

Part 3 Time Limit and Work Program Rules and Exemptions

The time limit and work program rules were suspended during the COVID-19 pandemic. This Part explains the time limit and work program rules before the pandemic.

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

The time limit rule was suspended during the pandemic. DTA Online Guide Transmittal, 2020-49 (June 29, 2020) (TAFDC: Temporary Changes for TAFDC Work Program Required Clients).

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. § 703.120.

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The 24-month time limit runs only during months the family is not exempt (see **Question 36**) and

- receives a TAFDC cash grant for a full calendar month, *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 TAFDC or becomes exempt from the time limit. See **Question 36**. If the family goes back on TAFDC, 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 TAFDC benefits, you may be able to get an extension, a domestic violence waiver, or an exemption. See **Questions 36-45**.

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 110**.
- ✓ 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 65**. 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 SNAP (food stamps). See **Question 96** on eligibility for child care after your case closes.

- ✓ DTA says that in a two-parent family both parents have the same five-year period. 106 C.M.R. § 703.120(A)(8). This is change from prior policy. See DTA Operations Memo 2011-53 (Nov. 22, 2011). Email info@masslegalservices.org if this is a problem.

35 What is the Work Program?

The Work Program rules were suspended during the pandemic. DTA Online Guide Transmittal, 2020-49 (June 29, 2020) (TAFDC: Temporary Changes for TAFDC Work Program Required Clients).

Most parents and other caretakers who are subject to the time limit are also subject to the Work Program. See **Questions 49-58** 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 58**.

36 Who is exempt from the time limit and Work Program?

The time limit and Work Program rules were suspended during the pandemic.

You are exempt from the time limit and Work Program if

- you are a disabled parent or a disabled relative caring for a child (see **Question 37**),
- you are needed to care for a disabled family member (see **Questions 39 and 40**,

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- you are a parent or other relative caring for a child under age two,
- you are a teen parent under age 20 and you are attending either a full-time high school or a full-time HiSET, training or work program that totals at least 20 hours a week,
- you are a pregnant woman in your third trimester (week 27 or last 120 days) of pregnancy (see **Question 41**),
- you are not the parent of the child you are caring for and you are not receiving TAFDC for yourself (see **Question 29**), *or*
- you are age 60 or older (see **Question 42**).106 C.M.R. § 703.120.

If you are ineligible for benefits for yourself and 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. § 703.150(A)(3). See **Question 52**.

In a two-parent family, only one parent can claim an exemption based on the need to care for a child under age two or a disabled family member. Also, if one parent claims an exemption based on disability or pregnancy, the other parent cannot claim an exemption based on need to care for a young child unless the disabled or pregnant parent is unable to care for the child for medical reasons. 106 C.M.R. § 703.100(A)(2); DTA Online Guide (Two-Parent Exemption Restrictions).

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.

37 How do you qualify for a disability exemption?

You do not need a disability exemption during the pandemic because the time limit and Work Program rules were suspended.

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, or
- the Disability Evaluation Service determines that you meet the requirements for SSI, *or*
- 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. DTA Field Operations Memo 2010-30 (July 1, 2010); DTA Transitions, June 2009, p. 7.

The Disability Evaluation Service (DES) reviews the medical information and your Disability Supplement and decides whether you meet DTA’s disability rules.

Advocacy Reminders:

- ✓ DTA regulations as of 2016 do not say you are eligible if your condition matches DTA’s list of medical impairments or your impairments reduce your ability to work. Contact your local legal services program, **Appendix D**, if DTA says you do not qualify for a disability exemption but you meet either of these criteria. See 106 C.M.R. § 703.190.
- ✓ The EAEDC Advocacy Guide explains the current DTA disability rules and procedures in more detail. See www.masslegalservices.org under Legal Advocacy Guides. There are some differences in the procedures for EAEDC and TAFDC disability. For example, for

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EAEDC, you cannot apply for disability status unless your doctor fills out a medical report form. This is not a requirement for TAFDC under current DTA practice.

