



FAMILY INDEPENDENCE ADMINISTRATION

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POLICY BULLETIN #11-98-ELI

(This Policy Bulletin replaces PB #04-168-ELI)

SAME-SEX MARRIAGES/CIVIL UNIONS

<p>Date: October 24, 2011</p>	<p>Subtopic(s): TANF Eligibility</p>
<p> This procedure can now be accessed on the FIAweb.</p>	<p>Revisions to the Original Policy Bulletin:</p> <p>This policy bulletin is being revised to:</p> <ul style="list-style-type: none"> clarify that New York State recognizes same-sex marriages from other states and countries since May 5, 2008 and same-sex marriages performed within the state effective July 8, 2011; clarify that a legal spouse, regardless of gender, can be considered a part of a TANF case in certain specific cases; removed the process for contacting the Office of Temporary and Disability Assistance (OTDA) concerning same-sex marriages; clarify requirements for same-sex couples in Food Stamp cases. <p>Purpose:</p> <p>The purpose of this policy bulletin is to provide Job Center staff with a clarification regarding the eligibility for Cash Assistance (CA) and Food Stamp (FS) for individuals in civil unions or same-sex marriages.</p> <p>Although New York State recognizes and performs same sex marriages, the Federal government does not recognize same sex marriages. Therefore, staff must be mindful of the different filing unit rules for households applying for or in receipt of Federal benefits under the Temporary Assistance to Needy Family (TANF) categories.</p>

HAVE QUESTIONS ABOUT THIS PROCEDURE?
 Call 718-557-1313 then press 3 at the prompt followed by 1 or
 send an e-mail to *FIA Call Center Fax* or fax to: (917) 639-0298

See [PD #10-11-ELI](#) for detailed information on determining essential person status.

For the purpose of applying for Cash Assistance (CA), an unrelated adult can be considered as part of a Family Assistance (FA) case if s/he:

1. has been identified as an essential person whose presence in the home is essential to the well-being of a TANF eligible child; or
2. is the biological or adoptive parent of the minor children in the home.

Cash Assistance

For same-sex marriages, JOS/workers are cautioned that this policy does not apply to households where both partners can establish that each is related to the minor child(ren) by blood or through adoption, such as in cases where one partner is the biological parent and the other has legally adopted the child(ren). If relationship to the minor child can be established, both partners are eligible for Federal benefits, if all other eligibility criteria are met.

For example, John and Bob are a same-sex married couple who have a daughter Mary. If John is her biological father and Bob is her adopted father and, therefore, is related to Mary, both are mandated into the filing unit.

However, if a spouse is unrelated to the minor child, he or she can only be included in a FA case if they are deemed essential to the household.

For example, John and Bob are a same-sex married couple and have a daughter Mary. If John is the biological father but Bob is not related to Mary, Bob can only be considered as part of the FA case if he is deemed an essential to the household.

Assistance under the TANF categories cannot be granted if relationship between the minor children and the adults in the household cannot be established. Safety Net Assistance (SNA) may be granted if relationship to the children cannot be established.

Food Stamps

Same sex couples have an option.

For Food Stamp (FS) purposes, since same-sex marriages are not recognized by the Federal government, an individual in a same-sex married situation cannot be **mandated** to be into the FS household of his/her spouse. However, if the same-sex married couple state that they purchase and prepare meals together, then they should be treated the same as a heterosexual married couple. If a same-sex married couple has a child in common, then they must be in the same FS household.

The biological/adoptive parent of the child under age 22 in the home is mandated into the FS household. A same-sex spouse who is neither the biological nor the adoptive parent is required to be part of the FS household if s/he:

See [PB #10-73-ELI](#) for details regarding establishing FS household composition.

- customarily purchases and prepares food with the other household members; or
- regularly provides parental control for the child(ren) under age 18 in the home.

Effective Immediately