

Part 1 General Eligibility Rules

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.

- You do not have to have custody to get TAFDC for a child. You can get TAFDC for a child even if someone else or an agency has custody if the child is living with you. 106 C.M.R. § 203.595(A)(1); DTA Transitions, July 2016, p. 4, Feb. 2012, p. 4.
- If two parents share custody or care of a child, either parent may get TAFDC for the child, but not both. If the parents cannot agree on who will get the benefits, DTA will decide based on the amount of time each parent spends with the child and which responsibilities each parent fulfills. 106 C.M.R. § 203.595(A)(1); DTA Transitions, Feb. 2012, p. 4.

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

- 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 Online Guide (Relationship); DTA Transitions, July 2016, p. 4; Apr. 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, see **Question 2**, unless the child has previously lost TAFDC because of the time limit in another family, see **Question 37**, or would otherwise be ineligible because of the family cap. See **Question 34**.
- ✓ You can verify that you are a relative with a birth certificate or you can use other documents such as school records. You can also use a signed statement from a knowledgeable person. 106 C.M.R. § 203.585; DTA Transitions, July 2016, p. 4.
- ✓ The non-parent relative has the choice of being included in the TAFDC grant or just getting benefits for the children. See **Question 32**.
- ✓ 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.
- ✓ If a non-parent relative shares care with a parent and they cannot agree on who will get the benefits, DTA will decide based on the amount of time each caregiver spends with the child and the person's

responsibilities. See 106 C.M.R. § 203.595; DTA Transitions, July 2016, p. 4.

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 Children and Families (DCF) or some other person or agency but you are still exercising care and control. 106 C.M.R. § 203.595; DTA Online Guide (Child Out of the Home); DTA Transitions, May 2009, p. 10; July 2006, p. 3.

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. DTA recognizes that placement of a child with DCF usually involves a serious family crisis. DTA Online Guide (Child Out of the Home); DTA Transitions, May 2009, p. 10.

5 How young must children be to qualify?

The child must be either

- under 18, *or*

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- 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: DTA Online Guide (Assessed Person Potential Changes Views).

Some children must meet Learnfare rules and DTA says children 16 or 17 must be in school full-time or register for the Employment Services Program (ESP). 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 after finishing high school course work (whichever is soonest). See DTA Transitions, July 2004, p. 3.

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

If you are age 20 or older, you are pregnant, and you have no other children living with you, you can get TAFDC—for yourself only—beginning with your third trimester (week 27 or 120 days before your due date). If you are a teen (under age 20), you are pregnant, you have no other children living with you, and you are meeting the teen school attendance requirements, see **Question 13**, you can get TAFDC—for yourself only—as soon as the pregnancy is verified. 106 C.M.R. § 203.565; DTA Online Guide (Pregnancy).

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 16. She can get TAFDC beginning on August 18 (120 days before her due date). 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.
- ✓ Pregnant women at any stage of pregnancy may also be eligible for MassHealth; SNAP (food stamps); WIC (Women, Infants and Children) nutrition benefits through the Department of Public Health, 1-800-WIC-1007; and emergency shelter for families through the Department of Housing and Community Development (apply at your local DTA office).

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—unless you are currently receiving public assistance in another state—if you intend to live here or you came for a job or to look for work.

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- Certain temporary absences from the state are allowed. 106 C.M.R. §§ 203.650-203.660; DTA Online Guide (Address, Residence, Temporary Absence).

Advocacy Reminders:

- ✓ DTA may try to deny you if you came to Massachusetts so you or your child can go to school here or you came for medical care. 106 C.M.R. § 203.650(A). But you should qualify if you intend to live here even if you came to go to school or for medical care. You can show you intend to live here by registering to vote or by making plans to stay after graduation.
- ✓ DTA may try to close your case if you use your EBT card outside Massachusetts for 75 days. DTA Operations Memo 2013-34 (July 26, 2013). You may have to prove you are a Massachusetts resident to keep your benefits. See DTA Transitions, Sept. 2013, p. 5-6. Consult an advocate if that is a problem for you.

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 your children if they are eligible. 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, an order of supervision, a pending application for asylum, or meet other rules for Cuban/Haitian entrants,
 - ▶ Afghan or Iraqi military interpreters and their families granted Special Immigrant status, **or**

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- ▶ 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.