- ✓ 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.
- ✓ You can appeal a decision that you are not disabled.
- ✓ 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 **Questions 24-27**.
- ✓ DTA will accept medical documents that are scanned, faxed or photocopied from the original unless the document appears questionable. DTA Operations Memo 2012-33 (July 11, 2012).
- ✓ The Disability Evaluation Service (DES) fax is 774-455-8153. You can also mail to DES at 333 South Street, Shrewsbury, MA 05145. The phone for medical records is 774-455-8200.

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

The time limit and Work Program rules were suspended during the pandemic.

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. § 703.190(F); DTA Online Guide (First-Time Claim of Disability TAFDC); DTA Transitions, July 2015, p. 4.

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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. § 703.190(F), (G); DTA Transitions, Mar. 2002, p. 7. See **Question 34** 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(B)(7), (8). 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); DTA Online Guide (TAFDC Good Cause Medical Statement).

If you do not have a doctor who is familiar with your condition, DTA should grant you “good cause” if you give DTA 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 **Questions 24-26**.

Advocacy Reminders:

- ✓ DTA counts months during which you have “good cause” towards your 24 months of time-limited benefits. If you are later approved for an exemption for those months, be sure DTA has taken those months off your time clock.

- ✓ Not renewing a disability exemption when it expires does not count as a denial. If you request a disability exemption later, you have the right to be considered exempt while your request is being reviewed. You do not have to submit a Good Cause Medical Statement. See DTA Online Guide (TAFDC Good Cause Medical Statement).

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

You do not need an exemption during the pandemic because the time limit and Work Program rules were suspended.

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

- 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 this on the form, or you can do your own statement and provide support for it from someone else. 106 C.M.R. § 703.100(B)(2).

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

Advocacy Reminders:

- ✓ You are eligible for this exemption if you cannot work full time because of your child's disability. For example, you may not be able to work full time because of your child's doctor appointments or school crises, or because your child keeps you up at night and you need to sleep during the day.

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- ✓ 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, July 2012, p. 5; May 2007, p. 3.
- ✓ DTA says that only one parent in a two-parent household may claim this exemption even if both parents are needed to care for the child or children. 106 C.M.R. § 703.100(A)(3). Contact your local legal services program, **Appendix D**, if this is a problem for you.

DTA may say you have to apply for Social Security benefits for a disabled child if you seek an exemption because you need to care for the child. You can ask DTA to help you apply for Social Security disability benefits. Contact your local legal services program, **Appendix D**, if you have a good reason for not applying. See 106 C.M.R. § 703.100(A)(1)(b).

40 How do you qualify for an exemption as the caregiver for other disabled family members?

The time limit and Work Program rules were suspended during the pandemic.

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*
- the disabled person is not a recipient of TAFDC and a medical provider has verified the disability, *and*

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- 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. DTA Transitions, July 2012, p. 5; DTA Online Guide (Exemptions from Time Limited Benefits).

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

Advocacy Reminders:

- ✓ DTA regulations do not specifically allow an exemption unless you are caring for a child, spouse, or the child's other parent. Contact your local legal services program, **Appendix D**, if you need an exemption because you are caring for a disabled relative who is not listed. See 106 C.M.R. § 703.100(A)(1)(b).
- ✓ DTA regulations say that to qualify for the exemption based on caring for a disabled child you have to apply for Social Security benefits for the child. DTA regulations also say that to qualify for the exemption based on caring for a disabled adult, the adult has to apply for Social Security benefits. See 106 C.M.R. § 703.100(A)(1)(b). Contact your local legal services program, **Appendix D**, if this is a problem for you.

41 How do you qualify for an exemption as a pregnant woman?

The time limit and Work Program rules were suspended during the pandemic.

You are exempt from the time limit and the Work Program if you are a pregnant woman in your third trimester (week 27 or last 120 days) of pregnancy and you have verified the pregnancy and your due date. DTA Online Guide (Exemptions from Time Limited Benefits).

