

CHAPTER 145. AGE
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Cross References

This chapter cited in 55 Pa. Code § 141.41 (relating to policy); 55 Pa. Code § 141.61 (relating to policy); 55 Pa. Code § 141.81 (relating to eligibility policy for Medically Needy Only); and 55 Pa. Code § 183.81 (relating to income exemptions).

GENERAL PROVISIONS

§ 145.1. [Reserved].

AGE PROVISIONS FOR TANF

Authority

The provisions of these §§ 145.41—145.44 issued under sections 201(2) and 403 of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), unless otherwise noted.

§ 145.41. Policy.

Assistance is intended to be made available for families who meet the established eligibility requirements as provided for in this chapter and who have children under 18 years of age or under 19 years of age if the child is a full-time student in secondary school or the equivalent level of a vocational or technical school and reasonably expected to complete the program before reaching age 19.

Source

The provisions of this § 145.41 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790. Immediately preceding text appears at serial page (68010).

Cross References

This chapter cited in 55 Pa. Code § 108.7 (relating to requirements subject to waiver).

§ 145.42. Definitions.

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

Full-time student—A child who is enrolled in and physically attending full time, as defined and certified by the school or institute attended, a program of study or training leading to graduation or an equivalent certificate.

Source

The provisions of this § 145.42 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790. Immediately preceding text appears at serial page (68011).

§ 145.43. Requirements.

(a) *General.* The following are the general TANF age requirements:

(1) The child shall conform with one of the following age requirements:

(i) Be under 18 years of age.

(ii) Be under 18 years of age or under 19 years of age and a full-time student in a secondary school or in the equivalent level of vocational or technical training.

(b) *Attending school or training.* The following will constitute TANF age requirements for youths attending school or training:

(1) The youth under 19 years of age will be considered to have met the requirement of attending secondary school or an equivalent course of vocational training full time, if the youth is carrying a program of supervised education or vocational training approved by the authorities of the school district or by the Department of Education. The program may be part of the regular school program, or one especially arranged for the individual youth's educational or vocational needs and approved by the school authorities. A vocational training course may be under section 2508.3 of the School Code BVR (5813.3), in a program under the Economic Opportunity Act, or in an organized training program under recognized sponsorship with a specified vocational training objective (for example, apprenticeships or training arrangements sponsored by business or industrial firms).

(2) Full-time attendance will not be deemed interrupted when the youth is temporarily absent for reasons accepted under the laws of the State on compul-

sory school attendance, or for reasons accepted under the regulations of the secondary school or vocational training program in which the youth is enrolled.

(3) TANF payment will be made for the following:

(i) The months in which the youth is not in secondary school or training because of official vacations, provided that the youth will again attend full-time secondary school, or an equivalent vocational or technical school, when the official vacation is over.

(ii) The month the youth completes or discontinues secondary school or equivalent vocational or technical school before reaching 19 years of age.

(4) The date the secondary school or equivalent vocational or technical school records show the youth ended full-time status as a student or trainee will be the date of completion or discontinuance of secondary school or an equivalent vocational or technical school.

Authority

The provisions of this § 145.43 amended under sections 201(2), 403(b) and 432 of the Public Welfare Code (62 P. S. §§ 201(2), 403(b) and 432); the Support Law (62 P. S. §§ 1971—1977); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; and the Federal TANF regulations in 45 CFR 260.10—265.10.

Source

The provisions of this § 145.43 amended November 7, 1981, effective November 6, 1981, 11 Pa.B. 3962; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268298) and (268311) to (268312).

Notes of Decisions

Section 145.43(b) does not violate the Equal Protection Clause of the United States Constitution by unreasonably creating one class of unborn children that is entitled to assistance and one class that is not so entitled where the Department's interpretation of the provision results in the denial of benefits for more than one additional member to a welfare recipient who is pregnant with twins. The Equal Protection Clause applies to "persons," but that term does not include the unborn. *Barr v. Department of Public Welfare*, 435 A.2d 678 (Pa. Cmwlth. 1981).

Although Federal regulations require that benefits must be granted for a dependent child and 55 Pa. Code § 145.43(b) states that an unborn child will be considered a dependent child, the latter provision simply establishes an administratively efficient method to dispense benefits; it does not grant an unborn child the same right to assistance as that afforded a dependent child. *Barr v. Department of Public Welfare*, 435 A.2d 678 (Pa. Cmwlth. 1981).