- *Lawful permanent residents* (“green card” holders or “LPRs”) or non-citizens granted humanitarian *parole* status for at least a year 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*
 - ▶ 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, surviving spouses who have not remarried, 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); DTA Field Operations Memo 2010-19 (Mar. 16, 2010) (Iraqi and Afghan special immigrants); DTA Transitions, Oct. 2012, p. 4.

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. See DTA Transitions, May 2006, p. 3. 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 33**.

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- ✓ For details on how DTA verifies non-citizen status, see DTA Online Guide (Entering Noncitizen Data-TAFDC); DTA Operations Memos 2013-14A (May 2, 2013); 2012-5 (Jan. 23, 2012); DTA Field Operations Memo 2010-36A (Sept. 29, 2010). DTA must give you a reasonable time to provide documentation and should not delay or deny benefits until documentation is provided. St. 2010, c. 131, § 182.
- ✓ 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.
- ✓ A disabled adult who does not meet TAFDC non-citizen 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). The EAEDC Advocacy Guide explains EAEDC disability rules and procedures. See www.masslegalservices.org under Legal Advocacy Guides. DTA has not agreed that disabled non-citizen children can qualify for EAEDC but DTA hearing officers have approved benefits for them.
- ✓ There are different non-citizen eligibility rules for Emergency Assistance (shelter and rehousing services for homeless families) and for SNAP (food stamps). See www.masslegalservices.org under Legal Advocacy Guides for these programs.
- ✓ If you are a non-citizen, receiving TAFDC cash assistance may make the immigration authorities think you will not be able to support yourself and will become a “public charge” primarily dependent on the government for support. This can be a problem if you are applying for a green card (permanent resident status) or want to leave the U.S. and return. Receiving TAFDC does not by itself make you a “public charge,” but you should consult an immigration specialist before applying for a green card or leaving the U.S. If you are already a lawful permanent resident, receiving TAFDC will not affect your ability to become a citizen. Receiving TAFDC will also not make you a “public charge” if you are a refugee or asylee, have an approved VAWA petition, or hold a U-visa. For more information on public charge, visit the U.S. Citizenship and Immigration Services, www.uscis.gov; the National

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Immigration Law Center, www.nilc.org; or MassLegalHelp, www.masslegalhelp.org.

- ✓ DTA does not count the income of a sponsor unless you actually receive it and does not count sponsor assets at all. DTA Field Operations Memo 2008-65 (Dec. 8, 2008). DTA also does not count sponsor income or assets for SNAP (food stamps) except in a few very special circumstances.
- ✓ 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 other 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 spouse or parent is a U.S. citizen or lawful 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 or the children of U.S. citizens or lawful permanent residents but are no longer living with them.
- You have a pending or approved petition for suspension of deportation or cancellation of removal under VAWA.

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- 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 Online Guide (Battered Noncitizen-TAFDC); DTA Field Operations Memo 2005-22 (June 1, 2005); DTA Transitions, June 2007, p. 7.

Advocacy Reminders:

- ✓ Battered non-citizens who qualify under the above rules do not have to wait five years to get TAFDC.
- ✓ You do not have to have to give DTA a police report or court order to verify the abuse.
- ✓ 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.
- ✓ A VAWA petition qualifies as pending when you have received a notice of “prima facie” determination that you appear to meet the VAWA criteria.
- ✓ 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).

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 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. See DTA Online Guide (Overview of Social Security Numbers-TAFDC).

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 SNAP (food stamp) 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-citizen who has applied for legal status as a victim of domestic violence. See **Question 9**. To get a non-work SSN you will need a letter from DTA saying you otherwise qualify for a benefit.
- ✓ If you are a domestic violence survivor (citizen or non-citizen) who is concerned about safety, you can request that DTA not use your SSN. See DTA Field Operations Memo 2005-42 (Sept. 8, 2005).

11 Do you have to tell DTA anything about your child's other parent?

You have to assign (turn over) to the state any rights you have to child support for any child for whom you are applying for or receiving assistance. There is no exception to the assignment requirement. You have to sign the assignment form even if you do have information about the absent parent and even if you have good cause for not cooperating with child support enforcement.

