

Part 2 Other Eligibility Conditions

37 Are there other eligibility conditions you must meet?

YES. Even though you meet one of the categories listed above, there are a number of other rules or conditions you must meet before you are found eligible for EAEDC benefits. Each of these rules is found in the EAEDC regulations. These rules involve your:

- Massachusetts residency,
- citizenship and alien status,
- social security number,
- eligibility for other benefits,
- assignment of any disability or accident related benefits,
- assistance unit rules.

The following questions discuss these eligibility conditions in detail.

38 What if you just arrived in Massachusetts? What if you are homeless?

You have to live in Massachusetts to get EAEDC, but:

- You don't have to have a permanent or fixed address. You can be eligible if you are homeless. 106 C.M.R. § 320.520. You will be asked to show that you live in the area covered by the office where

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you applied. DTA must accept a written or oral statement from someone who knows your situation, or your own statement.

- You can qualify if you just arrived if you intend to live here or came for a job or to look for work. However, if you came to Massachusetts "solely for the purpose of obtaining EAEDC," you are not eligible. 106 C.M.R. § 320.520.
- Certain temporary absences from the state are allowed, such as for illness, school, business or family commitments. 106 C.M.R. § 320.540.

DTA may try to deny your benefits if you came to Massachusetts so you or your child can go to school. 106 C.M.R. § 320.520. But you should qualify if you intend to live here even if you came for school reasons. See an advocate.

39 What if you are not a U. S. citizen?

You are an "eligible non-citizen" if you are legally present in the U.S. or "permanently residing under color of law" ("PRUCOL"). 106 C.M.R. §§ 320.620.

To be an "eligible non-citizen," you must be a

- legal permanent resident ("green card" holder);
- refugee;
- asylee;
- Amerasian;
- Cuban/Haitian entrant;
- non-citizen granted withholding of deportation;
- parolee;
- conditional entrant;

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- non-citizen "lawfully residing" in the U.S., and you have been battered by a spouse or parent or member of your family with whom you no longer live and you have filed a petition under the Violence Against Women Act (this also applies to your minor child);
- non-citizen "lawfully residing" in the U.S. and are a veteran with an honorable discharge or an active duty service member, or you are the spouse or dependent child/ren of the veteran or service member; *or*
- non-citizen "permanently residing under color of law" or PRUCOL. PRUCOL means that you have an immigration status granted by INS, a formal application pending with INS, or you have proof that INS knows you are here and is not planning to deport you.

To verify one of these statuses, you need to show the welfare department documentation of your contact with Immigration. This could be a copy of whatever documents you have, a letter written by your lawyer about your immigration status or a copy of a receipt from Immigration that you have applied for a document or status. Be sure to confirm your documents with an advocate before you go to the welfare office.

Applying for U.S. Citizenship

Certain EAEDC recipients who are eligible to become U.S. citizens (naturalize) within the next three years are required to "engage in efforts" to naturalize. 106 C.M.R. § 320.620(B)(1)(b).

This rule applies to you only if you are a legal permanent resident (LPR) **and** you are physically and mentally able to do so. Non-citizens who are not LPRs are not eligible to naturalize until they are LPRs and meet certain residency rules. The Mass. Office of Refugees and Immigrants has recently distributed funds to community-based organizations to provide U.S. civics and English classes as well as other naturalization assistance to LPRs. Call 617-727-7888 for a listing of the naturalization services closest to you.

If you are an LPR who must naturalize, you will be asked for proof of your efforts. This proof can include a statement from a community-based organization, a lawyer representing you, or copies of documents showing you have filed an application with INS. 106 C.M.R. § 320.620(B)(2). If you are an LPR who is **not** eligible to become a U.S. citizen for any reason, be sure to get a statement from your lawyer or organization helping you and bring this statement to DTA. If you need to delay applying for U.S. citizenship, you can claim "good cause" if you are unable to engage in activities due to "a serious family situation or illness."