The date assistance is authorized is the first payment date after the pregnancy is established with the county board of assistance, rather than the first payment date after the pregnancy is diagnosed by a physician. *Nauss v. Department of Public Welfare*, 398 A.2d 757 (Pa. Cmwlth. 1979).

Cross References

This section cited in 55 Pa. Code § 140.32 (relating to applicable income); 55 Pa. Code § 140.513 (relating to eligibility end date); 55 Pa. Code § 151.41 (relating to policy); 55 Pa. Code § 168.17 (relating to eligible children); and 55 Pa. Code § 178.12 (relating to categories of MNO-MA).

§ 145.44. Procedures.

(a) *General.* The general TANF age procedure will be as follows:

(1) There must be proof of the child's birth. This proof consists of either parent's or substitute parent's statement supported by written evidence. Written evidence includes a record of birth or baptism, school, hospital or physician's records, and the like.

(2) If the month and day of the child's birth are not known, the child's birthdate for Public Assistance records is July 1. If the month is known but not the day, the first of the month is the child's birthdate for Public Assistance records.

(b) *Attending school or training.* The procedure for school or training attendance will be as follows:

(1) [Reserved].

(2) Certification by the school of enrollment in and attendance at a secondary school or equivalent vocational or technical school is required within the fiscal month in which the youth has his 18th birthday. After the initial certification for a youth attending a secondary school or equivalent vocational or technical school, attendance will be redetermined in March, June, September and December until the youth reaches age 19. Redetermination will be made more often if there is any indication that he may no longer be enrolled as a full-time student.

Source

The provisions of this § 145.44 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790. Immediately preceding text appears at serial page (68013).

Cross References

This section cited in 55 Pa. Code § 178.12 (relating to categories of MNO-MA).

GA AGE PROVISIONS

Authority

The provisions of these §§ 145.61—145.64 issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), unless otherwise noted.

§ 145.61. Policy.

General Assistance is intended to be made available for chronically or transitionally needy persons provided that the persons meet the established eligibility

requirements as provided in this chapter and in accordance with Chapter 141 (relating to general eligibility provisions) and other provisions of this title.

Source

The provisions of this § 145.61 amended August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790. Immediately preceding text appears at serial page (71661).

§ 145.62. Definitions.

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

Emancipated minor—This term shall include the following:

(i) A minor who is aged 16 or over, who has left the parental household and has established himself as a separate entity free to act upon his own responsibility, and who is capable of acting independently of parental control. If the minor again lives with his parents he will no longer be considered emancipated unless he remains independent of his parents' control.

(ii) An orphan who is aged 16 or over and who has sufficient mental ability to make a bargain.

(iii) A minor who is married, regardless of whether the person continues to live in the parental household. If the marriage is terminated by divorce or death of the spouse, the minor is still emancipated. If the marriage is terminated by annulment, the state of emancipation is as though the marriage had never occurred.

(iv) An unmarried child committed to the care and control of the county authority can become emancipated before the age of 18 only by action of the court.

Full-time student—A full-time student is a child who is enrolled in and physically attending full time, as defined and certified by the school or institute attended, a program of study or training leading to graduation or an equivalent certificate.

Unemancipated minor—A minor who has never been married or has the marriage annulled, but who remains under the control of the parents is unemancipated whether he lives in the parental household or not.

Source

The provisions of this § 145.62 amended August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790. Immediately preceding text appears at serial page (71661).

Notes of Decisions

Unemancipated Minor

A minor child who is married, but separated from her husband and declared dependant, is not emancipated and, her parents are responsible for her support. *Berks County Children and Youth Services v. Rowan*, 631 A.2d 615 (Pa. Super. 1993); appeal granted 644 A.2d 737 (Pa. 1994).

Housing authority requirement for Court determined emancipation of a minor is for the purpose of determining the minor's ability to contract, and is not related to the definition of emancipation for the distribution of public assistance. *Rivera v. Reading Housing Authority*, 819 F.Supp. 1323 (1993), aff'd 8 F.3d 961 (3rd Cir. (Pa.) 1993).

