

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Chapter 5, §512
(31 Del.C., Ch. 5, §512)

FINAL

DSSM: 3000 Technical Eligibility for Cash Assistance and 4000 Financial Responsibility

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the General Assistance (GA) and Temporary Assistance for Needy Families (TANF) programs. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the August 2010 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by August 31, 2010 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSED CHANGES

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding Delaware's General Assistance (GA) and Temporary Assistance for Needy Families (TANF) programs. The impact of the proposed changes will be that children living in the home of a non-relative custodian or legal guardian will be technically eligible for the TANF program. These children will no longer be eligible to receive benefits through the GA program.

Statutory Authority

- 42 U.S.C. § 601(a)(1), *Purpose, Increase flexibility of States*
- 31 **Del.C.** §503(d), *Eligibility for assistance; amount; method of payment – Aid to Families with Dependent Children;*
- 31 **Del.C.** §505(1), *Categories of Assistance - Aid to Families with Dependent Children;*
- 31 **Del.C.** §505(2), *Categories of Assistance - General Assistance;*
- 31 **Del.C.** §512(1), *Administration;*
- 10 **Del.C.** §901(3), (6) and (12), *Definitions – Care, Custody and Control; Custodian; Family*

Summary of Proposed Changes

Children in the care of a non-relative adult will no longer receive cash assistance through the General Assistance program. These children will be eligible for cash assistance through the TANF program. The TANF program establishes additional expectations for the caregivers in these families including parenting classes, cooperation with child support, child immunizations, and child school attendance requirements. Caretakers in these families may also access the work support programs available to needy caretakers. This change supports the goals of both family self-sufficiency and increased family functioning.

The proposed changes affect the following policy sections:

DSSM 3000, *Temporary Assistance for Needy Families (TANF) – Definition*

DSSM 3000.4, *TANF and State Only Foster Care* 3004, *Specified Relationship;*

DSSM 3004.1, *Living in the Home*

DSSM 3010, *Participation and Cooperation in Developing CMR*

DSSM 3018, *General Assistance (GA)*
DSSM 3021, *Unrelated Children*;
DSSM 3022, *Ineligibility Due to Family Cap*
DSSM 3027, *Age as a Condition of Eligibility*;
DSSM 3027.2, *Minor Parents*;
DSSM 3028.1, *Mandatory Composition of Assistance Units*;
DSSM 3028.2, *Optional Composition of Assistance Units*;
DSSM 4001, *Family Budget Group*;
DSSM 4001.1, *Examples to Illustrate Rules Regarding Budget Groups*;
DSSM 4004.3, *Earned Income Disregards in GA*;
DSSM 4007.1, *Standards of Need/Payment Standard – GA*; and
DSSM 4009, *Determining Financial Eligibility and Grant Amounts in GA*.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE AND EXPLANATION OF CHANGES

The Division of Social Services (DSS) received two comments from the public regarding this regulation. One from an individual and the other from the State Council for Persons with Disabilities (SCPD).

First Comment

DSS has considered the comment and responds as follows.

With all due respect, it is a very bad idea to go down that road of allowing morals that some connect with religion and which are not requirements of the law to be “encouraged” by the same people who are giving out the assistance. It is already a demeaning adventure to apply for assistance as it is and if the worker begins to start “preaching” to the client about how much better it might be if she were married, there is no way of predicting how that may be received or whether such action may discourage people from coming back for assistance for themselves and their children – assistance that they really need. We are trying to drive them away by turning the process into one that resembles an attempt to convert applicants to one or another religious belief system. There is no law against being single, and many people are perfectly capable of becoming self-sufficient without being further demeaned in such a way as this. I would view comments of this type as the highly invasive and rude having grown up as a teen in the 70s and the feminist movement and feeling as though it would be an insult to say that just because I needed a little help now that I couldn’t become self-sufficient later without getting a man to help me do it. Other women may even have worse reactions than that to this sort of intrusive behavior.

There is NO GOOD REASON for the workers who are giving out benefits to say anything at all about the marital arrangements of the parents since that is way too personal and well out of the realm of necessary information that an individual should have to give in order to get the tiny bit of money she is going to get to tide her over.

Just the opinion of someone who assumes that you are not TRYING to drive people who are not Christian or other “marriage before sex” religions OUT of the process or otherwise make them feel as though they should feel guilty for needing help. We all need a little help once in a while, and the tiny bit of help that one gets from TANF cannot possibly be considered enough to warrant excessively intrusive statements that could alienate people from moral backgrounds that do NOT put (legal) marriage before sex so high on the list. Not everyone thinks the same way as Christians do. Please stop expecting all of us to do so. It’s insulting.

