

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-01-46
FAMILY ASSISTANCE UNIT FAMILIES FIRST PROGRAM**

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1240-01-46-.01 ASSISTANCE GROUPS.

- (1) Families First benefits may be provided to an individual or to a group of people. The people applying for or receiving Families First benefits are referred to as an assistance group. This is abbreviated as AG.

Authority: T.C.A. §§ 4-5-201, et seq., and 71-1-105; Public Chapter 950 (1996); and 45 C.F.R. 206.10.
Administrative History: Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-46-.02 FILING UNIT AND ASSISTANCE GROUP.

- (1) Filing Unit Defined. The filing unit is the group of individuals for whom assistance is sought.
 - (a) Any individual has the right to file an application for assistance.
 - (b) An application filed on behalf of a dependent child must include the following:
 1. Any blood related or adoptive brother or sister living in the home including half siblings, who meet the age, deprivation and relationship requirements of Families First eligibility; and
 2. Any natural or adoptive parent(s) including an incapacitated or an unemployed parent living in the home.
- (2) Assistance Group Defined. The assistance group is the group of individuals for whom assistance is authorized.
 - (a) The assistance group must include the following persons, unless excluded under subparagraph (c) of this rule:
 1. A dependent child; and
 2. Any blood related, or adoptive brother or sister living in the home, including half siblings; and
 3. Any natural or adoptive parent(s) including an incapacitated or an unemployed parent living in the home, except that this requirement shall not apply to the natural or legal parent whose income is within the limits specified in 1240-01-47-.23, who marries the other natural or legal parent who is a recipient of Families First benefits and the marriage took place during the receipt of Families First benefits; provided, however, that this exception no longer applies if Families First assistance is terminated, even though the family may subsequently reapply and be found eligible.

(Rule 1240-01-46-.02, continued)

- (b) The following persons will be included in the assistance group if an application is filed on their behalf and they are eligible:
 - 1. Parent of a minor parent;
 - 2. Stepbrothers/sisters with no natural or adoptive parent living in the home (or they can have a separate filing/assistance unit);
 - 3. Stepparent living in the home with the child, when a natural/adoptive parent is incapacitated;
 - 4. Parent(s) or other caretaker relative of an SSI child(ren), when there are no other eligible children. Both parents are eligible if one is incapacitated or unemployed;
 - 5. Grantee relative other than a parent;
 - 6. The natural parent or stepparent of a child who marries the child's parent during the period of receipt of Families First benefits, unless the new spouse falls under the exception found in 1240-01-47-.23(5).
- (c) The following persons must be excluded from the assistance unit:
 - 1. Individuals who receive SSI benefits;
 - 2. Aliens who would be included but for the citizenship and alienage requirements in rule 1240-01-47-.06;
 - 3. Aliens who would be included, but are ineligible due to the deemed income or resources of their sponsors or due to sponsorship by an agency or organization;
 - 4. An unmarried minor parent who is sanctioned for failure to meet the school attendance requirement at 1240-01-47-.15(2);
 - 5. An individual who is ineligible for a period of 10 years because he/she has been convicted in a federal or state court of having made a fraudulent statement or misrepresentation with respect to residence in order to receive AFDC, Families First, Food Stamps, Medicaid/TennCare or Supplemental Security Income (SSI) benefits from two States simultaneously.
 - 6. Fleeing felons and probation/parole violators. No member of an aid group who is otherwise eligible to participate in the Families First Program shall be eligible to participate in the program as a member of that or any other aid group during which the individual is:
 - (i) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or
 - (ii) violating a condition of probation or parole under a federal or state law.
 - 7. An individual convicted of a felony offense that occurred after August 22, 1996 under federal or state law which involved the possession, use or distribution of a controlled substance, unless the individual is complying with or has already

(Rule 1240-01-46-.02, continued)

- complied with all obligations (including any substance abuse treatment requirements) imposed by the criminal court, and
- (i) The conviction was not classified as a Class A felony, or its equivalent if the offense occurred outside of Tennessee, and
 - (ii) Is currently participating in a substance abuse treatment program approved by the Department of Human Services; or
 - (iii) If not actively participating in a substance abuse treatment program approved by the Department of Human Services, is currently enrolled in such a program, but is on a waiting list for participation, and enters the treatment program at the first opportunity; or
 - (iv) Has satisfactorily completed a substance abuse program approved by the Department of Human Services; or
 - (v) A treatment provider licensed by the Department of Health, Division of Alcohol and Drug Abuse Services, has determined that the individual does not need substance abuse treatment according to TennCare guidelines.
- (3) **Dependent Child Defined.** A dependent child is a needy child under the age of eighteen (18) who is deprived of parental support or care because one or both parents are absent from the home, deceased, physically/mentally incapacitated, or unemployed.
- (a) In order to be eligible for assistance, the child must also live with a relative within one of the following degrees of kinship:
- 1. Any blood relative, i.e., father, mother, brother, sister, uncle, aunt, first cousin, nephew, niece or first cousin once removed. This includes relationships to persons of the preceding generations as denoted by prefixes of grand, great or great-great and those of half blood;
 - 2. Stepfather, stepmother, stepbrother and stepsister;
 - 3. Legally adoptive parents of the child or of the child's parents, the natural and other legally adopted children of such person and the blood relatives of such persons, including first cousins, first cousins once removed, nephews and nieces; and
 - 4. Legal spouses of any of the persons named in the three above groups. This may apply even though the marriage has been terminated by death or divorce.
- (b) Any relative filing an application on behalf of a child must meet all of the following criteria:
- 1. Provide a home for the child;
 - 2. Exercise primary responsibility for the care and control of the child.
- (4) **Grantee Relative Defined.** A grantee relative is a relative other than the natural or adoptive parent who files an application on behalf of a child. He/she may or may not request to be included in the assistance group, but is the payee.
- (5) **Legal Conservator/Guardian Defined.** A legal conservator is an individual named by a court of competent jurisdiction to manage the affairs of an adult who has been adjudicated mentally

(Rule 1240-01-46-.02, continued)

or physically incapacitated; a legal guardian is a person who has been named to manage the affairs and/or person of a minor.