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Advocacy Reminder:

- ✓ DTA regulations say you are exempt based on pregnancy only if you are in your third trimester (week 27 or last 120 days) of pregnancy, you have verified the pregnancy and your due date *and* you have a medical statement that your pregnancy prevents you from working, *or* you are in your 33rd week of pregnancy and you have verified the pregnancy and your due date. See 106 C.M.R. § 703.100(A)(1)(c). Contact your local legal services program, **Appendix D**, if you are pregnant and DTA says you are not exempt from the time limit and the Work Program or if DTA says you have to do job search before you can get benefits. **Question 102.**

42 How do you qualify for an exemption on the basis of age?

The time limit and Work Program rules were suspended during the pandemic.

You are exempt from the time limit and the Work Program if you are age 60 or older. DTA Online Guide (Exemptions from Time Limited Benefits).

Advocacy Reminder:

- ✓ DTA regulations say you are exempt from the time limit and the Work Program based on age if you are age 66 or older, *or* you are age 60 or older, you are a child's primary caregiver, and you retired before applying for benefits. See 106 C.M.R. 703.100(A)(1)(h). Contact your local legal services program, **Appendix D**, if you are age 60 or older and DTA says you do not qualify for an exemption.

43 Can you get a waiver or good cause exception to TAFDC rules because of domestic violence?

The time limit and Work Program rules were suspended during the pandemic.

Waiver due to 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 drug felon bar, and teen parent and child support requirements. You can also ask to have your Employment Development

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Plan (see **Question 91**) 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. § 703.110.

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 may say it will not consider a request to waive the time limit until you reach your 22d month of time limited benefits. Contact your local legal services program, **Appendix D**, if you need to know sooner so you can plan for the future.

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

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not let her go to school to get her HiSET certificate. She finally left with her daughter and began receiving TAFDC. Ms. Moriarty wants to get a HiSET certificate, but the HiSET program is only 10 hours a week, and DTA says she must participate in a work activity for 30 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.

Good cause due to domestic violence

Instead of or in addition to asking for a domestic violence waiver, you can ask DTA to grant you “good cause” for not meeting a DTA rule, including the time limit, **Question 34**, the Work Program, **Question 35**, and teen parent school attendance requirements. **Question 13**. .DTA Online Guide (Good Cause Due to Domestic Violence).

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.
- ✓ Many domestic violence survivors have a disability such as post-traumatic stress disorder (PTSD), depression, anxiety, or other physical or mental disability. If you have a disability, you may get better protection from the work requirement and the time limit by asking for a disability exemption, see **Questions 36-38**, in addition to or instead of a domestic violence waiver.
- ✓ You can appeal a denial of a domestic violence waiver. See **Question 110**.
- ✓ The TAFDC rule you are asking to be waived should not be applied while your waiver request is pending. See DTA Online Guide (Domestic Violence Waiver Procedures); DTA Field Operations Memos 2007-35 (July 16, 2007) and 1997-49 (Sept. 1, 1997).

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

The time limit was suspended during the pandemic.

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 certain other family members, caring for a child under age two, the last weeks of pregnancy, non-parent caretaker not on the grant, and other exemptions listed in **Question 36**.

Waivers include domestic violence waivers (see **Question 43**).

Extensions of the time limit are discussed in **Questions 45-48**.

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 34**.
- ✓ 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 32**.

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

The time limit was suspended during the pandemic.

You can ask for an extension of your benefits. In deciding whether you get an extension, DTA says that it looks at

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- what you are doing to find a full-time job,
- whether you have complied with work requirements and DTA work activities,
- whether you have been sanctioned for not complying with DTA rules,
- whether there are jobs in your area that you could do,
- whether suitable child care is available. See 106 C.M.R. § 703.130(A); DTA Operations Memo 2013-38 (July 26, 2013).

You can also get an extension if

- you are working at least 35 hours a week and you are still financially and otherwise eligible.
- you are in a DTA-approved education or training program and need additional time to complete the program. 106 C.M.R. § 703.130(A).