Agency Response: Thank you for your thoughtful comments. I understand your concern that TANF policy might promote the view that 2-parent families are more valued than single parent families. The policy section you referenced is not being changed. The referenced policy section has been in place since the late nineties following the enactment of Federal welfare reform. The change to the existing policy allows children being cared for by a non-relative to receive TANF; previously these families were not eligible for TANF and could only participate in the General Assistance program.

Here is a little background on the existing policy. The focus on encouraging 2-parent families has 3 desired impacts. One is to reduce the rate of out of wedlock pregnancies, particularly among teens. The second as you

noted is to improve the potential financial stability of families. And lastly, the goal is to promote the opportunity for children to be raised by both parents.

I appreciate your concern that these goals could potentially be in conflict with the best path for a particular family. While the goal is to create programming that will promote the formation of 2-parent families the Division of Social Services (DSS) respects the decisions and choices that parents make for their families. Ultimately, the Division is most interested in helping families, no matter their makeup, to move toward self-sufficiency. The TANF program does attempt to provide the supports specific to the needs of the families it works with. For example within TANF, there is a 2-parent family program that tries to support the choices these parents make in terms of parenting, work, and economic self sufficiency. Similarly, the TANF program actively screens for domestic violence issues and waives program requirements for individuals who are in, or escaping, a home where domestic violence exists. I hope this provides you assurance that the policy is not intended to shame single parents or direct single parents into marriage. But as I noted, I understand your concern and appreciate your reservations.

Second Comment

In addition, the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. DSS has considered each comment and responds as follows.

According to the "Summary of Proposed Changes", the impact will be that children living in the home of a non-relative custodian or legal guardian will be technically eligible for the TANF program. These children will no longer be eligible to receive benefits through the GA program. SCPD has the following observations.

First, there are positive aspects to the change. SCPD has been informally advised that the effect of switching an eligible child from a GA to a TANF grant would be to increase the monetary benefit from \$123.00 to \$201.00. This amounts to a benefit increase of more than 60%. Approximately 300 children would be affected. Moreover, the TANF standards (Section 3010) require the caretaker to enter into a Contract of Mutual Responsibility which prompts child immunization and regular school attendance. Finally, the TANF caretaker becomes eligible to participate in work support programs. See Summary of Proposed Changes at 14 DE Reg. At 91-92.

Second, there are some potentially negative aspects to the change. TANF imposes sanctions (§3009.1) on caretakers who fail to meet the benchmarks in the Contract of Mutual Responsibility which can amount to total elimination of benefits. The GA program is less prescriptive in imposition of beneficiary obligations. Unlike TANF, there are no equivalent requirements for participating in parenting classes, cooperation with child support, and ensuring child immunization and school attendance.

Third, §3004 should be revised.

A. The existing section contains an introductory sentence defining "relatives" which incorporates a bulleted list of "relatives". The new section retains the bulleted list but no introductory sentence (e.g. "(a) relative is defined as follows"). The result is a list of qualifying "relative" standards with no context. See, e.g., analogous references in §3004 (e.g. "(a) guardian is defined as"; "a custodian...is defined as").

B. The definition of "relative" could be enhanced by including a reference to an adult relative caregiver with a valid Caregiver Authorization form on record with the child's public school pursuant to Title 14 **Del.C.** §202.

C. The definition of "guardian" is odd. For example, it only contemplates appointment of a guardian by the Family Court. The Court of Chancery has concurrent jurisdiction to appoint guardians of minors. See Title 12 **Del.C.** §3902. Moreover, it characterizes persons authorized by DFS to exercise custody and care of a child as a "guardian". This is a distortion of law. Apart from the Court of Chancery, only the Family Court has the authority to appoint a "guardian" of a minor. See Title 10 **Del.C.** §925(16). SCPD is not aware of any statute which grants the DSCYF the authority to appoint a guardian. Finally, DFS is only one of multiple agencies which may delegate care of children to adults. See, e.g., Title 10 **Del.C.** §1009.

Fourth, in §3004.1, first sentence, DSS may wish to delete the reference to "parent's" since it is redundant. The definition of "caretaker" in §3001 ostensibly covers both parents and non-parents.

In summary, SCPD has the following recommendations.

