



LEGAL HOTLINE FOR TEXANS

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TANF BENEFITS FOR GRANDPARENTS OF A DEPENDENT CHILD

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The Legal Hotline for Texans (LHT) is a telephone hotline providing free legal advice and consultation and other free legal services to Texans Age 60 and Older or Eligible for Medicare; Crime Victims Age 60 and Older and their Family Members and Authorized Claimants; and Pension and Retirement Plan Employees, Participants and Beneficiaries.

Eligible Clients can consult with an attorney of the Legal Hotline for Texans free of charge by calling one of the phone numbers listed above. If clients would like to consult with an attorney in their communities, or if ongoing representation by an attorney is needed, the Legal Hotline for Texans may be able to make a referral.

Depending on individual circumstances and local availability, such a referral may be to an organization providing free attorneys to low income persons, or may be to an attorney on the Legal Hotline for Texans' reduced-fee panel, or may be to a statewide or local lawyer referral service.

The Legal Hotline for Texans is a project of the Texas Legal Services Center with support from the Texas Department of Aging and Disability Services (DADS), the U.S. Centers for Medicare and Medicaid Services (CMS), the U.S. Administration on Aging (AoA), and the Texas Equal Access to Justice Foundation through the Texas Basic Civil Legal Services Program (BCLS) and the Texas Crime Victims Civil Legal Services Program (CVCLS).

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To the extent funds are appropriated by the Texas Legislature for this purpose, the Texas Department of Human Services (TDHS) may provide a one-time supplemental financial assistance payment of \$1,000.00 to a grandparent who meets all the following criteria:

1) is 45 years of age or older (Texas Human Resources Code § 31.0041 or Texas HR § 31.0041). This includes those who turn 45 in the month the eligibility determination is made and couples in which one is 45 or older regardless of which one is caretaker/payee (Texas Works Handbook Section A-2412 or TWH A-2412).

2) is the grandparent of a dependent child who lives at the person's residence (Texas HR § 31.0041). This includes degrees of great, great-great, or great-great-great (TWH A-221(4)).

3) is the primary caretaker of the dependent child (Texas HR § 31.0041), or payee (or spouse of the caretaker or payee) of a TANF certified grandchild, or received One Time Temporary Assistance for Needy Families (OTTANF) for himself and the grandchild for whom he is caring, and the parent of the grandchild is not in the home (TWH A-2412). "**TANF Caretaker**" means an adult whose needs are included in a TANF grant because he is within the required degree of relationship and is financially eligible according to TANF policy (TWH C-1200). "**Payee**" means a person to whom the TANF benefits are issued if no one in the household qualifies or wants to be a caretaker. The payee must be within the required degree of relationship (TWH C-1200).

4) has a family income that is at or below 200% of the federal poverty income level (FPIL) (Texas HR § 31.0041), and

5) does not have resources that exceed the amount allowed for TANF benefits (Texas HR § 31.0041). TANF countable resource limits are based upon the federal food stamp regulations (Texas HR § 31.032, 7 CFR Part 273). The limits are \$2,000 for the applicant's household or \$3,000 if there is a person with a disability or a person who is at least 60 years of age in the applicant's household. Exempt resources include the home and surrounding property, burial plots, personal possessions, resources not legally available to the household, resources of SSI recipients, and vehicles worth less than \$4,650. (Exception: In control group areas, one vehicle is exempt if the equity is less than \$1,500 [if the equity exceeds \$1,500, the excess is counted as a resource]), and \$15,000 of the fair market value of one vehicle owned by a TANF State Program (TANF-SP) household.

The term "**dependent child**" applies to a child who is a resident of Texas, who is under 18 years of age or is under 19 years of age and is a full-time student in a secondary school or at the equivalent level of vocational or technical training if, before the child's 19th birthday, the child may reasonably be expected to complete the secondary school or training program, who

has been deprived of parental support or care because of the death, continued absence from home, or physical or mental incapacity of a parent, who has insufficient income or other resources to provide a reasonable subsistence compatible with health and decency, and who is living in the home residence of his or her father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece ([Texas HR § 31.002](#)).

A child is considered “**living with**” the grandparents or specified relative, even if Texas Child Protective Services or another person has been appointed managing conservator by a court ([45 CFR § 233.90\(c\)\(1\)\(v\)\(B\)](#)). No court action, such as a suit affecting parent-child relationship, is required for a child to qualify for TANF.

A grandparent who is a payee is only required to meet the eligibility requirements noted above to qualify for the grandparent supplement. To be certified as a TANF caretaker, the grandparent must meet all TANF requirements: Residence; Citizenship; Age; Relationship; Deprivation; Resources; Income; Domicile; Work Registration; Social Security Number; and compliance with the Personal Responsibility Agreement (PRA). The PRA requires recipients to agree not to voluntarily quit a job, stay free of alcohol or drug abuse, participate in parenting skills if referred, obtain medical screenings for their children, and ensure their children are immunized and attending school (TWH A-2412).

TDHS maintains that a grandparent cannot receive a second payment for another grandchild who later becomes part of the grandparent’s household (TWH A-2412). Nothing in the enabling statute justifies this position ([Texas HR § 31.0041](#)). Additionally, another grandparent cannot receive the grandparent payment for a grandchild for whom a grandparent has already received a payment ([Texas HR § 31.0041\(e\)](#)).

The grandchild must currently receive TANF or be newly certified for TANF (including open and close certifications) (TWH A-2412). Note: A grandparent does not qualify based solely on a grandchild in the home who receives SSI (TWH A-2412).

TDHS is required to notify all applicants for financial assistance of the availability of supplemental financial assistance ([Texas HR § 31.0041\(c\)](#)).

TDHS provides a form and instructions to request the TANF grandparent supplement payment (TDHS Form 1082).

A grandparent may receive financial assistance benefits on behalf of a dependent child as “protective payee.” ([Texas HR § 31.0324](#)) “**Protective payee**” means a person who is interested in or concerned with the welfare of a child or relative of a child receiving financial assistance and acts for the recipient of financial assistance in receiving or managing the financial assistance payment. The grandparent of a child receiving financial assistance, serving as a protective payee, may receive and use the assistance on behalf of the child. The grandparent may also apply for financial assistance and be interviewed instead of the child's parent at any subsequent review of eligibility required by TDHS. The protective payee process is limited to situations in which TDHS determines the parent is not using the assistance for the child's needs

(as required by [Texas HR § 31.0355\(a\)](#)). Under certain circumstances the grandparent may be removed as a protective payee.

As mentioned above, grandparents who qualify based on monthly income and resources can also be included in the TANF caretaker grant (TWH A-221). However, time limits, work requirements, and sanctions apply to all “adult” caretakers, and cooperation in establishing paternity of a child and child support is required unless there is “good cause” as defined in TWH A-1130-32.

Grandparents may also be caretakers of a child in a non-caretaker grant, also known as a “child only” grant. There are no limits on the income or resources of the grandparents for purposes of “child only” grants (TWH A-223).

A grandchild can also qualify for Medicaid or the Children’s Health Insurance Program (CHIP) regardless of living arrangements or grandparents’ income ([Texas HR § 32.025](#)). However, grandparents are required to cooperate with the Texas Attorney General in establishing a medical support order unless they can show “good cause” as defined in TWH A-1130-32.