- (a) A guardian is not eligible to be included in the assistance group unless he/she is a relative within the degree specified.
 - (b) A guardian may file an application in behalf of a dependent child and be appointed payee for the grant. The child must, however, live in the home of a relative to be eligible.
 - (c) If the child lives with a relative who has a legally appointed conservator, the conservator must file the application and be named payee for the grant.
- (6) Half Brothers/Sisters Defined. Half brothers/sisters are siblings who share a natural or adoptive parent. These must be included in the same assistance group.
- (7) Stepbrothers And Stepsisters Defined. Stepbrothers/sisters are siblings who do not share a natural or adoptive parent, but their respective parents are married to each other. Sets of children who are stepsiblings to each other, with no common parent or sibling, should be included in separate AGs.
- (8) Stepparent Defined. The spouse of the natural or adoptive parent. The income of a stepparent is deemed available to the dependent child except when the stepparent marries the child's natural or adoptive parent during the receipt of assistance. If assistance is terminated and later resumed, this income exemption no longer applies.
- (9) Minor Child Defined. A minor child is any individual under eighteen (18) years of age.
- (a) Minor Applicant. A minor applying for assistance for his/her child must be included in the assistance group with said child.
 - 1. Parent(s) of a minor parent. The income of a parent(s) living with a minor applicant is deemed available to the assistance group. The parent of the minor parent may be added to the assistance group if application is made and he/she is eligible. In such case, the minor parent is the "dependent child."
- (10) Pregnant Woman As An Applicant. An assistance group may consist of one person, a pregnant woman if it has been medically verified that the expected child is to be born within four months, and the woman and expected child (if born) would meet all other eligibility criteria.
- (a) Abortion, Miscarriage or Surrender for Adoption. Assistance to a pregnant woman is terminated at the time the pregnant woman aborts the pregnancy, miscarries, or surrenders the child for adoption.
- (11) Supplemental Security Income (SSI) Recipients. An SSI recipient is any person receiving Supplemental Security Income benefits from the Social Security Administration.
- (a) SSI recipients are ineligible to be included in the assistance group. Their income/resources are excluded for all other filing/assistance group members.
 - (b) The caretaker of an eligible SSI child may be approved as the only assistance group member, if there are no other eligible children in the home and the parent meets all other eligibility criteria.
- (12) Minor Parents.

(Rule 1240-01-46-.02, continued)

- (a) A Families First applicant under age 18, who has never been married and is pregnant or has a dependent child in his/her care, must live in the home with his/her parent, legal guardian, or other adult relative, or in a foster home, maternity home or other supportive living arrangement supervised by an adult as a condition of eligibility for herself or himself and the child.
- (b) This requirement does not apply if:
 - 1. The Department determines after investigation that there is good cause for the separate living arrangement and the health or safety of the applicant or the dependent child(ren) would be jeopardized if they were required to live in one of the arrangements specified; or
 - 2. The person applying for assistance has no parent, other adult relative or legal guardian whose whereabouts are known; or
 - 3. No parent, other adult relative or legal guardian of the applicant allows the applicant to live in his/her home; or
 - 4. There is good cause not to require the minor to comply with subparagraph (a). Good cause reasons may include, but are not limited to such situations as illegal substance abuse, abuse of alcohol, physical or mental abuse of the applicant or child, serious overcrowding in the home, or dangerous or potentially dangerous physical environment in the home of the adult relative, guardian, or other living arrangement.
- (c) Failure to meet this requirement or to have a good cause for failing to meet it results in ineligibility for the minor parent and the child(ren).
- (d) When the minor parent meets the requirement or is found to have good cause for failing to meet it:
 - 1. Include the minor parent in any existing Families First AG with his/her siblings, if she/he lives in the home with a parent. The minor parent's child may be included in the AG, as well, but cannot receive a separate grant.
 - 2. Include only the minor and his/her child(ren) in the AG when the minor's parent in the home does not receive Families First or when the minor has been determined to meet the criteria for maintaining a separate residence.
 - 3. Deem the income of the non-recipient parent living with a minor parent applicant/recipient as available to the AG.
 - 4. Name a payee to receive the minor parent's grant when:
 - (i) The minor is age 14 or under; or
 - (ii) The minor parent lives with a parent, other adult relative or a legal guardian; or
 - (iii) The services of a payee are needed to assist the minor parent in managing the grant.
- (e) Marriage does not emancipate a minor for purposes of eligibility for Families First. However, a married minor or a minor who has ever been married does not have to

(Rule 1240-01-46-.02, continued)

meet the requirement to live with a parent, other adult relative, or legal guardian to be eligible for Families First.

Authority: T.C.A. §§ 4-5-201, et seq., 4-5-202, 4-5-209, 71-1-105, 71-1-105(12), 71-3-152, 71-3-153, 71-3-154, 71-3-154(k), and 71-3-158(d)(2)(D); 21 U.S.C. § 862a(d); 42 U.S.C. §§ 601, et seq.; 42 U.S.C. § 603; 42 U.S.C. § 1315(a); Acts of 1996, Chapter 950; Acts of 2002, Chapter 715, §§ 1, 2 (July 1, 2002); 45 C.F.R. 206.10 and 233.107; § 1115 of the Social Security Act; PL 104-193 § 821(k); 45 C.F.R. § 233.90; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002. Amendment filed December 11, 2002; effective February 24, 2003. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007.