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Be sure to consult an immigration specialist or citizenship organization if you have questions about this.

Sponsor Deeming

There is no sponsor deeming of sponsor income in the EAEDC program. If you are a sponsored immigrant and your sponsor has failed to support you, you cannot be denied EAEDC benefits. See **Question 52**. However, DTA can ask you to cooperate in pursuing support from any sponsors that have a legal obligation to support you.

Undocumented Non-Citizens

If you are a non-citizen who is undocumented or under order of deportation, or who has a temporary immigration status (such as a visitor, student or diplomat), you are not eligible for EAEDC. 106 C.M.R. § 320.620(D). However, you are not prevented from being the authorized representative for an eligible child or adult.

Important: Do not go to Immigration without speaking with a lawyer. In some cases, receiving EAEDC or other welfare benefits may hurt your immigration case.

Advocacy Reminders:

- ✓ A person may be PRUCOL ("permanently residing under color of law") even if s/he has not been granted an official immigration status. Be sure to check the rules.
- ✓ A person born on U.S. soil, including Puerto Rico, Guam, and the Virgin Islands, is a **U.S. citizen** regardless of the parent's immigration status. If a parent or caretaker of a minor child does not meet the requirements, s/he can receive benefits for the child but not for herself. DTA should not violate privacy laws by reporting anyone to INS without written permission from the person.
- ✓ Receiving EAEDC may cause "public charge" problems for non-citizens who hope to become permanent residents in the future. Consult an immigration specialist. Receiving benefits is generally not a problem for refugees or political asylees.
- ✓ Welfare workers cannot disclose any information to INS without your consent (106 C.M.R. § 320.660) and cannot force you into giving consent.

40 Do you have to have a social security number?

Every EAEDC applicant or recipient has to provide or **have applied for** a social security number (SSN). 106 C.M.R. § 320.700. If you meet the EAEDC alien status rules but you are unable to qualify for an SSN because of your particular alien status, you should not be disqualified for EAEDC. 106 C.M.R. § 320.700(A)(2)(c).

If you need to apply for an SSN, the welfare office has a special form they will give you (called an ENUM-2) for you to bring to the Social Security office. This form confirms that you have applied for an SSN. If you already have a number, you don't need to go to the Social Security office.

Once you have an SSN, the welfare department will periodically check your number with the computer files of the Registry of Motor Vehicles (to see if you have any cars in your name), the Department of Revenue (to see if there are any unreported earnings), banks and other financial institutions (to see if you have any unreported bank accounts or other assets), as well as a number of other state and federal agencies. You have a right beforehand to know how your SSN will be used. 106 C.M.R. § 320.700(D).

41 Do you have to apply for Veterans' Services benefits?

The EAEDC rules require you to apply for state-funded Veterans' Services benefits **if you appear to be eligible** for these benefits. 106 C.M.R. § 702.720.⁶ If you have never served in the military or if you have a dishonorable or bad conduct discharge, you will not be eligible for Veterans' Services and DTA should not require you to apply.

⁶ Veterans' Services benefits are state- and locally funded entitlement benefits based on financial need. See M.G.L. c. 115 and 108 C.M.R. § 2.0 et seq. The benefits are provided to eligible veterans and their dependents. The dependents include the spouses of veterans (but not if divorced), children under age 23, and the parents of veterans. Veterans' Services benefits are administered by local Veterans' Agents in each city and town in Massachusetts. These benefits are often higher than EAEDC benefits and include full medical care similar to MassHealth.

If you do apply for Veterans' Services benefits, the local Agent needs to give you a denial notice before DTA "makes a determination" on your EAEDC application. However, DTA should not refuse to take an EAEDC application while this is pending since your EAEDC benefits are retroactive to the date of your application.

