

DEPARTMENT OF HUMAN RESOURCES FAMILY INVESTMENT ADMINISTRATION	TEMPORARY CASH ASSISTANCE MANUAL	
ASSISTANCE UNIT COMPOSITION 302	COMAR 07.03.03.06	TECHNICAL ELIGIBILITY 300

## 302.1 REQUIREMENTS

### A. MANDATORY MEMBERS

1. The following individuals must be included in the assistance unit when they live in the same household:
  - a. A parent and all the parent's natural or adopted eligible children
    - i. Includes both parents of an eligible child
    - ii. Includes a child
      - Under age 18
      - Under age 19 if a full time student in secondary school or equivalent
      - Age 19 who is a full time student in secondary school or its equivalent and expects to graduate or complete the program before the end of the calendar year during which the child turns 19

**Note:** The natural/birth parents of an adopted child can be in the assistance unit with the child if the adoptive parents agree. (See section 306-Technical Eligibility - Living with Relative)

- b. The parents and child of a minor parent
- c. Minor siblings related by blood, adoption, or marriage, includes half-siblings

**Note:** The whole or half natural siblings of an adopted child can be in an assistance unit with the adopted child if the adoptive parents agree.

- d. A pregnant woman with no other children if the child, when born and living with the woman, is expected to be eligible. The father of the unborn must be included when living with the pregnant woman

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- e. Unmarried adults with a child or an unborn child in common
  - i. The unborn child is not added to an assistance unit until born. **The unborn is always considered a child in common when both parents are living together.** The unborn child draws all parents and their children into the assistance unit
  - ii. This includes the stepparent or common-law partner who had a choice about being in or out of the unit prior to conceiving an unborn child in common
- f. Each individual in the assistance unit must meet technical factors to be eligible
- g. Individuals specifically excluded cannot be in the assistance unit. (See Excluded Individuals)

## B. OPTIONAL MEMBERS

1. The following individuals may be in the assistance unit, but are not required to be:
  - a. A needy caretaker relative other than a parent may be in the unit with the related child or children. (See Technical Eligibility-Non-parent Caretaker Relatives- section 303 of this chapter for additional information on caretaker relatives)

If the needy non-parent caretaker has his or her own child(ren) living in the same household, the caretaker cannot be included in the TCA A/U unless the caretaker's child(ren) are eligible.

- b. A child from another assistance unit if the adult has gained guardianship
- c. A child from another sanctioned assistance unit who has been placed with the current caretaker by Social Services staff.
- d. A parent or other relative acting in place of the parent who is temporarily absent from the home.

Example: A parent who is temporarily absent because he or she is attending a residential substance abuse facility or in a work/training program

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- e. A child who is related by blood, marriage or adoption to the non-parent caretaker relative, but is not a sibling of any child in the assistance unit. A separate assistance unit cannot be established for that child.
2. A stepparent with his or her own children in the home, but no child in common with the caretaker relative.

The stepparent with his or her own children but no child in common with the caretaker may not be a separate assistance unit

3. When an optional individual is added to the assistance unit, all of that individual's natural or adopted children and any minor siblings of the children must be included in the assistance unit when living in the same home
  - All optional individuals needing assistance must be part of the mandatory unit; separate units cannot be established for them.

### C. EXCLUDED INDIVIDUALS

1. The following individuals cannot be in an assistance unit, but their income and assets are countable:
  - a. A parent who fails to meet technical factors of eligibility
  - b. A parent who is an illegal or undocumented immigrant
  - c. A parent who is fleeing to avoid prosecution, custody, or confinement after conviction of a crime or an attempted crime when the crime occurred after August 22, 1996 and is:
    - i. A felony under the laws of the place from which the individual is fleeing, or
    - ii. A high misdemeanor felon under the laws of the state of New Jersey
  - d. A parent who is violating a condition of parole or probation under federal or state law for an offense that occurred after August 22, 1996 and the offense is classified as a felony by the laws of the jurisdiction involved

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- e. A custodial parent convicted of an offense that occurred after August 22, 1996, which is classified as a felony by the laws of the jurisdiction involved and includes possession, use, or distribution of a controlled substance, **and** the parent refuses or fails to comply with substance abuse testing or treatment requirements after July 1, 2000. (see section 700 Substance Abuse for additional information.)
- f. A custodial parent who was convicted of a felony that includes possession, use, or distribution of a controlled substance on or after July 1, 2000 while receiving TCA, WAG or Emergency Assistance is ineligible for 1 year from the date of the conviction.

**Note:** The custodial parent is defined as the adult or minor biological or adoptive parent, or stepparent.

Effective July 1, 2000, custodial parents who were convicted of a felony after August 22, 1996 that involved a controlled substance are eligible for TCA if all technical and financial factors are met **and** the parent agrees to comply with substance abuse testing and treatment requirements.