A. DSS should consider some technical amendments based on Pars. 3 and 4 above.

Agency Response: DSS responds as follows to your recommendations:

1) SCPD suggested a heading be added to the bulleted text that defines a relative. The suggested text was added.

2) SCPD suggested that relative status be verified by the submittal of the caregiver authorization form on record at the child's public school. This document is one of a variety of documents which may be presented by the

relative to verify their relationship to the child. Adding the suggested text would limit the relative's ability to provide other verification which may be more readily available. At this time it has been decided not to limit verification of relationship to the caregiver authorization form.

3) SCPD commented that the definition of guardian was "odd", and suggested some revisions. Based on the feedback received by you and others the text defining guardian has been replaced with the following:

For the purposes of the TANF program a guardian is defined as:

- An adult providing an appropriate supportive living arrangement who has been appointed as guardian of the child(ren) in his/her care by an authorized court, or
- an adult who has received the consent and approval to exercise the day-to-day care, custody, and control of the child(ren) in his/her care by the Delaware Division of Family Services or any agency or court licensed or authorized to place children in a nonrelated home.

However, the Council suggested the word "parent's" be removed from the first sentence of policy 3004.1. The decision was made not to remove the word.

B. DSS should consider whether caretakers could be given the option of applying for GA or TANF on a qualifying child's behalf. As illustrated in §4001.1, deleted Illustration #5, a caretaker and child can currently qualify as separate GA assistance units. There may be circumstances in which the caretaker views the TANF requirements as unduly onerous. If an option cannot be authorized, SCPD endorses the regulation given the significant increase in financial benefit to most eligible caretakers and children.

Agency Response: It is the decision of DSS not to allow this option.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the August 2010 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding the Delaware General Assistance and TANF Programs is adopted and shall be final effective October 10, 2010.

Rita M. Landgraf, Secretary, DHSS

DSS FINAL ORDER REGULATIONS #10-42

REVISIONS:

3000 Temporary Assistance for Needy Families (TANF) - Definition

TANF is a cash assistance program for minor children who are needy as determined by Division standards and who are:

Living in the home of a parent, guardian, custodian, or specified relative.

Purpose of Delaware's Welfare Reform Plan, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES is Delaware's plan to transform its welfare system. The State and the family have mutual responsibilities. The State will create positive incentives for the family to become self-sufficient. The family must accept responsibility to become self-sufficient and self-supporting. There are five key principles that form the plan's foundation. They are:

1. WORK SHOULD PAY MORE THAN WELFARE;
2. WELFARE RECIPIENTS MUST EXERCISE PERSONAL RESPONSIBILITY IN EXCHANGE FOR BENEFITS;
3. WELFARE SHOULD BE TRANSITIONAL, NOT A WAY OF LIFE;
4. BOTH PARENTS ARE RESPONSIBLE FOR SUPPORTING THEIR CHILDREN; and
5. THE FORMATION AND MAINTENANCE OF TWO-PARENT FAMILIES SHOULD BE ENCOURAGED, AND TEENAGE PREGNANCY AND UNWED MOTHERHOOD SHOULD BE DISCOURAGED.

The purpose of the following policies is to outline the manner in which the Division of Social Services intends to

carry out this vision of its welfare reform plan.

(Break in Continuity of Sections)

3000.4 TANF and State Only Foster Care

If a child is living with a minor parent and the minor parent receives State Only Foster Care payments, the child may receive cash assistance. The minor parent cannot be included in the cash assistance program.

The minor parent may be a TANF payee if she cares for the child and is capable of handling funds. Contact the minor parent's Child Protective Services worker for this determination.

If someone other than the minor parent cares for the child or if the minor parent is not capable of handling funds, an adult in the household may be payee. ~~If the adult meets the definition of a "specified relative" (Social Services Manual Section 3004), that adult may receive TANF for the child. If the adult does not meet the definition of a "specified relative," that adult may receive GA for the child.~~

The minor parent is not included in the TANF grant and the State Only Foster Care payment is not considered income to the child.

(Break in Continuity of Sections)

3004 Specified Relationship Caretakers in TANF Families

Relationship

~~To be eligible for TANF, a child must be living in the home of one of the following relatives:~~

Assistance is provided to needy families. A family is one or more children living with a specified relative, guardian, or custodian (adult acting in loco parentis).

