

LEGAL FACT SHEET

Public Assistance

Non-Parent (Child Only) Grants

When children are living with non-parents the caregiver may apply on behalf of the child for a child-only grant. Children are eligible for such grants regardless of the income of the adult non-parent caregivers. Only a "legally responsible relative's" income can be part of the eligibility calculation.¹ By "legally responsible," the Public Assistance Source Book means financial responsibility.² This is a distinct legal responsibility in addition to the legal responsibility to provide adequate care for children under Family Act abuse and neglect laws. While parents are legally responsible for their children, no other caregiver has this legal responsibility unless the court orders granting legal custody or guardianships indicate that the caregiver has assumed the responsibility.³ In effect, only parents, spouses, and stepparents are legally responsible to support their children;⁴ therefore, other caregiver's income is not considered available to a child in deciding eligibility for public assistance. See November 2005 informational letter to local departments from New York State Office of Temporary and Disability Assistance.

Contributions to Dependent Children

Non-parent caregivers should be able to contribute income to a child for purposes not covered by the public assistance grant without the contribution being counted as income to the child.⁵ When a non-legally responsible relative claims a child as a dependent, then refuses to contribute (to covered contributions), only the actual contribution can be budgeted.⁶ When a non-legally responsible relative claims a child as a dependent on their income tax return (often for purposes of qualifying for an Earned Income Tax Credit), grants may not be reduced by deeming the income of a relative caregiver, who claims the child as a dependent, to be available to the child.⁷

Non-Parent Grants and Child Care

When a child is the recipient of a child-only grant, caregivers are not automatically eligible for childcare.⁸ Such caregivers, if under the 200% of the state income standard (up to 275% in some counties) may be "income eligible" under the low-income childcare program. Those over the poverty level are assessed a co-payment based on a complicated schedule. Under either program the caregiver may choose the provider and the county is responsible for payment up to the "market rate."⁹

¹ 18 NYCRR 352.321(a)(2)

² A Source Book, glossary p.iii-12.1

³ Memo from DSS, January 1994, Asst. Counsel Philip Nostramo

⁴ 18 NYCRR 347.2(c)

⁵ 18 NYCRR 352.16(a)

⁶ PA Source Book XVI-H

⁷ 18 NYCRR 352.31(b)

⁸ *Matter of A.C.*, 3/31/92

⁹ 18 NYCRR 415.9

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Food Stamps

As a general rule, if a person applying for assistance is over 60 years old or disabled, and buys and cooks meals apart from persons for whom they are not legally responsible, the elderly or disabled persons can apply as a separate household.¹⁰ However, children under 18 years old who are "under the parental control" of someone in the household cannot be a separate household.¹¹ But for kinship foster parents, children may be excluded from the household unit for purposes of estimating food stamps budgets.¹²

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¹⁰ 7 CRF 273.1(a)(2)(I)(c)

¹¹ 7 CRF 273.1(a)(2)(I)(B)

¹² 7 CRF 273.1(c)(6)