Customers who are convicted of a drug related felony on or after July 1, 2000 while receiving TCA, WAG or Emergency Assistance are ineligible for benefits for one year after the date of the conviction and are subject to substance abuse testing and treatment requirements.

- 2. A parent who has failed to comply with Family Investment Program (FIP) substance abuse provisions.
- 3. A minor child who is not a full-time student and who fails to comply with the work requirements and does not have good cause.

**Note:** The earnings of a child in the assistance unit are not counted. This includes the earnings of minor parents who are not head of household.

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4. The following individuals, considered children, cannot be in the assistance unit and their income and assets are not countable. A child who
  - a. Who fails to meet technical factors of eligibility including a child:
    - i. Who is not a minor parent and was convicted after August 22, 1996 of a felony involving a controlled substance
    - ii. Receiving Supplemental Security Income (SSI)
    - iii. For whom a foster care payment is paid
    - iv. For whom an adoption subsidy is paid
  - b. Is temporarily absent from the home for more than 180 consecutive days unless the longer absence is approved by the Secretary of the Department of Human Resources

### 302.2 OTHER REQUIREMENTS OF ASSISTANCE UNIT COMPOSITION

- A. Other regulations that specifically exclude an individual take precedence over the basic assistance unit composition requirements.
- B. Parents and minor children must be in the assistance unit together.
  1. The parent/child relationship is legally severed between an adopted child and the natural parents. However, they can be in an assistance unit together with the approval of the adoptive parents
  2. When parents have joint custody, the parent who has custodial care the majority of the time can receive TCA for the child (See Technical Eligibility section 306 Living with a Relative)
  3. When one parent is not physically in the home because of employment, such as an out of town job or military assignment, the family is considered intact. The away parent is included in the assistance unit and all of that parent's income and resources count toward the assistant unit's eligibility
- C. There must be a child in the assistance unit unless the only child is:
  1. An SSI customer
  2. An unborn
  3. A child for whom a subsidized adoption payment is being received

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4. A child for whom a foster care payment is being received.
- D. There cannot be two assistance units in the same household unless:
1. The family units are unrelated
  2. The caretaker relatives are not living in a common law relationship
  3. The assistance unit cannot be combined
  4. Examples of separate units include:
    - Two adult (over the age of 18) sisters with children share a house. Since the sisters are adults they cannot be combined into one unit.
    - A household with 3 generations – Mrs. Jones, her 20 year-old daughter Alice, Alice’s daughter Jane, and Mrs. Jones’ 10 year old son. Mrs. Jones and her son are in one assistance unit and Alice and her daughter are in one assistance unit.
    - Two friends share a house and each has children. Since they are not related, they cannot be in the same unit.
- E. An individual who is serving home detention, rather than in jail is treated like any other family member when determining who is required to be in the assistance unit and must meet the same eligibility requirements as all other family members. They may receive assistance, if otherwise eligible.

### **302.3 VERIFICATION**

- A. Require verification of pregnancy if there are no other children in the home because the unborn is the child that allows the parent or parents to be eligible for TCA.
- B. No other verification is required unless the information is questionable.

### **302.4 CASE MANAGEMENT TIPS**

- A. Correctly forming the assistance unit in CARES is very important.
- B. Look at the total household before setting up a case.
- C. Always ask the customer if there are other individuals living in the home.

### **302.5 EXAMPLES**

Example 1: Mary Landers applies for herself and her 8 year-old daughter, Sally. Also living in the home is her 3 year-old son, Dan, and Dan’s father, Frank Jones. Mary is not applying for Dan and Frank since Frank takes care of their son.

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- Since Mr. Jones and Ms. Landers have a child (Dan) in common, everyone in the household must be in the assistance unit.
- If Mr. Jones left the home, Dan would still have to be in the unit because he and Sally are half-siblings.

Example 2: Jane Doe applies for assistance for her 15- year-old daughter, Joy and her 12- year-old son, David. Jane is now married to Mr. Crane, who supports her, but cannot support his stepchildren. Mr. Crane does not have any children.

- Jane must be in the assistance unit with her children, because parents and children must be in a unit together.
- Mr. Crane may not be in the assistance unit because he does not have children. His income is deemed available to the assistance unit.
- If Jane were pregnant Mr. Crane would have to be in the assistance unit and all of his income and assets would be counted.

Example 3: Sally Johnson applies for assistance for herself and her 7-year-old grandson, Harry. Living in the home is another grandson, John – age 15, who is Harry's cousin. She is not applying for John because he gets \$400 per month in Social Security benefits.

