

**Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE**

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**Cross References**

This subpart cited in 55 Pa. Code § 125.24 (relating to procedures); 55 Pa. Code § 141.71 (relating to policy); 55 Pa. Code § 255.71 (relating to policy); 55 Pa. Code § 255.84 (relating to procedures); 55 Pa. Code § 289.4 (relating to procedures); and 55 Pa. Code § 291.24 (relating to procedures).

**CHAPTER 171. BUDGET GROUP PROVISIONS FOR AFDC/GA**

**NEED AND AMOUNT OF ASSISTANCE PROVISIONS FOR AFDC/GA**

Sec.	
171.1.	[Reserved].
171.2.	[Reserved].
171.3.	[Reserved].
171.11.	[Reserved].
171.12.	[Reserved].
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171.81. Policy.

**(Editor's Note:** Sections 171.1—171.3 and 171.11—171.13 were added by emergency rule under section 6(b) of the Regulatory Review Act (71 P. S. § 745.6(b)) at 21 Pa.B. 1557 (April 13, 1991) and these sections were withdrawn by the Department at 21 Pa.B. 3699 (August 17, 1991).)

### NEED AND AMOUNT OF ASSISTANCE PROVISIONS FOR AFDC/GA

#### § 171.1. [Reserved].

##### Source

The provisions of this § 171.1 adopted April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; reserved August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial page (157030).

#### § 171.2. [Reserved].

##### Source

The provisions of this § 171.2 adopted April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; reserved August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial pages (157030) to (157031).

#### § 171.3. [Reserved].

##### Source

The provisions of this § 171.3 adopted April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; reserved August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial pages (157031) to (157032).

#### § 171.11. [Reserved].

##### Source

The provisions of this § 171.11 adopted April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; reserved August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial pages (157032) to (157033).

#### § 171.12. [Reserved].

##### Source

The provisions of this § 171.12 adopted April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; reserved August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial pages (157033) to (157034).

#### § 171.13. [Reserved].

##### Source

The provisions of this § 171.13 adopted April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; reserved August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial pages (157034) to (157036).

**§ 171.21. Policy.**

(a) *Grant groups.* When certain persons living together are eligible for assistance, more Federal participation is generally assured if persons in an assistance unit are grouped by grants as set forth in this subsection. Therefore, grant groups are set up as indicated in this subsection with the following exception: Another grant group may not be set up in an assistance unit if doing so would make a person in that grant group ineligible by reason of the “minimum grant” regulation under Chapter 183 (relating to income). A person may not be a member of more than one of the following grant groups:

(1) *TANF filing unit.*

(i) An TANF filing unit shall include the following persons living in the same household as the TANF child:

(A) The children eligible for TANF. Children under the care and control of the same specified relative will always be in one filing unit.

(B) A natural or adoptive parent shall be included unless the parent is otherwise ineligible for reasons such as: citizenship status, a sanction placed by the CAO under Chapter 165 or Chapter 187 (relating to road to economic self-sufficiency through employment and training (RESET) program); and support from relatives not living with the client), or receipt of lump sum income under Chapter 183. A parent who is not designated as the specified relative (ES) for the TANF child shall be included in the filing unit as an essential person (EE) or, as a dependent child (EC) if the parent qualifies as a dependent child.

(C) A brother or sister shall be included if the brother or sister meets the following conditions. The brother or sister is:

(I) Seventeen years of age or younger, or 18 years of age if a full-time student in a secondary school—or the equivalent level of a vocational or technical school—and is reasonably expected to complete the schooling before 19 years of age.

(II) Deprived of parental support or care by reason of the death, absence, physical or mental incapacity or unemployment of a parent under Chapter 153 (relating to deprivation of support or care).

(III) A full or half-sibling of the children eligible for TANF.

(IV) Not a recipient of SSI.

(V) Not otherwise ineligible for TANF for other reasons such as: citizenship status, a sanction placed by the CAO under Chapter 165 or Chapter 187 or receipt of lump sum income under Chapter 183.

(VI) Not receiving Federal adoption assistance subsidies under Title IV-E of the Adoption Assistance and Child Welfare Act of 1980 (Pub.L. No. 96-272) (94 Stat. 500) or, State or local adoption assistance subsidies, unless the child is eligible under the program requirements and because it is to the benefit of the budget group, the child shall be

included. If the adopted child is included in the budget group, his income from the Federal, State or local adoption assistance subsidies is counted in the eligibility determination and benefit computation under Chapter 183. If the adopted child is not included in the budget group, his income is not counted in the eligibility determination and benefit computation under Chapter 183.

(VII) Not receiving Federal foster care payments under Title IV-E or State or local foster care payments.

(ii) An TANF filing unit may include the following persons living in the same household as the TANF child:

(A) One nonparental “specified relative” described in § 151.42 (relating to definitions), eligible as set forth in Chapter 141 (relating to general eligibility provisions), and not himself receiving SBP or SSI.