[Specified relative is defined as:]

- Any relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child. The degree of relationship is as follows: a parent (1st degree), grandparent (2nd degree), sibling (2nd degree), great-grandparent (3rd degree), uncle or aunt (3rd degree), nephew or niece (3rd degree), great-great-grandparent (4th degree), great-uncle or aunt (4th degree), first cousin (4th degree), great-great-great-grandparent (5th degree), great-great uncle or aunt (5th degree), or a first cousin once removed (5th degree).
- Any other persons named in the above groups whose relationship to one of the child's parents is established by legal adoption;
- The spouse of any person named in the above groups even though the marriage terminated by death or divorce.

[A guardian is defined as:

~~**An adult providing an appropriate supportive living arrangement who has been authorized by the Delaware Division of Family Services or the Family Court of Delaware to exercise the day-to-day care, custody, and control of the child(ren) in his/her care.**~~

For the purposes of the TANF program a guardian is defined as:

- **An adult providing an appropriate supportive living arrangement who has been appointed as guardian of the child(ren) in his/her care by an authorized court, or**
- **an adult who has received the consent and approval to exercise the day-to-day care, custody, and control of the child(ren) in his/her care by the Delaware Division of Family Services or any agency or court licensed or authorized to place children in a nonrelated home.]**

A custodian or an adult acting *in loco parentis* ("in the place of a parent") is defined as:

An adult who provides an appropriate supportive living arrangement for the child(ren) in his/her care, and who has:

- intentionally taken over the duties of a parent and is responsible for exercising the day-to-day care, custody, and control of the child(ren).
- accepted the legal responsibility of caring for the child.
- been referred to the Delaware Division of Family Services for purposes of determining suitability of the adult to act *in loco parentis* and the dependency of the child(ren).

[Custodians Adults acting in loco parentis] are required to acknowledge their acceptance of the legal responsibility for the child(ren) in their care and their intentional acceptance of the day-to-day care, custody, and control of the child(ren) in their care. This acknowledgement must be in writing and on a Division of Social Services approved form.

The Division of Family Services [(DFS)], within the Department of Services for Children, Youth, and Their Families [DSCYF] must approve the living arrangement of a custodian and the children they are caring for by the next redetermination. If ~~[the custodial relationship verification of consent and approval by DFS]~~ is not ~~[approved provided]~~ by the next redetermination, TANF payments should be stopped.

Paternity Establishment:

When a child lives with both the natural father and the mother but paternity has not been legally established, refer the parents to the Division of Child Support Enforcement (DCSE) for a voluntary acknowledgement of paternity. If the alleged father is unwilling to complete the voluntary acknowledgement of paternity, DSS will consider the child deprived of the care and support of his/her father. Refer the case to DCSE for follow-up on establishing paternity.

When a child lives with the natural father, but paternity has not been legally established, have the father complete a declaration of natural relationship document. Obtain one additional document from the documents listed below to support the natural father's claim of relationship.

- Social Security Administration records;
- Hospital, clinic, or Public Health Records;
- Department of Services to Children, Youth, and Their Families records;
- Census Bureau records;
- Income Tax records specifying the relationship;
- Insurance policies which specify the relationship;
- Military or veterans records which specify the relationship Statement from a minister, priest, or rabbi;
- Family bible, Baptismal Certificate or other family records (such as wills, deeds), written in ink and not altered which specify the relationship;
- Statement of physician or midwife who attended the birth and remembers the names of the people involved;
- Other government or local agency records, newspaper records, or local histories which specify the relationship;
- A Declaration of Natural Relationship signed by the mother or other maternal relative;
- If none of the above documents are available, a declaration of Natural Relationship signed by a knowledgeable person.

When a child lives with a relative of the natural father, but paternity has not been legally established, have the relative complete a Declaration of Natural Relationship document. Obtain one additional document from the documents listed above to support the relative's claim of relationship.

3004.1 Living in the home

The parent's or ~~relative's~~ caretaker's statement that the child is living in the home must be verified at the time of application and at each subsequent redetermination.

A home is defined as the family setting where the child and the caretaker ~~relative~~ reside. The home exists ~~as long as the relative is the responsible caretaker~~ even if the child or ~~the relative~~ caretaker is temporarily absent (See DSSM 3023.4, 3023.5, and 3023.6).

The child is considered living with the ~~relative~~ caretaker even if the child is under the jurisdiction of the court (e.g., receiving probation services or protective supervision) or legal custody is held by an agency, as long as the child continues to live at home.