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 must give you an opportunity to participate in a work activity. You should not be denied an extension if DTA did not refer you to work activities. DTA Transitions, Dec. 2013, p. 3.
- ✓ DTA limits extensions to three months (or less) but you can ask for as many extensions as you need. 106 C.M.R. § 703.130(B)(3); DTA Operations Memo 2013-38 (July 26, 2013). See **Question 47**.
- ✓ DTA says that it can also look at whether you made a good faith effort to meet your economic independence goals. 106 C.M.R. § 703.130(A)(1)(f). This may not be legal. Contact your local legal services program, **Appendix D**, if you are denied for this reason.

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

The time limit was suspended during the pandemic.

If you have used 22 months of time-limited benefits, DTA should schedule an interview (by phone or in the DTA office) to discuss whether you want an extension of benefits beyond 24 months. If you do not keep the appointment your case will be closed at the end of month 24. DTA Operations Memo 2013-38 (July 26, 2013). *If you request an extension before the closing date, your benefits should not stop until a decision is made on your extension request.*

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.

You have a right to request an extension of benefits. You should not tell DTA you do not want an extension unless you are sure you do not want your benefits to continue.

After the interview, the DTA worker makes a recommendation about whether your extension request should be approved or denied. The case worker's supervisor reviews the recommendation and makes a recommendation to the director of the local DTA office. The local DTA office then makes a recommendation to the DTA Commissioner or a person designated by the DTA Commissioner who makes the final decision on your extension request. DTA Online Guide (Extension of Benefits Beyond the 24-Month Period).

Advocacy Reminders:

- ✓ You do not have to wait to request an extension until DTA schedules you for an interview. You can request an extension once you reach the 22nd month. 106 C.M.R. § 703.130.

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- ✓ Be sure to tell DTA about everything you have done to get education, training, or a job. Be sure to tell DTA about transportation, child care, health or family issues that have prevented you from getting education, training, or a job.
- ✓ You have a right to have an advocate help you with the interview. You can ask to respond to the interview questions in writing.
- ✓ DTA will ask how you are going to take care of your children when your benefits stop. You should explain to DTA any difficulty you will have taking care of your children and paying your bills. If you expect to get help from family or a job, you should be realistic about whether that help will last or is only short term.
- ✓ Ask DTA for a copy of the Recommendation for Extension form so you can see if the information you gave them was properly recorded and if anything DTA wrote is not correct. Check the sanction history to make sure you are not being denied on the basis of past sanctions that were removed.
- ✓ If your extension request is denied, ask for a copy of the Commissioner's Extension Decision.
- ✓ If you say you do not want an extension, DTA will ask you to sign a TAFDC Extension Refusal Form. Even if you do not want an extension or are sure you will not qualify for an extension, it is better not to sign this form.

47 How long will your extension last?

The time limit was suspended during the pandemic.

Extensions are approved for a maximum of three months. 106 C.M.R. § 703.130(B). DTA Online Guide (Extension Introduction).

If your extension is approved, you should get a letter saying when your extension will end. You can ask for another extension before the extension ends.

Advocacy Reminders:

- ✓ DTA may say you have to use the extension to find a full-time job. If that is not practical for you, contact your local legal services program, **Appendix D**.
- ✓ Because of a court order, DTA must allow families applying for or receiving an extension the same income deductions allowed for other families. See **Questions 73 -75**.

48 What if your extension request is denied?

The time limit was suspended during the pandemic.

DTA will send you a notice when it makes a decision on your extension request. If your extension request is denied, the notice should give the reasons for the denial. DTA Online Guide (Extension Request Notices and Forms). Operations Memo 2013-38 (July 26, 2013). 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 should continue to receive benefits while you are waiting for a decision on the appeal. See **Question 111**.

Advocacy Reminders:

- ✓ 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. Contact your local legal services program, **Appendix D**, for help with your appeal.
- ✓ If you appeal, ask DTA for a copy of the recommendations and the reasons for the recommendations at all four levels – the DTA worker,

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the supervisor, the local DTA office director, and the DTA Commissioner.