Unless you have good cause (see below), you also have to cooperate with (help) the Child Support Enforcement Unit of the Department of Revenue (DOR) to get child support from any parent who is not living with the child, prove he is the father (establish paternity) and get a support order. This includes going to court if there is a court proceeding. You can be sanctioned if you do not cooperate. If you are sanctioned, DTA will remove you from the grant and will reduce your grant 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 31** for more details about the consequences of sanctions. See **Part 8** for information about how to appeal a sanction.

DTA and DOR will ask you for specific information about any parent who is not living with the child. 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 a parent even if you are not required to cooperate. Tell DTA and DOR if pursuing child support may harm you or your child, and check with an advocate if DOR insists on pursuing support.

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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 as soon as DOR tells DTA you have cooperated (whichever is earlier). 106 C.M.R. § 203.770; DTA Field Operations Memo 2001-22 (Apr. 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. Non-parent caretaker relatives must also meet child support cooperation rules for at least one of the child's parents.

Advocacy Reminders:

- ✓ If you cannot attend an appointment with DOR or go to court, call the DOR worker right away and ask that the appointment or court date be rescheduled.
- ✓ DTA may say you have not cooperated or have committed fraud because it thinks you gave inconsistent information about your child's father. DTA Operations Memo 2013-17 (May 1, 2013). Consult an advocate if you need help.
- ✓ 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).
- ✓ Some two-parent families may get a notice telling them they have to go to the Department of Revenue (DOR) to establish paternity. Families who do not comply may be sanctioned. DTA Field Operations Memo 2009-47 (Aug. 21, 2009). Since the second parent had to show paternity to receive TAFDC, there should be no need to establish paternity. And there may be no legal authority to sanction two-parent families because their benefits are not paid for with federal funds. Consult an advocate if this is a problem for you.
- ✓ You do not have to assign child support for a child who receives SSI.
- ✓ You do not have to assign child support for a child who is excluded by the family cap. See DTA Online Guide (Completing the TA34-36

Assignment of Support Form). You may need to modify the form to clarify that you are only assigning child support for children for whom you seek to receive TAFDC. See **Question 35**.

- ✓ If the support that is paid is more than the monthly TAFDC grant plus \$50 for two months, the DTA should terminate the TAFDC and reassign the current support to the family. The Department of Revenue should send current support payments to the family. You will need to set up a payment method with DOR—debit card or direct deposit.
- ✓ 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.
- ✓ A child born to a married couple – including a same-sex married couple – is the child of both members of the couple. DTA Transitions, July 2013, p. 5.

12 Can you get TAFDC if you are a teen parent or pregnant teen?

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* and pregnant teens (under age 18) and *adult teen parents* and pregnant teens (18 and 19). 106 C.M.R. §§ 203.600-203.640.

Advocacy Reminder:

- ✓ Pregnant teens are now eligible for TAFDC once the pregnancy is verified provided they meet other eligibility requirements. See DTA Operations Memo 2014-59 (Sept. 18, 2014); DTA Online Guide Transmittal, 2015-56 (Nov. 20, 2015).

13 What are the school attendance rules for teen parents and pregnant teens?

Unless you already have a high school diploma or HiSET certificate, will turn age 20 within 60 days, or your baby is less than three months old, 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 HiSET program combined with other volunteer or educational activities totaling 20 hours per week. 106 C.M.R. §§ 203.610, 203.630; DTA Online Guide (Teen Parents - Introduction).

There are *no* exemptions from the school attendance rule except for lack of child care, school vacations or other “good cause.” See **Question 61**.

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. You can also get transportation assistance for some of the cost of getting to school. See **Question 102**. If you do not have affordable transportation, you have good cause for not complying. See **Question 61**.

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 DTA cannot find you a program that meets any special needs you have, such as a learning disability or other disability.

- ✓ You should not be sanctioned if you do not have child care or affordable transportation.
- ✓ If you are a teen parent or pregnant teen 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, July 2004, p. 3, Sept. 2003, p. 2. You may be exempt for other reasons too. See **Question 39**.
- ✓ 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 HiSET test and any retest. DTA Online Guide (High School Equivalency Test); DTA Operations Memo 2014-38 (May 8, 2014).

