

**CHAPTER 151. SPECIFIED RELATIVES****SPECIFIED RELATIVES PROVISIONS FOR TANF**

Sec.	
151.41.	Policy.
151.42.	Definitions.
151.43.	Requirements.
151.44.	Procedures.

**Cross References**

This chapter cited in 55 Pa. Code § 141.41 (relating to policy); 55 Pa. Code § 141.71 (relating to policy); and 55 Pa. Code § 168.2 (relating to definitions).

**SPECIFIED RELATIVES PROVISIONS FOR TANF****§ 151.41. Policy.**

As one of the eligibility conditions for TANF, the child must be living with a specified relative capable of and responsible for the care and control of the child. A specified relative of a child who meets the deprivation of support conditions as set forth in § 153.41 (relating to policy) and age requirements as set forth in § 145.43 (relating to requirements) and is receiving SSI benefits, is eligible to receive TANF if other conditions of eligibility are met.

**Source**

The provisions of this § 151.41 amended July 21, 1978, effective July 22, 1978, 8 Pa.B. 2104. Immediately preceding text appears at serial page (33151).

**Cross References**

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

**§ 151.42. Definitions.**

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

*Adult*—An individual who is 19 years of age or older or who is 18 years of age and not a full-time student in a secondary school or in the equivalent level of vocational or technical training.

*Specified relative*—An adult or a minor parent who is exempt, under § 141.21(q) (relating to policy), from the requirements to live with an adult and who conforms with the following:

(i) Is exercising responsibility for the care and control of the child. This means actually participating in making plans for the support, education and maintenance of the child and supervising carrying out the plans, and making the application for assistance on behalf of the child. The finding that a relative is exercising care and control of the child shall be made whether the relative is the parent or other relative of the child.

(ii) Is maintaining a home where the child lives with him, or is in the process of setting up a home where the child will go to live with him within 30 days after he receives the first TANF payment.

(iii) Is related to the child as follows:

(A) A blood relative who is within the fifth degree of kinship to the dependent child, including a first cousin once removed. Second cousins and more remote cousins are not within the fifth degree of kinship. A first cousin once removed is the child of one's first cousin or the first cousin of one's parent. The fifth degree of kinship includes great-great grandparents and great-great-great grandparents. The fifth degree of kinship also includes other relationships prefixed by great, great-great, grand or great-grand. Blood relatives include those of half-blood.

(B) A parent by legal adoption and any of the adopting parent's blood or adoptive relatives as described in clause (A).

(C) Stepfather, stepmother, stepbrother and stepsister.

(D) A spouse of a person named in this subparagraph, even though the marriage is terminated by death, separation or divorce.

#### Authority

The provisions of this § 151.42 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 § 151.42 amended June 18, 1993, effective immediately and applies retroactively to October 10, 1992, 23 Pa.B. 2836; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268309) to (268310).

#### Notes of Decisions

The grandmother of a child could be a "specified relative" if she exercised the responsibility for the care and control of the child, maintained a home where the child lived with her and would receive AFDC benefits on behalf of that child. *Weaver v. Department of Public Welfare*, 403 A.2d 1366 (Pa. Cmwlth. 1979). (Concurring Opinion).

#### Cross References

This section cited in 55 Pa. Code § 141.1 (relating to policy); 55 Pa. Code § 141.21 (relating to policy); 55 Pa. Code § 141.42 (relating to definitions); 55 Pa. Code § 141.71 (relating to policy); 55 Pa. Code § 141.81 (relating to eligibility policy for Medically Needy Only); 55 Pa. Code § 171.21 (relating to policy); 55 Pa. Code § 171.22 (relating to definitions); 55 Pa. Code § 178.11 (relating to categories of NMP-MA); 55 Pa. Code § 178.12 (relating to categories of MNO-MA); 55 Pa. Code § 181.41 (relating to categories of NMP-MA); 55 Pa. Code § 181.42 (relating to categories of MNO-MA); 55 Pa. Code § 281.2 (relating to definitions); and 55 Pa. Code § 289.3 (relating to requirements).

**§ 151.43. Requirements.**

(a) *Eligibility for TANF.* When a child is living with a relative who is exercising responsibility for the care and control of the child, eligibility for TANF will not be affected by the following situations:

- (1) The child is under the jurisdiction of the court (for example, is receiving probation services or protective supervision).
- (2) Someone other than the relative (for example, a person, or public or voluntary agency, holds legal custody of the child).

(b) *Persons 15 years of age or younger.* A person 15 years of age or younger, living in the home of his specified relative, will not normally be considered to be capable of exercising responsibility for the care and control of the child unless that person can clearly show that capability. The capability may be shown by a statement provided by the specified relative in whose home the applicant or recipient is living, that the applicant or recipient is in fact exercising the care and control. In the absence of a statement, a factual determination of who is exercising care and control will be made. If a specified relative is exercising responsibility for the care and control of the child, then regardless of the age of the specified relative, he may apply for assistance (TANF) for himself or his child, or both, as well as be the payment name for a grant for himself and his child.

(c) *Different specified relatives within a shelter group.* If, within a shelter group, different specified relatives are exercising responsibility for care and control of different groups of children eligible for TANF, each relative will be considered to be maintaining a home for the children on whose behalf he applies for or receives assistance if the following conditions are met:

- (1) The specified relatives of different groups of children are not spouses of each other.
- (2) No one of the specified relatives is the parent of all the children in the shelter group for whom TANF is to be authorized.

