

Health Care Finance and Administration	Section: Financial Eligibility Requirements
Policy Manual Number: 110.020	Chapter: ABD Financially Responsible Relatives

ABD FINANCIALLY RESPONSIBLE RELATIVES

Legal Authority: 20 CFR 416.1160 – 20 CFR 416.1165; 20 CFR 416.1202 – 20 CFR 416.1204; 42 CFR 435.601; TennCare 1115 Demonstration Waiver, Amendment 27; TCA Title 36

1. Policy Statement

A family member's financial responsibility for an applicant/enrollee's basic needs of food and shelter is recognized when determining eligibility for TennCare Medicaid. The following are considered Financially Responsible Relatives (FRRs) for the purpose of TennCare Medicaid:

- A spouse is financially responsible for his or her spouse; and
- A parent is financially responsible for his or her child(ren).

The income and resources of the applicant/enrollee's FRR are considered part of the applicant/enrollee's available countable assets. Income and resources belonging to a FRR who receives Families First or SSI benefits are not deemed available to the applicant/enrollee.

2. Defined Terms

Deeming: The term deeming identifies the process of considering another person's income and resources to be available for meeting a TennCare Medicaid applicant/enrollee's basic needs of food and shelter.

Child: Child as related to this policy includes individuals:

- Not married; and
- Not the head of a household; and
- Under 18 years of age or under 22 years of age if a student regularly attending school.

Holding Out Spouse: A "holding out" relationship exists when an unrelated man and woman present themselves to the community as husband and wife in the absence of a legal marriage. The concept of a holding out relationship does not apply to the MSPs or Institutional Medicaid categories.

Ineligible Spouse: A spouse who is not eligible for an Aged, Blind and Disabled TennCare Medicaid category.

Parent: Parent as related to this policy includes natural and adopted parents. A parent is a natural, adoptive or, in certain situations, a step-parent. A step-parent is not included in the deeming budget if any of the following circumstances apply:

- The natural or adoptive parent to whom the individual was married has died;
- The natural or adoptive parent and the individual are divorced; or
- The natural or adoptive parent and the step-parent's marriage has been annulled.

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Spouse: A spouse is:

- An individual’s legally married spouse; or
- An individual determined by the Social Security Administration (SSA) as eligible to receive Social Security benefits as the spouse of another; or
- An individual’s “holding out” spouse.

3. Spousal Financial Responsibility

a. When Financial Responsibility Applies

The income and resources of the individual’s legally married spouse are considered available to him or her whether or not they are actually contributed:

- While the couple live together, including temporary absences; AND
- During the first month of separation by one member’s admission to a medical institution, unless the couple had been living apart for at least six months prior to their separation.

A couple residing in a separate or the same room in a long-term nursing care facility is not considered to be sharing the same living arrangement and are each treated as individuals with no deeming of income or resources.

Financial responsibility by the ineligible or eligible spouse ends the month of separation for any reason such as:

- Admission to a medical institution when 30 days of continuous confinement is met; or
- Applying for Home and Community Based Services (HCBS); or
- The individual is determined to need and to be likely to receive services for a continuous period of at least 30 days going forward.

If an individual applies in the month of separation, his or her eligibility is determined as an individual only. At that point, only resources and income actually contributed to the individual are considered available to him.

b. Determining Marital Relationship

Accept the individual’s attestation regarding marital status if he or she is married, unmarried or separated from his or her spouse.

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c. Holding Out Spouse

A “holding out” relationship exists when an unrelated man and woman present themselves to the community as husband and wife in the absence of a legal marriage. The concept of a holding out relationship does not apply to the MSPs or Institutional Medicaid categories.

4. Parental Financial Responsibility

a. When Parental Financial Responsibility Applies

The income and resources of the parents of the child are considered available to the child in determining his or her financial eligibility:

- When the child and parent(s) live together; and
- During the child’s temporary absence from the home.

A child’s admission to a psychiatric facility is considered a temporary absence. Psychiatric care is not considered institutionalization for purposes of determining the under age 21 individual’s separation from his or her FRR.

b. When Parental Financial Responsibility Does Not Apply

The income and resources of the parents of the child are not considered available to the child in determining his or her financial eligibility when the child applies for Long-Term Supports and Services, unless a child under 18 is determined eligible at an “At Risk” for nursing facility Level of Care and is requesting HCBS services in the Employment and Communities First (ECF) program.

c. Step-parents

The income and resources of a step-parent living in the home are considered available to the child when the step-parent is the spouse of the child’s natural or adopted parent and the natural or adopted parent is living in the home with the child.

d.

i. Joint Custody/Parenting Time

For the purpose of determining Medicaid eligibility, the custodial parent, often referred to as the primary residential parent in Tennessee, is established based on physical custody specified in a court order, binding separation, divorce, or parenting plan. If there is no court order or parenting plan, custody of a child born out of wedlock is with the mother. If there is a parenting plan, the primary residential parent is the parent with whom the child spends most nights.

ii. Equally-Shared Joint Custody/Parenting Time

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When an individual claims that equally-shared (50/50) joint physical and legal custody exists or provides a parenting plan that evenly divides the child(ren)'s living arrangement and parenting responsibilities, the parenting time situation must be carefully examined. Though a court order or parenting plan may evenly divide the care and control of the child(ren), the parents may not, in fact, be following the parenting plan.

In cases of alleged equal parenting time (50/50), the Eligibility Specialist must verify that:

- Both parents exercise parental guidance.

Parental guidance may include issues such as which parent takes the child(ren) to and from school and/or day care, which parent does the school and/or daycare consider the responsible relative, who exercises responsibility for consenting to major medical treatment for the child, etc.

- Parents equally share physical custody.

If one parent has the child(ren) a majority of the time, this is not considered equally shared parenting time. Child(ren) must spend an equal amount of time living with each parent. The living arrangement may be based on days, weeks, or months, but it must be equal (182.5 days per year with each parent) and parental functions of guidance and physical care cannot be substantially interrupted. (If equal time means six months at a time are spent with each parent, this will be considered extended visits. Eligibility for the parent ceases when the child is with the other parent.)

5. Other Relatives

There are no additional financial responsibilities for any other relatives other than the spouse to spouse and parent to child provisions set forth in this section.

The income and resources of the spouse or parent not living in the same household with the applicant are considered available only to the extent they are actually contributed.

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