14 What is the living arrangement rule for minor teen parents and pregnant teens?

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,

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- will turn age 18 within the next 60 days,
 - live with your husband if you are married, *or*
 - are a graduate of a Department of Children and Families (DCF) independent living program. 106 C.M.R. §§ 203.620-203.640.
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15

What if you are a minor teen parent or pregnant teen 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 have a good reason why you cannot live with a parent or other adult relative, a teen specialist will refer your case to the Department of Children and Families (DCF) for an assessment. DCF will make a recommendation about the appropriate placement for you, including whether you can live on your own. In cases of abuse or neglect, DTA will

also file a report with DCF. DTA Operations Memo 2012-15 (May 24, 2012).

DCF 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. See **Part 8**. 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 8**.

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

DTA rules allow you to live on your own if you are an adult teen parent or pregnant teen (ages 18 and 19) *and* you meet the school attendance rules or you have graduated from high school or have a HiSET certificate. 106 C.M.R. § 203.640.

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

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

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If you are a minor teen parent or pregnant teen (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 or pregnant teen 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 73**.

If you are a teen parent or pregnant teen 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.

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

Even if you get your own TAFDC grant, you may not be able to get separate SNAP (food stamp) benefits if you are under age 22 and you live with a parent. A parent you live with has to be part of your SNAP 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 32**.

18

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

Unless you are disabled, your school age children under age 16 who are on the TAFDC grant must meet DTA's school attendance requirements. If a child 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; DTA Online Guide (Learnfare Introduction). 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 Reminders:

- ✓ Learnfare does not apply to your child if you are disabled. For disability, see **Question 40**.
- ✓ Learnfare does not apply to children who are not on the grant because of the family cap, because they get SSI benefits, or because of their non-citizen status.
- ✓ Is your child missing school because of a learning disability or other disability? You can ask for a disability accommodation. See **Questions 24-27**.
- ✓ DTA requires you to tell DTA what school your child is enrolled in. If you do not provide the information, DTA will close your entire case. DTA Operations Memo 2014-48 (Aug. 14, 2014). DTA can require information about your child’s school attendance, but the requirement to provide school enrollment information may be illegal and it may be illegal to close the case for the entire family because of missing school enrollment information for one child. Contact an advocate if this is a problem for you.
- ✓ 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.
- ✓ DTA considers any child age 6 or older to be school age and subject to the Learnfare requirement. See DTA Online Guide (Learnfare Introduction). DTA should not consider a six-year old child to be school age if the child has not yet started school and will still be six next September when school starts.

- ✓ DTA says children 16 or 17 must be in school full-time or register for the Employment Services Program (ESP). 106 C.M.R. § 207.000 (C). This may be illegal; consult an advocate if this is a problem for you. Also consider asking for an accommodation on the basis of disability or learning disability. See **Questions 25-27**.

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

DTA verifies school attendance directly with Department of Elementary and Secondary Education (DESE). You do not need to give DTA proof unless your child is home-schooled, there is another reason DESE does not have a record of your child's school attendance, or the school report is wrong.

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 DTA 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, give your worker proof of the reasons. You can also appeal any reduction in benefits. See **Part 8**.

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 of the closing. DTA Transitions, Aug. 2004, p. 3.
- ✓ DTA will reinstate children who were removed due to Learnfare sanctions for the months of August and September when schools are closed. DTA Operations Memo 2014-45 (July 10, 2014). Consult an advocate about getting a child reinstated for July.
- ✓ DTA is supposed to contact you and help you with school attendance issues if you are put on Learnfare probation because your child was absent too much. DTA Online Guide (Learnfare Intervention). You may have a defense to a Learnfare sanction if DTA does not help you address the reasons your child misses school.

20 What are the immunization rules?

You must show proof of immunization (shots) or an appointment for immunization for every pre-school child in your family who is on the TAFDC grant. 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 31** on the consequences of sanctions for not meeting the immunization requirements.

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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.

Advocacy Reminders:

- ✓ The immunization requirement does not apply to children who are not on the grant because of the family cap, because they get SSI benefits, or because of their non-citizen status.
- ✓ You have 60 days from when you are told about the immunization requirement to provide proof of immunization or the reason why your child should not be immunized. 106 C.M.R. § 203.800; DTA Operations Memo 2012-17 (Apr. 25, 2012).

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 SNAP (food stamps).

- ✓ Denying TAFDC to families where the parent is on strike may be illegal. The DTA rules denying benefits to strikers are not based on a statute.

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 give 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 8**. The rest of your family should remain eligible. **Question 31** 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 125**) 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.