(d) *Temporary absence of the child or relative.* The temporary absence of either the child or the relative from his home will not affect the eligibility of the child for TANF under the following circumstances:

- (1) The absence of the child is not more than or expected to be more than 180 consecutive days. A specified relative shall report the absence of a minor child by the end of the 5-day period that begins with the date that it becomes clear to the specified relative that the minor child will be absent beyond the consecutive 180-day period. A specified relative who fails to report within 5 days of the time it becomes clear to the specified relative that a minor child will be absent beyond the consecutive 180-day period will be ineligible for assistance for 30 days.

(2) The absence does not basically affect the responsibility of the relative for the care and control of the child. However, if the child is living in a school to which the relative has had to turn over control of the child, the relative will not be eligible for TANF.

(3) The relative will exercise this responsibility when the reason for the temporary separation no longer exists. For example, a child is temporarily living away from home because the best plan for the child's education through the first 12 grades, undergraduate college or for vocational training requires it. During the period of separation, the county staff shall decide whether or not the child is still in need or whether the child's needs are being met: if the child is in need, the grant will be computed as though the child were living in the home of the specified relative.

(e) *Temporary exception to living with specified relatives.* The requirements for a temporary exception to living with specified relatives are as follows:

(1) During a temporary period of crisis or change in a child's life, that is, when an emergency deprives the child of care by a specified relative, and plans for the future care and protection of the child cannot be made immediately, the child may be living with a person other than a specified relative. In these cases, the child shall be eligible only if the person the child is living with is acting in the behalf of the child, the child was receiving TANF when the crisis occurred and active planning is going on for the continuing care of the child.

(2) TANF is granted during this temporary period so that plans for the continuing care of the child can be made and carried out, for example, so that the child can be referred to another agency and be accepted by them for care. When the plans for the child have been made and carried out, the temporary TANF payments will end. The plans shall be reviewed at a redetermination.

(f) *Pregnant women.* A pregnant woman with no children or with children who are not receiving TANF may qualify for TANF for herself only as a specified relative if all of the following apply:

(1) The pregnancy and the expected delivery date are established by a physician, clinic or other medical source.

(2) The fetus, if born, would be eligible for TANF based on the criteria in § 153.43 (relating to requirements).

#### Authority

The provisions of this § 151.43 amended under sections 201(2), 403(b) and 432 of the Public Welfare Code (62 P. S. §§ 201(2), 403(b) and 432); 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 § 151.43 amended March 30, 1984, effective March 31, 1984, 14 Pa.B. 1087; amended April 12, 1991, effective May 1, 1991, 21 Pa.B. 1557; amended August 16, 1991, effective August 17, 1991, 21 Pa.B. 3699; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (268310) and (247595) to (247596).

**Notes of Decisions***Temporary Absence*

Where a welfare hearing officer found that a mother would have care and control of her child when the separation caused by a court-mandated visit with his father no longer existed, and therefore concluded that the mother was only ineligible for AFDC benefits during the periods when the child was residing with his father, it was error to discontinue rather than suspending the mother's benefits during the time the child was with his father. *Varner v. Department of Public Welfare*, 704 A.2d 725 (Pa. Cmwlth. 1997).

**Cross References**

This section cited in 55 Pa. Code § 141.71 (relating to policy); 55 Pa. Code § 171.21 (relating to policy); and 55 Pa. Code § 175.24 (relating to procedures).

**§ 151.44. Procedures.**

(a) *Determination of actual responsibility.* The determination of actual responsibility will be made in accordance with the following:

(1) If the child is living with more than one relative, the county staff shall determine which relatives actually are exercising responsibility for care and control of the child. Since specified relatives are the parents or those acting in place of the parents, two persons of opposite sex who are sharing responsibility for the care and control of a child will both be specified relatives. The Federal government participates financially in payments for only one specified relative, except that when one specified relative is an incapacitated parent or unemployed principal earner parent of the child, the Federal government also participates in payments for the spouse of the parent. A parent in this context means a natural or adoptive parent. A spouse is a person legally married, either by civil or religious ceremony or under common-law. A common-law marriage exists when the parties living together are legally free to marry, that is, single, divorced or widowed, and are living as husband and wife by mutual agreement. A common-law marriage may exist if a man and woman are living together and are considered as husband and wife by the community.

(2) The question of who is exercising responsibility shall be considered as often as the situation demands, for responsibility sometimes shifts.

(b) *Specified relative as a resource.* The determination of a specified relative as a resource will be made in accordance with the following:

(1) To determine the need of the child living with a parent, reference shall be made to Chapter 183 (relating to income). If the child is living with another specified relative, the county staff will discuss with the relative the reason the child needs financial aid, the help the relative is giving the child and is willing

to continue to give, or the responsibility he is willing to assume for meeting the needs of the child. Past maintenance provided the child by the relative which is no longer available will have no effect on the current eligibility of the child for assistance.

(2) 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 the child has a claim to. Eligibility of a child who has a legal claim to property, real or personal, will depend on a specified relative's agreement to apply for it and make it available for the use or reimbursement of the child as provided in Chapter 257 (relating to reimbursement).

**Authority**

The provisions of this § 151.44 amended under sections 201 and 403(b) of the Public Welfare Code (62 P. S. §§ 201 and 403(b)).

**Source**

The provisions of this § 151.44 amended March 30, 1984, effective March 31, 1984, 14 Pa.B. 1087; amended 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 pages (157019) to (157020).

[Next page is 153-1.]