- ✓ Some DTA staff say they do not recommend extensions because their previous recommendations have been rejected. This may be a ground for challenging an extension denial.
- ✓ Contact your local legal services program, **Appendix D**, if DTA denies your extension request.

49 What activities count towards the Work Program requirement?

The Work Program was suspended during the pandemic.

Activities that count towards the Work Program requirement include

- DTA “employment planning,” 12 weeks to do an assessment, get child care set up, and find and enroll in a program, DTA Online Guide (Employment Planning),
- a DTA-approved education or training activity, including
 - ▶ skills training,
 - ▶ adult basic education,
 - ▶ English-as-a-Second Language (ESL),
 - ▶ a HiSET program,
 - ▶ 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,

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- ▶ employment planning (up to 12 weeks) to set goals, arrange for child care, and choose a program,
- an “employment supports work activity” (supportive work site),
- paid work, including college work study,
- unpaid work (DTA calls this “community service”),
- internships, including internships in the DTA Works Program that pay a stipend that does not count against your grant and other paid or unpaid 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,
- another program DTA expects will lead to a job,
- job search, including online job search through JobQuest (register at <https://web.detma.org/jobQuest/Default.aspx>),
- housing search if you are staying in an emergency shelter, a motel or a temporary housing arrangement provided through the Department of Housing and Community Development. 106 C.M.R. § 703.150(A)(2); DTA Transitions, July 2015, p. 5.

Education or training counts towards the work requirement for 24 months. DTA may allow education and training for more than 24 months if you are making substantial progress towards a degree or certificate. Although education and training can count towards the work requirement for 24 months, you can be cut off when you reach your time limit unless you are approved for an extension.

See **Question 90** for a list of DTA’s Pathways to Work activities. Most Pathways to Work activities count towards the Work Program requirement.

Advocacy Reminders:

- ✓ DTA does not count education or training towards the 24-month limit unless you attend for the full month. A partial month does not count. DTA Transitions, Sept. 2009, p. 6.
- ✓ DTA will approve distance learning offered at publicly funded community colleges. DTA Operations Memo 2011-35 (July 15, 2011). You may be able to get DTA to approve another distance learning program if there is a way to verify attendance. See DTA Transitions, Nov. 2008, p. 5; Massachusetts' Work Verification Plan (Oct. 1, 2007). For help, check with your local legal services program, **Appendix D**.
- ✓ If you are in shelter and meeting your work requirement through housing search, you can volunteer for another activity and get child care and transportation benefits. Be sure DTA treats you as a volunteer for the other activity so DTA can't sanction you if you run into a problem with the other activity.
- ✓ DTA should treat you as meeting the Work Program requirement when you are meeting the preliminary requirements for the activity, such as visiting the site, attending an orientation, getting a medical exam, getting a criminal history report, or arranging child care.
- ✓ Housing search does not count as work if you have a Home BASE rental subsidy. DTA Online Guide (HomeBASE Impact DTA Programs/Requirements).

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

The Work Program was suspended during the pandemic.

Required hours of work activity depend on the age of your youngest child. You can meet the work requirement by doing one or a combination of activities for the required hours.

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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 school age or older. If you are not exempt and your youngest child is school age or older, you must do 30 hours a week of work activity. 106 C.M.R. § 703.150(A)(5); DTA Operations Memo 2011-42 (Sept. 2, 2011).

Advocacy Reminders:

- ✓ If you are in a homeless shelter and meeting your shelter housing search requirements, you meet the work activities requirement. 106 C.M.R. § 703.150(A)(2)(k). You do not have to show that you are doing housing search for a set number of hours.
- ✓ 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 58**, 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 2008-53A (Oct. 24, 2008); DTA Transitions, Aug. 2010, p. 8. 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 55**.

51 What are the work rules for two-parent families?

The Work Program was suspended during the pandemic.

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. § 703.150(A)(5); DTA Online Guide (Two-Parent Case Examples).

52 What are the work rules for noncitizen parents?

The Work Program was suspended during the pandemic.