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),
- you were convicted of false statements about residency to get benefits in two or more states, *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 **Questions 39-45** for exemptions from the time limit) and you were not granted a domestic violence waiver (see **Question 46**). 106 C.M.R. § 701.110(B), (D); DTA Operations Memos 2013-37 (July 26, 2013); 2012-30 (June 20, 2012).

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 8**.

Advocacy Reminders:

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

- ✓ If you are facing drug-related criminal charges, make sure your defense lawyer knows about this rule and how a felony conviction could affect your benefits.
- ✓ The rest of your family should remain eligible for benefits if you are disqualified under these rules. **Question 31** explains how your income should be counted in figuring your family's eligibility.
- ✓ 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.

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 Online Guide (ADA and Reasonable Accommodations).

Under the ADA you are a person with a qualifying disability if you have a disability that substantially impairs a major life activity, such as learning, understanding, walking, working, breathing, or caring for yourself. Disabilities include physical or mental health impairments, and intellectual disabilities. 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 because of disability. See DTA Online Guide (ADA Definition).

If a disability makes it hard for you do the things DTA asks you to do to get and keep your benefits, you can ask DTA a **reasonable accommodation**. An accommodation may be appropriate if your disability makes it hard for you to:

- understand DTA's notices and forms,

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- meet deadlines,
- give DTA the proofs it asks for,
- go to the DTA office,
- communicate with DTA, *or*
- meet a specific rule or requirement.

DTA must tailor accommodations to what you need because of your disability. Examples of accommodations include

- helping you understand notices and complete forms,
- giving you extra time to meet a deadline,
- changing a requirement or rule,
- handling your case by phone and mail,
- naming someone to talk to DTA for you or get copies of mail DTA sends you,
- providing an auxiliary aid (such as an ASL interpreter)

Example 1

You have severe depression and post-traumatic stress disorder (PTSD). You need help getting verifications and you cannot go to the DTA office in person because taking public transportation and being in crowded waiting areas trigger your PTSD symptoms. You can ask DTA to help you get verifications and to waive any requirements for in-person appointments.

Example 2

Because of your learning disability, you need help understanding DTA notices and help completing the paperwork that DTA asks you to complete. DTA should accommodate you by explaining notices to you and by filling out the forms with you instead of requiring you to fill forms out by yourself. For more information about protections related to learning disability, see **Question 27**.

Example 3

You have a hearing, vision, or other condition that makes it hard for you to communicate. DTA should ask you what kind of help you prefer to communicate with DTA. This help is usually called an auxiliary aid. DTA should provide your preferred auxiliary aid. If that is not possible, DTA should work with you to find an acceptable alternative. A rule should not be applied to you unless DTA has communicated the rule – such as a deadline – using the appropriate auxiliary aid. See DTA Online Guide (Working with Clients Who Need Auxiliary Aids).

Example 4

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 cutoff date for children who will not finish school by age 19.

Example 5

Your car is worth \$20,000 and you need it to take your disabled child to medical appointments. DTA should modify the asset rule so that you can continue to receive TAFDC benefits.

Advocacy Reminders:

- ✓ An accommodation can be requested at any time, including after DTA has issued a notice stopping or lowering benefits.
- ✓ DTA cannot require you to accept a specific accommodation (such as requiring a helper or authorized representative to act for the client). Instead, DTA should work with you to find an accommodation that you agree to.
- ✓ DTA is not required to provide an accommodation that is a fundamental alteration of its programs. If that issue comes up, consult an advocate.

25 How do you ask DTA for an accommodation?

DTA is supposed to ask you if you have a disability and need an accommodation. DTA is supposed to ask these questions at application, at reevaluation, and any time you are being interviewed or assessed. You can ask for an accommodation at these times, or at any time that you need one.

You can ask your DTA worker for an accommodation, or you can talk to the Client Assistance Coordinator in your DTA office. Each DTA office has a Client Assistance Coordinator who can help with the accommodation process and other disability related needs. DTA Online Guide (Client Assistance Coordinator Responsibilities). You or your advocate can also submit a written request for accommodation. It is helpful if the request explains what you need and why.

Once you ask for an accommodation, DTA should work with you to figure out how it can meet your needs. For example, if you ask for something DTA says it cannot do, instead of denying your request, DTA should discuss other options with you.