(Break in Continuity of Sections)

3010 Participation and Cooperation in Developing CMR

It is mandatory that the caretaker enter into a Contract of Mutual Responsibility. The Contract applies to those

families in the Time Limited Program and Children's Program, as well as to teen parents. Other family members within the assistance unit may be subject to compliance with provisions of the Contract, even if the caretaker is a non-needy caretaker relative payee.

If the caretaker is a non-needy caretaker relative, the individual would not be required to participate in employment-related activities, but may be required to participate in other Contract activities.

The caretaker may object to certain aspects of the Contract. The caretaker needs to present any objections up front, at the time of the initial Contract or upon Contract revision. DSS retains the ultimate decision making authority as to what elements are put into the Contract of Mutual Responsibility.

DSS expects clients to cooperate in the development of the Contract of Mutual Responsibility. Certain aspects of the Contract, such as, but not limited to, participation in employment-related activities, meeting school attendance requirements and immunization, cannot be amended. However, even though certain aspects cannot be amended, this does not imply that caretakers cannot discuss and/or negotiate Contract requirements. Further, this is not to imply that such discussion and/or negotiation is non-cooperation. To the extent possible, each caretaker should be able to mutually develop her/his Contract. DSS is to give caretakers the opportunity to understand the Contract and its requirements, as well as to discuss the Contract with persons outside the DSS office. Reasons for requesting such an outside review of the Contract include, but are not limited to, language barriers, developmental disabilities, or to seek legal or other counsel. Caretakers therefore, should be granted their requests to remove proposed Contracts from the DSS office in order to review it with another person. This should not be considered non-cooperation.

Negotiating elements of the CMR can mean that aspects of the CMR are waived. On a case by case basis, elements of the CMR can be waived if good cause exists. If the particular circumstances of a family warrant waiving elements of the CMR it is to be justified and properly documented in the case record.

See Administrative Notice A-10-99 DFS/DSS Procedures.

For example: a parent's only child is terminally ill. It is reasonable to determine that a parent would want to spend as much time with the child as possible. Therefore, waiving school attendance requirements and parenting education requirements are reasonable. Document the child's illness and the reason for the waiving of the CMR requirements in the case record.

(Break in Continuity of Sections)

3018 General Assistance (GA)

General Assistance is a State funded cash assistance program available to families and unemployable individuals who meet the financial eligibility requirements of the program and who are ineligible for TANF and SSI with the following exception:

A child's caretaker relative, who is otherwise eligible for GA and who is not the child's parent, may choose to receive GA instead of TANF.

EXAMPLE: A woman with no income is unemployable and is the caretaker of a seven year old niece. The woman may choose to receive GA for herself and be payee only for the TANF grant for her niece, or she may be included in the TANF unit with her niece.

Married or unmarried couples living with their children as a family unit that are not eligible for TANF or TANF-UP are technically eligible for GA.

EXAMPLE: A couple lives with their children as a unit. Both parents are healthy and unemployed. Neither parent meets work quarter requirements for TANF-UP. The family is technically eligible to receive GA.

(Break in Continuity of Sections)

3021 Unrelated Children RESERVED

~~A needy child (one whose income is less than the GA Standard of Need), who lives with an unrelated adult caretaker, is technically eligible for General Assistance. The caretaker is payee for the child's grant and may be included in the GA budget group if he/she is also needy and meets at least one of the conditions specified in DSSM 3019.~~

~~In such cases, DSS will document the child's presence in the home and the reason that the child is not living with his/her parents. The possibility of financial support from the parents is also investigated.~~

In all such cases, the DFS will be notified of the child's placement so a study of the home can be made.

3022 ~~Ineligibility Due to Family Cap~~ RESERVED

~~A needy child, who is ineligible for TANF cash benefits due to the Family Cap provision of Delaware's Temporary Assistance To Needy Families, is not technically eligible for GA.~~

(Break in Continuity of Sections)

3027 Age as a Condition of Eligibility

For purposes of determining eligibility for cash grants, persons 18 years old and over are considered adults.

Persons under age 18 are considered children. ~~An individual is not eligible for General Assistance as a child the month of his/her birthday. If such children are General Assistance recipients, they will be removed from the assistance unit that last day of the month prior to the month of their 18th birthday.~~

An individual is not eligible for TANF as a child the month of his/her 18th birthday if their birthdate is the 1st day of the month. If such children are TANF recipients, they will be removed from the assistance unit the last day of the month prior to the month of their 18th birthday.