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

Noncitizens 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.

Noncitizens without work authorization cannot be required to look for or take a paid job. DTA requires these noncitizens to do community service unless they are exempt from the work rules for some reason other than lack of work authorization. 106 C.M.R. § 703.150(A)(3). DTA does not allow noncitizens to count education or training on the same basis as citizens. This may be illegal. Contact your local legal services program, **Appendix D**, if DTA will not let you count education or training.

Noncitizens 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 or transportation).

Advocacy Reminder:

- ✓ Ineligible noncitizens should qualify for child care on the same basis as citizens. Contact your local legal services program, **Appendix D**, if DTA denies you child care because you are an ineligible noncitizen, including if you are a noncitizen who does not have work authorization.

53 When do you have to start a Work Program activity?

The Work Program was suspended during the pandemic.

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 34**), or DTA decides you are subject to the Work Program. 106 C.M.R. § 703.150(A)(1), (2), (4); DTA Operations Memo 2011-53 (Nov. 22, 2011); DTA Online Guide (Work Program Requirements Overview).

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 58**. 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 qualify for an exemption or 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). See DTA Online Guide (Work Program Requirements Overview); see **Question 58** for more information on good cause.

Advocacy Reminder:

- ✓ The Work Program requirement is separate from and in addition to the applicant job search requirement discussed in **Question 102**. Be sure to tell DTA about any problem you have meeting the job search requirement and also finding a Work Program activity.
-

54 How should you choose a Work Program activity?

The Work Program was suspended during the pandemic.

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 or any other countable activity, including community service.

New applicants have 12 weeks called “Employment Planning” to set goals, get child care set up, and learn about and enroll in an activity. DTA Online Guide (Employment Planning).

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 91**.

Advocacy Reminders:

- ✓ DTA is required by law to provide appropriate services for people with disabilities. Contact your local legal services program, **Appendix D**, if you need special training, education, or employment services because you have a physical or mental disability, including a learning disability. See **Questions 24-27**.

- ✓ You can arrange your own community service placement, but DTA reserves the right to disapprove the site you arrange. Under the law, any nonprofit organization may be a community service site, so DTA disapproval may not be legal.

55 What if you can't find an appropriate Work Activity?

The Work Program was suspended during the pandemic.

The Full Engagement Worker is supposed to meet with you to identify any problems you have meeting the work requirement, determine an appropriate activity for you, and determine what services you need such as child care or transportation. If you prefer to participate in community service rather than any other activity, DTA should refer you to a community service site.

If you have not verified that you are participating in an allowed work activity within 60 days of when you apply, DTA is supposed to refer you to an actually available community service site. If you can't get to the community service site, the community service is not appropriate, or the community service site will not accept you, notify DTA immediately. If DTA thinks you have not participated and do not have good cause for not participating, you may be sanctioned and your benefits may be lowered or stopped. See **Question 57**.

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. § 707.170(A)(2). Contact your local legal services program, **Appendix D**, if you have located a good placement, and DTA is telling you to change.

Limit on number of hours you can count community service. Under the federal Fair Labor Standards Act, you cannot participate in community service for more hours than your TAFDC grant plus SNAP (food stamp) benefits divided by the minimum wage (\$14.25/hour effective January 1,

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2022) divided by 4.333. 106 C.M.R. § 703.150(A)(2)(c); DTA Online Guide (Community Service and FLSA Community Service Choices).

- DTA says it can require you to do another activity in addition to or 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. § 703.150(A)(2)(c); DTA Operations Memos 2008-53A (Oct. 24, 2008), 2008-4 (Feb. 1, 2008); DTA Online Guide (Community Service and FLSA Community Service Choices); DTA Transitions, June 2012, pp. 4-5. This may be illegal. Contact your local legal services program, **Appendix D**, if this 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 Operations Memos 2008-53A (Oct. 24, 2008); 2008-4 (Feb. 1, 2008); DTA Online Guide (Community Service and FLSA Community Service Choices).