Even though an applicant has acted independently of parental control, if the record is clear that the applicant has never left the parental household, then the applicant is not an emancipated minor under subparagraph (i), and thus is not eligible for GA benefits. *Crager v. Department of Public Welfare*, 443 A.2d 1379 (Pa. Cmwlth. 1982).

The definition of "unemancipated minor" as used in 55 Pa. Code § 145.62 (relating to definitions) has independent significance as an operative term used in relation to the separate criteria in 55 Pa. Code § 145.63(b) (relating to requirements). *Crager v. Department of Public Welfare*, 443 A.2d 1379 (Pa. Cmwlth. 1982).

§ 145.63. Requirements.

(a) *Emancipated minor.* If a minor is emancipated and meets the eligibility requirements for GA he may receive GA subject to the conditions and limitations in Chapter 141 (relating to general eligibility provisions) and other provisions of this title.

(b) *Unemancipated minor.* GA age requirements for unemancipated minors will be as follows:

(1) *Eligible for assistance.* A minor unemancipated child may receive GA subject to the conditions and limitations in Chapter 141, provided the following conditions are met:

(i) The child does not qualify for AFDC or AFDC-F. The child's potential eligibility for AFDC-F will be explored only when the child is in a foster home placement under the auspices of the County Child Welfare Agency.

(ii) The person with whom the child is living shall exercise responsibility for the care and control of the child.

(iii) The person with whom the child is living must comply with the child support requirements. If the person with whom the child is living fails to comply with the child support requirements, the child may receive GA only by protective payment provisions.

(2) *Ineligible for assistance.* A minor unemancipated child will not be eligible for GA if the following circumstances exist:

(i) The child is removed from his home and placed in the custody of the County Authority by court order. The child may qualify for AFDC-F as provided in this part.

(ii) The child is also ineligible for AFDC because the person with whom the child is living fails to furnish a Social Security number for the child.

(c) *Attending school or training.* The following will constitute GA age requirements for youths attending school or training:

(1) A youth under 21 years of age will be considered to have met the requirements of attending secondary school or an equivalent course of voca-

tional training full time, if he is enrolled in a program of supervised education or vocational training approved by the authorities of the school district or by the Department of Education of the Commonwealth. The program may be part of the regular school program, or one especially arranged for the individual youth's educational or vocational needs and approved by the school authorities. A vocational training course may be a course established under section 2508.3 of the Public School Code of 1949 (24 P. S. § 25-2508.3), a program under the Economic Opportunity Act (42 U.S.C.A. §§ 2991—2996l), or an organized training program under recognized sponsorship with a specified vocational training objective, for example, apprenticeships or training arrangements sponsored by business or industrial firms.

(2) Full-time attendance will not be deemed interrupted when the youth is temporarily absent for reasons accepted under the laws of the State on compulsory school attendance, or for reasons accepted under the regulations of the secondary school or vocational training program in which he is enrolled.

(3) GA payment will be made for the following:

(i) The months in which the youth is not in secondary school or training because of official vacations, provided that the youth will again attend full-time secondary school, or an equivalent vocational or technical school, when the official vacation is over.

(ii) The month the youth completes or discontinues secondary school or equivalent vocational or technical school before age 21. The date the secondary school or equivalent vocational or technical school records show the youth ended his full-time status as a student or trainee will be the date of his completion or discontinuance of secondary school or an equivalent vocational or technical school.

Authority

The provisions of this § 145.63 amended under sections 201(2) and 403 of the Public Welfare Code (62 P. S. §§ 201(2) and 403).

Source

The provisions of this § 145.63 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790; amended July 28, 2000, the provisions under Act 49, effective retroactive to September 1, 1994, 30 Pa.B. 3779. Immediately preceding text appears at serial pages (267378) and (259605).

Notes of Decisions

The term "unemancipated minor", as used in 55 Pa. Code § 145.62 (relating to definitions), has independent significance as an operative term used in relation to the separate criteria set forth in 55 Pa. Code § 145.63(b). *Crager v. Department of Public Welfare*, 443 A.2d 1379 (Pa. Cmwlth. 1982).

Cross References

This section cited in 55 Pa. Code § 141.21 (relating to policy); and 55 Pa. Code § 291.23 (relating to requirements).

§ 145.64. Procedures.