- Ms. Johnson does not have to apply for John because he is not her son or Harry's brother.

Example 4: Janet Smith is receiving assistance through the Temporary Disability Assistance Program (TDAP). She reports and brings proof that she is two months pregnant and living with the father of the unborn.

- Ms. Smith must apply for TCA.
- She and the father of her unborn are both required to be in the unit
- Ms. Smith is no longer eligible for TDAP because she is now eligible in a federal category of assistance

Example 5: Gloria Brown is receiving assistance for herself and her 3 minor sons from a previous marriage. Also in the home is her boyfriend, Jack Dobb. Ms. Brown reports that she is pregnant with Mr. Dobb's child and the baby is due in mid-June. Mr. Black is employed full-time.

- Ms. Brown and Mr. Dobb must be in the assistance unit because they have a child (unborn) in common.
- Ms. Brown's sons must be in the unit with their mother.

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- The unborn child will be added when born

Example 6: Barbara Boyd applies for assistance for herself, 2 daughters by a previous marriage, a son, David, by her current boyfriend, Charles, who was incarcerated for drug possession (he was arrested in September 1997 and convicted in March 1999), and Charles' daughter, Mary, and Charles' stepson, Peter, from his previous marriage.

- Mrs. Boyd receives assistance for everyone on her application.
- The mandatory members are:
  - Mrs. Boyd,
  - Her daughters and her son, David,
  - Mary because she is the half sibling of David and
  - Peter because he is a stepbrother of Mary.
  - Charles can be in the grant when he is released from prison, if he agrees to comply with drug testing and treatment requirements

Example 7: Ms. Jones applies for assistance for her 2-month old granddaughter, Rachel. Also in the home are Rachel's mother, Jane, who is a 16 year-old high student and Jane's 17 year-old boyfriend, John, who is Rachel's father. Ms. Jones is willing to continue to support her daughter, Jane, but needs help with the baby.

- The assistance unit must include everyone in the home because parents and minor children cannot be separated
- Jane and John must be in the unit with their daughter, Rachel
- Ms. Jones must be in the unit with her minor daughter, Jane
- If Jane, John and Rachel lived with John's parents, Rachel, her parents and paternal grandparents would be in one unit because John is a minor.

Example 8: Mr. Marshall applies for assistance for himself and his sons on July 6<sup>th</sup> in Baltimore County. He and his ex-wife have joint custody of the boys. The children live with Mr. Marshall one week and his ex-wife the next week. Mrs. Marshall applies for herself and the boys in Baltimore City on July 7<sup>th</sup>.

- Mr. Marshall has the right to receive assistance for himself and his sons, if eligible, because he applied first.
- Mr. Marshall could agree to withdraw his application and allow his ex-wife to continue her application.

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- The children can only be in one assistance unit and since they spend equal time with both parents, either parent could be the custodial caretaker.
- If the children were with one parent more than half of the time, only that parent could be eligible.

Example 9: Ms. Mason applies for assistance for herself and her biological twin daughters, Nancy and Natalie, who were adopted by Mr. and Mrs. Wilson through social services shortly after their birth. The Wilsons are not related to Ms. Mason. The girls went to visit Ms. Mason's home and wish to remain with her.

- Ms. Mason can only receive assistance for the girls, her biological daughters, if the adoptive parents agree

Example 10: Ms. Norton applies for assistance for herself and her sons, Ned and Nelson, who were adopted by her Ms. Norton's sister, Ms. Landon, when they were infants. The boys knew Ms. Norton was their biological mother and now want to live with her.

- Ms. Norton can receive assistance for herself and the boys because they are legally her nephews (her sister's children because of the adoption)
- Since the children are related to Ms. Norton as her nephews, Ms. Norton can receive assistance for them, if they are living with her, whether or not Ms. Landon agrees.

Example 11: Judy Judson is a 19-year-old foster child with a new baby. She applies for herself and her baby.

- Only the baby can be in the TCA assistance unit because foster care payments are made for Judy.
- If foster care payments were also made for the baby, they would both be ineligible for TCA because they cannot be in two cash programs simultaneously.

### **302.6 EXCEPTION TO BASIC ASSISTANCE UNIT REQUIREMENTS**

- A. Non-parent caretaker relatives are a specific group of people who accept responsibility to provide care and guidance to the minor children of a relative. (See Technical Eligibility section 303 on non-parent caretaker relatives)
- B. The non-parent caretaker relative may:
  1. Receive assistance for the minor child(ren) only, or

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2. If needy, be included in the TCA grant with the children if otherwise eligible.
3. Have his or her own needy child(ren) included in the TCA assistance unit.
  - If the caretaker's children are included in the TCA, the grant is paid following the FIP schedule for the household size. The non-parent caretaker must be included.