42 What other benefits do you have to apply for?

If DTA thinks you might be eligible for any other benefits, you have to apply for these as a condition of eligibility. 106 C.M.R. §§ 702.700, 702.710. This includes applications for SSI, Social Security, Railroad Retirement, Workers' Compensation, Unemployment Compensation, and other benefits for which you appear eligible. If you are elderly or disabled, DTA will insist that you apply for SSI benefits and cooperate in the SSI application process. 106 C.M.R. § 702.710(B).

43 Do you have to agree to repay the welfare department for your benefits?

There are three situations where you have to agree to repay DTA for back benefits you receive:

- **SSI:** If you are approved for SSI benefits, you have to agree to repay DTA for the EAEDC benefits you received. 106 C.M.R. § 702.710(B). You must sign a statement which allows the Social Security Administration to send the first retroactive check to DTA and DTA will take out what they paid you.

The form you sign, the "AP-SSI-1," must be current and in effect at the time DTA recovers the EAEDC benefits from the check. If DTA never gives you a form to sign or the form was not signed at your most recent EAEDC application, DTA cannot recover the SSI money to pay itself back. See the federal SSI regulations at 45 C.F.R. § 416.1910.

DTA can recover only the EAEDC benefits paid for the same period as the SSI. They cannot recover EAEDC paid prior to filing the SSI application. DTA **cannot** take back money from the "Title II" Social Security disability award. Be sure to check their calculations for the

retroactive amount. The rest of the money must be sent to you within 10 days after DTA receives it from SSA.

- **Third Party Recoveries:** If you need EAEDC benefits as a result of an accident, illness or injury, you must make an "assignment" or written agreement that lets DTA recover the amount they paid in EAEDC benefits. 106 C.M.R. § 702.800. See **Question 48**. For example, if you win a personal injury case, workers' compensation or other action due to an illness or injury, DTA will take part of this money to reimburse itself. However, be sure that your need for EAEDC resulted from the accident or illness. If you are on EAEDC as a high school student and you happen to get in a car accident, you may have an argument that receipt of EAEDC was not related to your accident.
- **Overpayments** caused by DTA error, recipient error or fraud. See **Question 90**.

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What are the assistance unit rules?

Like TAFDC, there are special rules which require certain household members to be included in the EAEDC application and to have their income and assets counted toward others. 106 C.M.R. §§ 321.300, 321.310, 321.320. There are basically three "assistance unit" rules:

- An **individual without minor children** can apply for EAEDC on his/her own and does not need to be included in the assistance unit of others. However, the income and assets of a spouse in the home will be counted.
- A **parent or minor child cannot get EAEDC independent of family members**, even if that person meets a separate EAEDC category such as being disabled, a student status, etc. Parents, minor children and minor siblings or half-siblings of the children must all be included in the assistance unit and all their income and assets are counted. 106 C.M.R. § 310(E).

Example: Cindy and Carl Card have two children, Michael and Rachel. They are not eligible for TAFDC because neither is incapacitated nor has a work history. Cindy Card has one child, Suzy, from a prior marriage, for whom she receives \$500/month

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in Social Security (in excess of a TAFDC grant for two persons). While the family is eligible for EAEDC, under the assistance unit rules, Suzy is a half-sibling who must be included in the assistance unit. Her Social Security income will be counted toward the rest of the family in calculating EAEDC.

- An **unrelated adult caretaker has three options**: a) She can opt out of an EAEDC assistance unit and have none of her income or assets included; b) she can request to be included in the EAEDC grant with the minor child and receive the incremental portion of the grant; or c) she can apply for her own EAEDC grant separate from the child if she qualifies as disabled, elderly, a student or meeting some other category of assistance. 106 C.M.R. § 321.310(F).

Example: Rachel Roe gets EAEDC for her neighbor's child, Sam. Rachel is also disabled. Since she is disabled, she can get two separate EAEDC grants—one for her and one for Sam. If she did not meet one of the EAEDC categories herself but wanted to get benefits, she would have to be included in Sam's grant—which would be less money for the household.