Advocacy Reminders:

- ✓ 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 ask your worker to give you good cause for not meeting the Work Program requirement. See **Question 58**.
- ✓ 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 2008-53A (Oct. 24, 2008); DTA Online Guide (Community Service and FLSA with Child Support).
- ✓ DTA can place you in a community service site at DTA if it chooses. See DTA Operations Memo 2012-14 (Apr. 6, 2012). This can be a stepping stone to the DTA Works Program, which pays a stipend that is not counted for TAFDC or SNAP (food stamps). DTA Works Program positions often lead to paid jobs. See **Question 90**.

56 What if you need child care or transportation to meet the Work Program rules?

The Work Program was suspended during the pandemic.

You are eligible for free child care if you need child care to meet Work Program rules. See **Question 93**. If you cannot locate appropriate child care you have good cause for not meeting the rules. See **Question 58**. If you are meeting the Work Program through community service, DTA says it can require you to do community service during your child's school hours so you will not need child care. See DTA Transitions, Feb. 2004, p. 2. Contact your local legal services program, **Appendix D**, if this is a problem for you.

DTA provides limited transportation help to Work Program participants participating in education, training, job search or paid work. See **Question 97**. DTA Online Guide (Transportation Overview). If you cannot meet the Work Program rules because you do not have or cannot afford transportation, you have good cause for not meeting the rules. See **Question 58**; DTA Operations Memo 2011-34 (July 5, 2011); DTA Transitions, July 2015, p. 5.

DTA will authorize child care for up to three months so you can look for an activity plus two weeks if you have used up your three months and you are waiting to start an activity. See **Question 93**. If you already have child care and have an activity scheduled to start within a month, DTA will authorize child care so you do not lose your child care arrangements. 106 C.M.R. § 707.210(A)(2); DTA Transitions, Nov. 2012, p. 4. DTA will authorize child care you need child care to do a work activity so you can get back on benefits after you have been cut off by the time limit or for not complying with work requirements. DTA Online Guide (Applicant 60 Day Work Search Period).

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

The Work Program was suspended during the pandemic.

Unless you are exempt from the “Work Program” requirements, which include having an “Employment Development Plan,” DTA may lower or stop your TAFDC for not meeting the requirements. See 106 C.M.R. § 707.200.

Starting an activity. If you are under the work requirement, you have the right to pick an activity. See **Question 49**.

If you don’t have an activity. DTA is supposed to refer you to an appropriate activity. DTA gives or sends you a form for you to take to the program providing the activity and requires you to get it signed and turned in to DTA. DTA also sends you an Employment Development Plan stating the activity they are saying you must do,

If you don’t agree with the activity DTA picked. If you do not think that the activity DTA picked makes sense for you or will be possible for you to do, contact your worker or the Full Engagement Worker in your DTA office. If you explain that you want to do an appropriate activity and will work with DTA to enroll in one, DTA should allow this. DTA Online Guide (Day 60: Follow-up Interview).

If you don’t follow up on the referral from DTA. If you haven’t gone to the place DTA referred you within 20 days or contacted your DTA office about getting a different activity, DTA will send you a “warning notice” saying DTA will lower your TAFDC.

Lowering your TAFDC. If you haven’t worked things out with DTA, then 10 days after the warning notice, DTA will send you a notice telling you that your TAFDC will be lowered because you are not meeting the work requirement. DTA will also send another referral to an activity. If you contact DTA and agree to do an appropriate activity, DTA should remove the sanction. DTA Online Guide (Removing Sanctions).

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Stopping TAFDC to your whole family. If your TAFDC is being lowered and you don't work things out with DTA, then 20 days after the notice about lowering your TAFDC (and the new referral that came with it), DTA will send another "warning notice." Twenty days after that warning notice, DTA will send a notice saying DTA will stop all TAFDC for your family because you did not comply with your Employment Development Plan. If you contact DTA and agree to start an appropriate activity, DTA should stop the termination of your TAFDC or reinstate it if it already stopped. DTA Online Guide (Removing Sanctions).