(B) Specified relatives and other relatives of a child who is eligible for TANF, but receives SSI benefits, and a pregnant woman who meets the requirements of § 151.43(f) (relating to requirements). The SSI child and the fetus may not be included in the filing unit.

(C) A minor unemancipated child who is related to the TANF child and eligible for GA, but not TANF, may be included in the TANF filing unit if the person who receives the TANF payment agrees to his inclusion. The CAO staff shall discuss this method with the payment name.

(D) Another relative of the TANF child who meets the definitive conditions of GA, if the person in whose name the TANF payment is made has no objection to having the assistance for which the relative is eligible paid to him. The CAO staff shall discuss this method with the payment name.

(iii) The case record shall contain the facts supporting the decision.

(2) *GA grant groups.* The person is eligible for GA unless he is receiving assistance as a member of an TANF filing unit. Children who receive Federal, State or local adoption assistance subsidies shall be included, if eligible under the program requirements and it is to the benefit of the budget group that the child be included. If the adopted child is included in the budget group, his income from the Federal, State or local adoption assistance subsidies is counted in the eligibility determination and benefit computation under Chapter 183. If the adopted child is not included in the budget group, his income is not counted in the eligibility determination and benefit computation under Chapter 183. If the child receives Federal foster care payments under Title IV-E or State or local foster care payments, he may not be included as a member in any budget group.

(b) *Payment name.* The payment name for a grant group is as follows:

(1) *TANF payment name.* The payment name for the TANF grant group is as follows:

(i) The specified relative as defined in § 151.42, whether or not this relative has applied for assistance for himself, or is receiving another type of assistance, or is coded “Cs” or “Ce.” If there are two specified relatives, either one may be the payment name, and both shall share in deciding which one it is to be.

(ii) The guardian of a specified relative.

(iii) Temporarily, another person under the circumstances set forth in § 151.43.

(2) *GA payment name.* The payment name for the GA grant group is the name of the person whose pattern it is to take responsibility for the management of the financial affairs of the persons included in the group. The person who is the payee shall be an adult or an emancipated minor. It may also be the guardian or trustee for the grant group.

#### Authority

The provisions of this § 171.21 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

#### Source

The provisions of this § 171.21 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended July 28, 1978, effective August 28, 1978, 8 Pa.B. 2104; explained November 6, 1981, 11 Pa.B. 3954; amended November 6, 1981, effective November 7, 1981, 11 Pa.B. 3956; amended November 6, 1981, effective November 7, 1981, 11 Pa.B. 3959; amended June 25, 1982, effective June 26, 1982, 12 Pa.B. 1944; amended April 8, 1983, effective April 9, 1983, 13 Pa.B. 1259; amended April 13, 1984, effective March 31, 1984, 14 Pa.B. 1087; amended August 26, 1988, effective November 1, 1988, 18 Pa.B. 3921; reserved April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; amended August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699; amended March 19, 1993, effective upon publication and applies retroactively to April 1, 1991, 23 Pa.B. 1315; corrected June 4, 1993, effective August 17, 1991, 23 Pa.B. 2670. Immediately preceding text appears at serial pages (175265) to (175266) and (168649).

#### Notes of Decisions

Petitioner had to include in her Aid to Families with Dependent Children filing unit a child living with her whose father was totally disabled by a severe arthritic condition, as well as the father and his social security benefits, which put petitioner over the income limit for Aid to Families with Dependent Children. *Kiess v. Department of Public Welfare*, 537 A.2d 102 (Pa. Cmwlth. 1988).

DPW policy prohibiting duplicate payments on behalf of a child who is the subject of a change of custodial relative resulting in payments continuing to be made to the former custodial parent pending completion of DPW procedures to change the designated recipient does not conflict with the Social Security Act or its regulations when the transfer of custody was consensual, the child was never ineligible for benefits, the payments were made to a legally responsible parent, and the Commonwealth would have made payments to the new custodial parent had it been given prospective notice of the custody change, or had the former custodial parent waived the due process requirement of ten days prior notice before a change in the check could be effected. Nor does the policy violate due process or equal protection guarantees, since it is rationally related to the goal of avoidance of collusive arrangements between relatives and the encouragement of planning for the child's custody, and disparate treatment of foster parents is justified by the unlikelihood of collusive arrangements and decreased likelihood of amicable transfer of benefits. *Jackson v. O'Bannon*, 633 F.2d 329 (1980).

**Cross References**

This section cited in 55 Pa. Code § 141.1 (relating to policy); 55 Pa. Code § 141.41 (relating to policy); 55 Pa. Code § 163.4 (relating to procedures); 55 Pa. Code § 171.22 (relating to definitions); and 55 Pa. Code § 175.22 (relating to definitions).