An individual is eligible for TANF as the child the month of his/her 18th birthday if their birthday is the 2nd - 31st day of the month. If such children are TANF recipients, they will be removed from the assistance unit effective the last day of the month he/she turns 18.

(Break in Continuity of Sections)

3027.2 Minor Parents

An unmarried parent, under the age of 18, and the dependent child(ren) in his or her care is to reside in the household of a parent, legal guardian, custodian, other adult relative, or in an adult supervised supportive living arrangement to receive TANF benefits.

Emancipated minors are considered adults for the purpose of establishing eligibility for assistance. An eligible emancipated minor may receive an assistance grant in his/her own name.

Emancipation must be documented in the case record. Acceptable documentation includes:

- 1) Court records; or
- 2) The minor's valid marriage license; or
- 3) Written statements from the Division of Family Services verifying the minor's emancipation.

If the minor parent and his or her children reside in an adult supervised supportive living arrangement, the Division of Family Services, within the Department of Services for Children, Youth and Their Families, must approve the living arrangement by the next redetermination. If the adult supervised supportive living arrangement is not approved by the next redetermination, TANF payments should be stopped.

Assistance is to be provided in the form of a protective payment to the minor parent's parent, legal guardian, other adult relative, or adult in the supervised supportive living arrangement.

(Break in Continuity of Sections)

3028.1 Mandatory Composition of Assistance Units

In TANF, the assistance unit will always include:

1. The dependent child; and
2. The dependent child's blood related or adoptive siblings who are under 18 and who are also dependent children; and
3. The dependent child's natural or adoptive parent(s). If both parents live in the home, both parents must be included in the unit regardless of the parents' marital status. In a case where paternity has not been legally established, the putative father must acknowledge paternity as a condition of eligibility.

Note: In 2 and 3 above, the child or parent must also reside in the home and be otherwise eligible. Examples of persons who are not otherwise eligible include, but are not limited to SSI recipients, and the Employment and Training Program sanctioned individuals.

EXAMPLE: A grandmother has day to day care and control of her minor grandchild and is receiving TANF for herself and the child. The child's mother moves into the home, but the grandmother retains custody and continues to act as the child's caretaker. Since, according to TANF regulations, a parent is a mandatory member of the assistance unit, the mother must be added. If the mother has income, the income must be budgeted. The grandmother may remain in the unit because TANF regulations allow for the inclusion of a needy caretaker relative.

EXAMPLE: In TANF, where children who live in the home include the caretaker's own children and a child who is related in some other manner (e.g., niece or nephew), establish two assistance units. One will include the caretaker and his/her children, and the other will include the other related child with the caretaker as payee only. When more than one such child lives in the home, each child will be placed in a separate assistance unit unless the children must be considered together as specified in 1 and 2 above.

~~EXAMPLE: In GA, establish a separate assistance unit for an unrelated child living in the home of a family that is also eligible to receive a grant. When more than one such child resides in the home, each child will be placed in a separate assistance unit. However, children who are siblings are always considered together and will be placed in the same assistance unit.~~

~~EXAMPLE: In GA, establish a separate assistance unit for an unrelated child and the adult caretaker who is also eligible to receive GA on their own. For instance, the adult caretaker is age 55 or older. Establish two separate GA assistance units; one for the caretaker and one for the child. (See DSSM 4001)~~

9 DE Reg. 1979 (06/01/06)

3028.2 Optional Composition of Assistance Units

1. In TANF the dependent child, and if residing in the home and otherwise eligible, the child's blood related or adoptive minor siblings, and the child's natural or adoptive parent(s) must be included in the unit. When both parents of the dependent child are in the home, both parents must be included in the unit regardless of their marital status. In a case where paternity has not been legally established, the putative father must acknowledge paternity as a condition of eligibility.

A non-parent needy caretaker ~~relative~~ may be included in the unit if the caretaker so chooses.

The needy legal spouse of a caretaker ~~relative~~ may be included in the unit only if the caretaker is the natural or adoptive parent of the child(ren), and the caretaker is incapacitated or is the principal wage earner and qualifies as an unemployed parent.

2. In TANF married couple cases, where each adult has children from previous relationships that are eligible for TANF, include the family in one TANF unit. If the couple has children in common who are also eligible for TANF, include these children in the unit also.