Stopping TAFDC if you have another problem later. DTA's computer is set up so that if your TAFDC was ever lowered for not meeting the work requirement and you are later accused of another instance of not meeting the work requirement, DTA skips the step of lowering your TAFDC. The notice you get will be to stop all TAFDC to your family.

If your family's TAFDC is stopped because of not meeting the work requirement or not complying with your Employment Development Plan, you can get your case reopened if:

- You did an activity while your case was closed, such as work, education, training, or job search),
- You do the job search requirements for new applicants. See **Question 102**, below, DTA Online Guide (Applicant Who Has Used 60 Day Work Search),
- DTA did not find you an appropriate and available community service placement. DTA has a duty to find you an appropriate and available community service placement if you need one. See **Question 55** above. DTA Operations Memo 2011-34 (July 5, 2011). If DTA didn't do this, you have good cause for not complying and should be put back on benefits even if you are not doing an activity. See **Question 58**.

Contact your local legal services program, **Appendix D**, if any of the rights described above are violated.

Advocacy Reminders:

- ✓ A court has said that it may be illegal to stop TAFDC to the whole family because one person did not meet Work Program rules. If DTA

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cuts off the whole family, contact your local legal services program, **Appendix D**, for help.

- ✓ DTA should not lower or stop your TAFDC if you have a good cause reason for not starting or for missing the activity. See **Question 58**.
- ✓ If you reapply and you have a good cause reason for not doing an activity, you should be treated as meeting the work program. DTA Online Guide (Applicant Who Has Used 60-Day Work Search).
- ✓ You should appeal if you have any disagreements, including if your attendance was not recorded correctly or if DTA does not accept your good cause claim. See **Part 8**.
- ✓ Contact your local legal services program, **Appendix D**, if DTA denies you education, training, child care, transportation benefits or earnings deductions because you did not meet Employment Development Plan or Work Program requirements.
- ✓ Your SNAP (food stamp) benefits will not go up when your TAFDC is lowered for not meeting the work requirement. 106 C.M.R. § 365.130.
- ✓ Your SNAP benefits should go up if DTA stops all of your TAFDC, as long as you are complying with SNAP requirements.
- ✓ DTA should not lower or stop your TAFDC for not meeting the work requirement or complying with your EDP if you are exempt, even if you tried to work or do another activity as a volunteer. See **Questions 89-91**.

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

The Work Program was suspended during the pandemic.

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

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- lack of appropriate child care, see **Question 95**,
- 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 55**,
- a family crisis, emergency, or other compelling circumstances,
- 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); DTA Operations Memo 2011-34 (July 5, 2011); DTA Online Guide (Good Cause Criteria), (Grantees Who Do Not Have to Meet the Work Program).

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, add any other reasons you think are good cause, 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 55**.
- ✓ If you have just been evicted or you are homeless, you may be able to claim good cause on the basis of family crisis, emergency, or other compelling circumstances.
- ✓ Good cause due to family crisis, emergency or other compelling circumstances includes being in a domestic violence shelter or dealing with domestic violence. DTA Online Guide (Work Program Requirements/ Grantees Who Do Not Have to Meet the Work Program

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Requirement); DTA Online Guide (Good Cause Due to Domestic Violence). You may also be able to get a domestic violence waiver. See **Question 43**.

- ✓ DTA may say you do not have good cause based on lack of appropriate and available child care if the Child Care Resource and Referral Agency won't say that appropriate child care is not available. DTA Online Guide (Good Cause Criteria); DTA Field Operations Memo 2005-1A (Apr. 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 95**. Contact your local legal services program, **Appendix D**, and file an appeal if you have not been referred to child care you think is appropriate and you are denied good cause. See **Part 8**.
- ✓ You should be able to claim good cause if you cannot go to the Work Program activity for any reason beyond your control. You should be able to claim good cause if it is reasonable for you not to go the activity under the circumstances. If your worker will not approve your good cause claim, contact your local legal services program, **Appendix D**, and file an appeal. See **Part 8**.