DTA may ask for medical proof that you need the accommodation. If you need an accommodation but do not have the medical evidence DTA asks for, you can ask the Client Assistance Coordinator to help you get it.

Advocacy Reminders:

- ✓ To reach a Client Assistance Coordinator, see **Appendix D**. You can also get a list of Client Assistance Coordinators at www.mass.gov/dta (look under Related Links for Disability Accommodation Contacts-CACs).

26 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 or any part of it,

- You can appeal, see **Part 8, or**
- You can ask the DTA Central Office Accommodation Appeal Committee to review the local office decision and then appeal if the DTA Central Office Accommodation Appeal Committee denies your request in whole or in part.
 - ▶ Request DTA Central Office Review 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. If the local office did not decide your request in 30 days, you can file your request directly with the Committee. DTA Online Guide (ADA Reasonable Accommodation Decision Timelines).
 - ▶ 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. See **Part 8** on appeal rights.

Try to get a legal advocate to help you with your request for review and your appeal. See **Appendix E** for a list of legal services offices.

27 Should you ask DTA to screen you for a learning disability?

A person with a learning disability may need a different kind of education or training program or extra help to meet DTA Work Program requirements. This is called an accommodation.

DTA has a set of questions to figure out if you might have a learning disability. This is called a Learning Disability screening. The questions ask about past learning experiences and if you have trouble with things like reading, math, or your memory. DTA must offer to screen you for a learning disability at certain times, but you can ask to be screened at any time.

If your screening shows that you might have a learning disability, DTA will offer you a free assessment by a doctor. The doctor will ask questions to figure out if you have a learning disability. After the assessment, DTA will share the results with you. If you are in an education, training, or job search program, DTA will also share the results with the program so they can give you the accommodations you need.

If you can't meet the TAFDC Work Program requirement while the assessment is being done, DTA should not stop or lower your TAFDC. See DTA Online Guide (Learning Disability Screening Overview); DTA Field Operations Memo 2007-1 (Jan. 10, 2007); 106 C.M.R. § 701.395.

Even if you don't want the screening, talk to DTA if you need extra help because of a disability. See **Questions 24-25**.

Advocacy Reminders:

- ✓ You can also ask for a Learning Disability screening and a disability accommodation if you are a teen parent who has to meet the teen parent school attendance requirement.
- ✓ Children with a learning disability sometimes struggle with school, get discouraged, and are absent or drop out. Ask DTA for a disability accommodation so that your benefits are not cut because of Learnfare or work rules for children age 16 or 17 who have stopped going to school.

28 What if you are a domestic violence survivor?

A number of special rules and procedures apply to survivors of domestic violence. See DTA Online Guide (Domestic Violence); DTA Field Operations Memo 2010-35 (Sept. 20, 2010).

Each DTA office has a Domestic Violence Specialist assigned to it. You can ask to see the Domestic Violence Specialist to help you develop a safety plan, help you get documents like birth certificates or court records, or locate services for your family.

The Domestic Violence Specialist will also help you fill out forms to request a waiver of TAFDC rules because of domestic violence, see **Question 46**, or a waiver of the family cap rule. See **Question 36**.

The Domestic Violence Specialist can also help you verify good cause for not cooperating with child support enforcement or can help you seek child support safely. See **Question 11**.

For more information and phone numbers for Domestic Violence Specialists, ask DTA for DTA’s domestic violence brochure, or go to <http://www.mass.gov/eohhs/gov/departments/dta/help-for-victims-of-domestic-violence-on.html>. The brochure is available in seven languages.

You can ask DTA for special confidentiality protections. See **Question 111**. You can ask to use an alternate social security number (SSN). See **Question 10**.

You can ask DTA to grant you “good cause” for not meeting a DTA rule, including the time limit, **Question 37**, the Work Program, **Question 38**, and teen parent school attendance requirements. **Question 13**. DTA Online Guide (Good Cause Due to Domestic Violence).

There are special eligibility rules for certain battered non-citizens and their families who do not qualify under other non-citizen rules. See **Question 9**.

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Advocacy Reminders:

- ✓ If a DTA staff person thinks that your child has been abused or neglected, DTA may file a report with the Department of Children and Families. Consult an advocate if you are worried that DTA will file an abuse or neglect report.