3. In TANF married or unmarried couple cases where each adult has children from previous relationships who are eligible for TANF, they have the option of being in one assistance unit or two separate assistance units. If the unit fails financially, a separate assistance unit may be established for the child(ren) of the previous relationships.

For example, a couple each have a child from previous relationships. Initially, we place all the family members into one TANF assistance unit. Income from the male partner's job makes the family ineligible for TANF. We have the option of placing the female partner and her child from a previous relationship into a TANF assistance unit. In this scenario, if the couple were married, a step-parent situation would exist. If the couple were not married, eligibility is based solely on the information from the female partner and her child.

4. When a couple, married or unmarried, has a child in common and each partner has a child from a previous relationship, the couple, the child in common, and the other children will initially be placed in one TANF assistance unit. The siblings keep this as one assistance unit.

Example: A couple each have a child from previous relationships and they have a child in common. Initially, we place all the family members into one TANF assistance unit. Income from the male partner's job makes the family ineligible for TANF. We have the option of placing the female partner and her child from a previous relationship into a TANF assistance unit. In this case if the couple were married, a step-parent situation would exist. If the couple were not married, eligibility is based solely on the information from the female partner and her child.

5. A pregnant woman, with no other children, may receive TANF beginning on the first day of the month that her child is expected to be born, if the woman meets all other technical and financial eligibility requirements, and her expected due date has been verified by a physician. The child is added to the unit, and a supplemental grant is effective the date of its birth if the birth is reported within five (5) days. If the birth is not reported within five (5) days,

the child is added to the unit and the grant is effective as of the date of the report. The child's father, if he is otherwise eligible, is also added using these guidelines. Procedures for completing supplemental applications for newborns are outlined in DSSM 2000.6.

(See DSSM 4010 for Budgeting instructions)

A pregnant woman who plans to place her child for adoption is eligible for TANF beginning the 1st day of the month her child is due, assuming she meets all other eligibility requirements. If she still plans to terminate her parental rights after the child is born, the child cannot be added to the assistance unit and the child is not eligible for Medicaid. In this instance, the TANF case is closed at the end of the month that the birth occurs.

6. If a child receiving SSI is the only child in the home, the child's caretaker ~~relative~~ can receive TANF if the child is deprived of parental care. The caretaker's needy legal spouse can receive TANF if the caretaker is the child's natural or adoptive parent and the caretaker is incapacitated or qualifies as an unemployed parent.

7. For GA eligible adults, include the adult. The adult's spouse or UMP is also included if the spouse or partner also meets a condition of unemployability.

~~8. For children eligible for GA who are living with a non relative caretaker, include the child. The caretaker may also be included if the child is under six and the caretaker is needy.~~

98. A woman who has a verified pregnancy and receives a GA check the month she delivers her child is eligible for TANF that month for herself and her child if she reports the birth to DSS, and she meets all other TANF technical and financial eligibility requirements.

The TANF grant is effective the date of the child's birth if the birth is reported within five (5) days.

The TANF grant is effective the date of the report if the birth is not reported within five (5) days.

If the pregnancy had not been verified, the TANF grant is effective the date the birth is verified.

(Break in Continuity of Sections)

4001 Family Budget Group

Assume there is no income.

Family budget group is the total number of persons whose needs and income are budgeted together. This will always include the following:

1. Married couples if they live together and are both eligible for a grant.
2. Unmarried couples who live together as husband and wife and are both eligible for a grant.

NOTE: In GA, couples will be considered as living together as husband and wife if:

- a. They say they are married, even if the marriage cannot be verified, or
- b. They are recognized as husband and wife in the community, or
- c. One partner uses the other's last name, or
- d. They state they intend to marry, or
- e. They jointly hold resources.

3. Parents and their eligible children.

Family budget groups will consist of more than one assistance unit when all budget group members are not placed in the same assistance unit. In those instances, the need standard for the family cannot exceed the TANF need standard for the budget group size as specified in Section 4007.2. (See DSSM 3028 for a definition of an assistance unit)

In households that include a caretaker, the caretaker's children and other children that are the caretaker's responsibility, the caretaker's needs and income and those of his/her children are always budgeted together. The needs and income of any other children in the home will be considered separately. In these situations, the separate budget groups can be combined to form a single family budget group only when the following conditions are met:

A. Assistance would be denied to any of the recipients by maintaining separate budget groups.

B. The caretaker understands the implications of combining the budget groups (i.e., lower assistance payments) and chooses to have his/her needs and income and those of his/her children considered with the needs and income of any other children in the home.