**§ 171.22. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Assistance unit*—A group of persons who occupy a common dwelling unit and who are applying for or receiving TANF, including TANF-U, or GA. There shall be only one assistance unit in a dwelling unit except for the following:

(i) Persons or family groups, or both, who are not required by § 171.21(b)(1) (relating to policy) to be in the same grant group, shall constitute separate assistance units:

(A) A roomer, or a roomer and boarder and their dependents with whom they are living—applies to TANF or GA, or both. A roomer or boarder, or both, is one who pays a fixed fee to a provider for service for room or board, or both. Dependent children, such as unemancipated minors, living with their parents or caretaker relatives, are not considered to be roomers or boarders, or both, unless included as members of the family group that is rooming and boarding.

(B) Two or more family groups living together in a common dwelling unit who are not roomers or boarders, or both, if the following conditions are met:

(I) The family groups are eligible to receive TANF—including TANF-U.

(II) Each family group is headed by a person who is a specified relative as defined in § 151.42 (relating to definitions).

(III) The specified relatives share the expenses of the dwelling unit.

(IV) A specified relative is responsible for the care, maintenance and education of different dependent children.

(ii) (Reserved).

**Source**

The provisions of this § 171.22 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; amended November 6, 1981, effective November 7, 1981, 11 Pa.B. 3956; amended August 26, 1988, effective November 1, 1988, 18 Pa.B. 3921; reserved April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; amended August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial page (157037).

**Notes of Decisions**

Consideration by the Department only of common dwelling arrangements and a joint lease are not enough to deny a claimant's qualification as a separate assistance unit under this section when the claimant has testified that he pays \$20 per week in room and board as a fixed fee rather than sharing

household expenses and the hearing examiner, Director of the Office of Hearings and Appeals, and the Secretary of the Department all failed to make a finding of fact on that issue. *Rodriguez v. Department of Public Welfare*, 464 A.2d 707 (Pa. Cmwlth. 1983).

It is error for the Department to determine general assistance eligibility and allowance by applying a single assistance unit approach merely because the recipient shared a common dwelling and expenses with another recipient without making a determination of actual resources shared between the two assistance recipients in accordance with 62 P. S. § 432.12. *Bowmaster v. Department of Public Welfare*, 457 A.2d 185 (Pa. Cmwlth. 1983).

The claimant's own admissions that her boyfriend was living with her, was the father of her unborn child, and regularly provided monies to cover food and other expenses clearly indicate a familial relationship that transcends the status of a mere boarder, and she did not meet her burden of proving lack of resources. *Slay v. Department of Public Welfare*, 406 A.2d 1214 (Pa. Cmwlth. 1979).

Only one assistance unit is formed within the meaning of 55 Pa. Code § 171.22(i)(a) (relating to definitions) if a daughter is living with her mother, even though the daughter pays a certain amount to her mother each month as rent, since there was no evidence that such amount was in any way binding on either person and the mother was not a "provider of service." *Bond v. Department of Public Welfare*, 403 A.2d 1378 (Pa. Cmwlth. 1979).

#### Cross References

This section cited in 55 Pa. Code § 175.22 (relating to definitions).

### § 171.24. [Reserved].

#### Source

The provisions of this § 171.24 adopted April 8, 1983, effective April 9, 1983, 13 Pa.B. 1259; reserved August 31, 1984, effective August 30, 1984, 14 Pa.B. 3159. Immediately preceding text appears at serial pages (86654) and (81196).

### § 171.71. [Reserved].

#### Source

The provisions of this § 171.71 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; reserved August 26, 1988, effective November 1, 1988, 18 Pa.B. 3949. Immediately preceding text appears at serial pages (108863) to (108864).

## NEED AND AMOUNT OF ASSISTANCE PROVISIONS FOR MA FOR THE MEDICALLY NEEDY

### § 171.81. Policy.

(a) *Need.* The Department will pay for certain medical services for eligible persons who are taking care of their everyday living expenses themselves, but have insufficient income, resources or support from legally responsible relatives to pay for these major medical expenses. The regulations and procedure which specify the conditions of need are contained in the following chapters:

- (1) Chapter 177 (relating to resources).
- (2) Chapter 181 (relating to income provisions for categorically needy NMP-MA and MNO-MA).

(3) Chapter 183 (relating to income).

(4) Chapter 187 (relating to support from relatives not living with the client).

(b) *Services paid for.* The Department will pay for inpatient hospital care, hospital-home care, nursing care in the home, public and private nursing home care, care in a medical institution and medical-social services under the condition of and as specified in Chapter 175 (relating to allowances and benefits).

**Source**

The provisions of this § 171.81 adopted August 4, 1977, effective August 5, 1977, 7 Pa.B. 2180; reserved April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; amended August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699. Immediately preceding text appears at serial page (157038).

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