on your immigration status or an SSN.
- You can opt out for any reason, such as you do not have legal status or an SSN, or you do have legal status but you do not meet TAFDC noncitizen rules. You do not have to give a reason for opting out.
- Even if you opt out, you must still give DTA information on your income, the other parent, and other TAFDC eligibility factors.
- DTA will not report you to immigration authorities unless you tell DTA you are under a final order of deportation and show DTA a copy of the final order. 106 C.M.R. § 704.430. If you are not sure about your status, contact your local legal services program, **Appendix D**.

Advocacy Reminders:

- ✓ Noncitizens can also opt out of the SNAP (food stamp) application. But if you have lawful status in the U.S. you may be eligible for higher benefits if you do not opt out. And even if you opt out of TAFDC and SNAP, your children may be eligible for higher SNAP benefits if you have legal status and show DTA proof of that status. See 106 C.M.R. §§ 362.220, 365.520(B).
- ✓ See **Question 52** on the work rules for noncitizen parents who are not included in the TAFDC assistance unit.