(a) *Minor children.* GA age procedures for minor children will be as follows:

(1) If the child is living with his parent or parents, natural, adoptive, step-parent, or other nonlegally responsible individual, the need of the child will be determined according to § 183.64(b) (relating to income averaging).

(2) [Reserved].

(3) In determining the needs of the child, the resources considered will be those the child actually has, those that are the child's legally and those he has a legal claim to. Eligibility of a child who has a legal claim to a property, real or personal, will depend on the agreement of the person caring for the child to apply for it and make it available for the use or reimbursement of the child.

(b) *Attending school or training.* The procedure for school or training attendance will be as follows:

(1) Certification by the school of enrollment in and attendance at a secondary school or equivalent vocational or technical school is required within the fiscal month in which the youth has his 18th birthday. After the initial certification for a youth attending a secondary or equivalent vocational or technical school, attendance will be redetermined in March, June, September and December until the youth reaches age 21. A partial redetermination will be made if there is any indication that he may no longer be enrolled as a full-time student.

(2) [Reserved].

(c) *Age verification.* There must be proof of the year of birth. Proof consists of the applicant's statement supported by written evidence. Examples of written evidence are a record of birth or baptism, school, hospital or physician's records, enrollment records of voting districts, records of civil or military service, marriage certificates, insurance policies and the like.

(d) *Aged, blind, or disabled.* Application for SSI is a condition of eligibility for GA for a person who is age 65 or over, or who has visual impairment, that is, visual acuity of 20/200 or less; or is claiming an exemption under § 141.61(d)(1)(iii) (relating to policy) as physically or mentally unable to engage in substantial gainful employment. GA will be granted to otherwise eligible persons as interim assistance in accordance with § 297.4(g) (Reserved) pending SSA's determination of SSI eligibility; if SSA finds the person ineligible for SSI and the person is otherwise eligible for GA, GA will be granted. Reference should be made to § 297.1(e) (Reserved).

Authority

The provisions of this § 145.64 amended under sections 201(2) and 403 of the Public Welfare Code (62 P. S. §§ 201(2) and 403).

Source

The provisions of this § 145.64 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2790; amended July 28, 2000, the provisions under Act 49, effective retroactive to September 1, 1994, 30 Pa.B. 3779. Immediately preceding text appears at serial pages (259605) to (259606).

**AGE PROVISIONS FOR MA FOR THE
CATEGORICALLY NEEDY**

§ 145.71. [Reserved].

§ 145.72. [Reserved].

§ 145.73. **Requirements.**

- (a) Persons who meet the age requirements of AFDC, GA and SBP.
- (b) A pregnant woman with no other children is eligible for MA in the PC category if:
 - (1) She provides medical verification of pregnancy.
 - (2) Once the child is born both mother and child would be eligible for AFDC.
- (c) A person is not eligible for MA services provided to him in an institution if:
 - (1) He is a patient in an institution for tuberculosis and is under 65 years of age.
 - (2) He is a patient in an institution for mental diseases and is between 21 and 65 years of age.
 - (3) The persons are eligible for the care provided outside the institution by practitioners not on the institutional staff.

Authority

The provisions of this § 145.73 issued under section 201(2) of the Public Welfare Code (62 P.S. § 201(2)).

Source

The provisions of this § 145.73 amended November 6, 1981, effective November 7, 1981, 11 Pa.B. 3963. Immediately preceding text appears at serial pages (64925) and (64926).

AGE PROVISIONS FOR MA FOR THE MEDICALLY NEEDY

§ 145.81. **Policy.**

Medical Assistance is intended to be made available for persons of all ages provided that the persons meet the established eligibility requirements.

§ 145.82. [Reserved].**§ 145.83. Requirements.**

(a) *General.* Reference should be made to § 141.81(c) (relating to eligibility policy for Medically Needy Only) for age requirements of the various categories.

(b) *Institutionalization.* Institutionalization requirements will be as follows:

(1) A person is not eligible for MA services provided to him in an institution if:

(i) He is a patient in an institution for tuberculosis and is under 65 years of age.

(ii) He is a patient in an institution for mental diseases and is between 21 and 65 years of age.

(2) However, the persons are eligible for the care provided outside the institution by practitioners not on the institutional staff.

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