~~4. A needy caretaker caring for an unrelated child under the age of six (6) who is needed in the home to care for the child because no one else is available can receive General Assistance (GA) for him/her self and the child in two assistance units but one budget group. SEE DSSM 3028.~~

5. A caretaker caring for an unrelated child may be able to receive GA for the child in one assistance unit while receiving GA for him/her self as well, in a separate assistance unit as long as one condition in DSSM 3019, other than #4 is met. They would be in two separate budget groups.

4001.1 Examples to Illustrate Rules Regarding Budget Groups.

1. Mr. and Mrs. Brown apply for assistance for themselves, their two (2) children, and Mrs. Brown's niece. Mr. Brown is ill and unable to work. (Refer to A-18-99 for more details)

Mr. and Mrs. Brown are eligible for TANF and are placed in one budget group with their two (2) children. Mrs. Brown's niece is eligible for TANF and is placed in another budget group with Mrs. Brown as payee. The Browns with their children receive an TANF grant for four (4) people. Mrs. Brown's niece receives a TANF grant for one (1) person.

~~2. Mr. and Mrs. Johnson are applying for themselves, their child, and an unrelated child that lives in their home.~~

~~Mr. and Mrs. Johnson and their child are eligible for TANF and are placed in one budget group. The unrelated child is eligible for GA and placed in a separate budget group. The Johnson's will receive a TANF grant for three (3) people and the unrelated child will receive a GA grant for one (1) person.~~

~~3. Mrs. Jones is divorced and is applying for herself, her daughter, a niece, and an unrelated child.~~

~~Mrs. Jones and her child are eligible for TANF and are placed in one budget group. The niece is eligible for TANF and placed in another budget group. The unrelated child is eligible for GA and is in a third budget group.~~

~~4.2. Ms. Lord is applying for herself, her child and her niece and nephew who are sister and brother.~~

~~Ms. Lord and her child are eligible for TANF and are in one budget group. Ms. Lord's niece and nephew are eligible for TANF and placed in another budget group.~~

~~5. Mr. Smith is caring for a three year old child for whom he is not related. Mr. Smith is needy. Someone is needed in the home to care for the child but there is no one else available.~~

~~Mr. Smith and the child could each receive GA in separate assistance units. They would be in one budget group capped by the GA size for two (2) people.~~

~~6. Mrs. Robinson is caring for a child for whom she is not related. Mrs. Robinson is fifty-five (55) years of age.~~

~~Mrs. Robinson and the child could each receive GA in separate assistance units. They would be two (2) separate budget groups.~~

NOTE: When income is included in any of the above situations, it is possible that some of the recipients would be denied by maintaining separate budget groups, but all recipients could remain eligible if the groups are combined. In those situations the budget groups can be combined if the caretaker so chooses.

(Refer to Administrative Notice A-18-99 for more details.)

(Break in Continuity of Sections)

4004.3 Earned Income Disregards in GA

The following disregards are deducted from gross earned income in the GA budgeting process. Disregards are applied to each earner's wages.

1. Standard allowance for work connected expenses \$50.

~~2. Dependent care expenses as paid up to \$160 per month for each child who resides in the home and receives GA.~~

(Break in Continuity of Sections)

4007.1 Standards of Need/Payment Standard - GA

This policy applies to all General Assistance applicants and recipients.

1. The Payment Standard is equal to the Standard of Need.

2. The Division of Social Services determines the Standard of Need.

~~3. The Division of Social Services may establish different Standards of Need for children and adults.~~

4. The Division of Social Services will issue an administrative notice detailing Standard of Need changes at least 30 days prior to an implementation of a Standard of Need change.

54. The Division of Social Services will issue an administrative notice annually detailing the current Standard of Need.

13 DE Reg. 1333 (04/01/10)

(Break in Continuity of Sections)

4009 Determining Financial Eligibility and Grant Amounts in GA

Follow the steps listed below to determine financial eligibility and grant amounts in the GA program. Refer to DSSM 4004.3 for information regarding GA earned income disregards.

1. Subtract \$50.00 from earned income.
2. ~~Subtract payment for dependent care from earned income.~~
3. Compare the sum of remaining earned income plus other income to the applicable GA standard. Deny assistance if income exceeds the standard.
4. If income is less than the standard, subtract income from the applicable GA standard to determine the grant amount. Round remainders by dropping the cents.

14 DE Reg. 304 (10/01/10) (Final)