STATE OF CuALIFORNIA--HEALTH AND HUMAN SERVICES AGENCY GRAY DAVIS, *Governor*

DEPARTMENT OF HEALTH SERVICES
714/744 P Street
P.O. Box 942732
Sacramento, CA 94234-7320
(916) 657-2941

October 26,1999

MEDI-CAL ELIGIBILITY PROCEDURES MANUAL LETTER NO.: 216

TO: All Holders of the Medi-Cal Eligibility Procedures Manual

5C DEPRIVATION--LINKAGE TO THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) MEDICALLY NEEDY PROGRAM

Enclosed is an updated Article 5C of the Medi-Cal Eligibility Procedures Manual. This article replaces the original article and makes changes to the section on the unemployed parent which were described in All County Welfare Directors Letters Nos. 97-17, 97-26, and 97-37. This section does not include new changes in deprivation which are applicable only to the Section 1931(b) program.

Filing Instructions:

Remove Pages:	**Insert Pages:**
Article 5	Article 5
Pages 5C-1 through 5C-15	Pages 5C-1 through 5C-14

If you have any questions, please contact Margie Buzdas of my staff at (916) 657-0726.

Sincerely,

Original signed by

Angeline Mrva, Chief
Medi-Cal Eligibility Branch

Enclosure

5C--DEPRIVATION--LINKAGE TO THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) MEDICALLY NEEDY (MN) PROGRAM

The purpose of this section is to provide various tools to assist in the determination of deprivation and linkage to AFDC under the MN Program but not necessary for the Section 1931(b) program. It is not intended to repeat or replace regulatory material in Title 22, California Code of Regulations (CCR).

BACKGROUND

Linkage to AFDC is an important eligibility factor as the majority of nonblind or nondisabled persons between the ages of 21 and 64 are not federally eligible for Medi-Cal unless they are pregnant or linked to AFDC. Inappropriate linkage to AFDC has proven to be a major source of quality control errors. Therefore, it is critical that eligibility staff fully understand the deprivation factors which link family members to AFDC.

1. TITLE 22 REGULATIONS PERTINENT TO ESTABLISHING LINKAGE TO AFDC

Section 50030--Definition of a child.

Section 50061--Definition of family member.

Sections 50068, 50069, and 50069.5--Various definitions relating to parents.

Section 50071--Definition of persons living in the home.

Sections 50084 and 50085--Definition of relative and caretaker relative.

Section 50167 (a)(2)--Verification of incapacity.

Section 50203--Medically Needy Program.

Section 50205--Linkage to AFDC.

Sections 50209, 50211, 50213, and 50215--Various bases of deprivation.

Section 50216--Good cause for refusing employment.

Section 50373 (a)(3)--Family members to be considered when determining program linkage.

Section 50373 (a)(5)(A) 12. and 13.--Inclusion of caretaker relative in the Medi-Cal Family Budget Unit (MFBU) of sibling children.

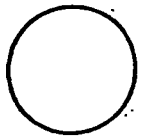
Section 50701 (d)--Eligible for one day in month, eligible for entire month.

2. CHART--MFBU MEMBERS LINKED TO AFDC

The following chart displays which family members living in the home are linked to AFDC in accordance with current Medi-Cal regulations. Persons linked to AFDC are identified by Aid Code 34 or 37. It is important that family members be properly coded. If linkage exists for one day in the month, linkage exists for the entire month and the aid code assigned should reflect that linkage.

a. Explanation of Symbols

= mother

or  = MFBU

= father

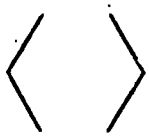
— = married

----- = unmarried

= child, including an unborn

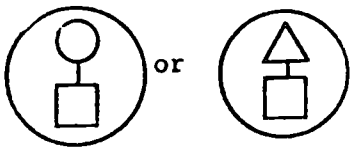
ex. = excluded

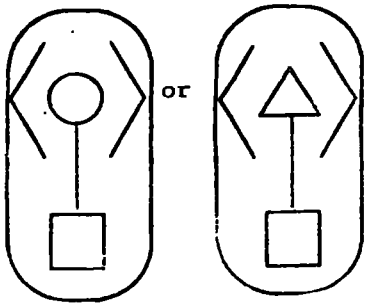
= caretaker relative

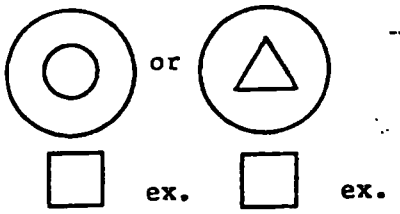
 = ineligible member

PA = Public Assistance

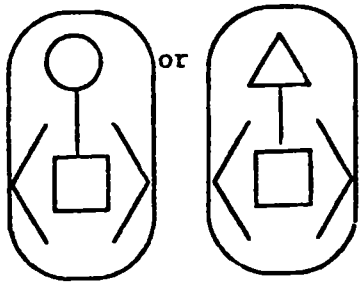
b. Absent Parent or Deceased Parent Deprivation, Title 22, Sections 50213 and 50209

(1)  -- all linked to AFDC.

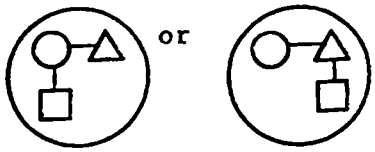
(2)  -- child linked to AFDC.

(3) 

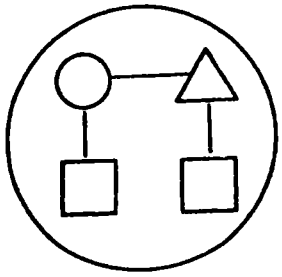
-- no linkage. Section 50373 (a) (3). Excluded children shall not be considered in determining the program for which persons included in the MFBU are eligible.

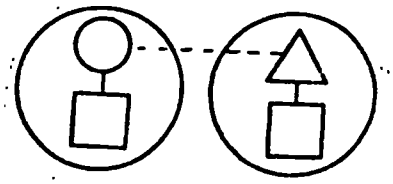
(4) 

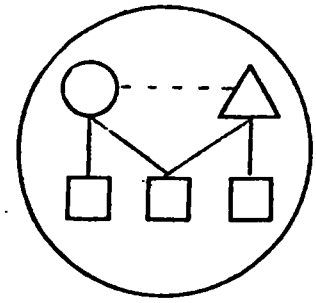
-- no linkage. Section 50373 (a) (3). Ineligible children are not considered in determining the program for which persons included in the MFBU are eligible.

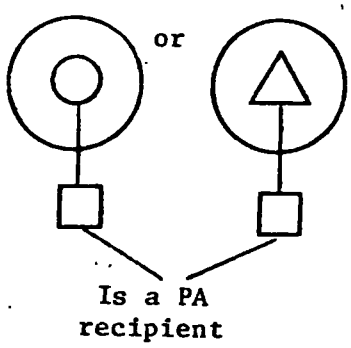
(5) 

-- parent and child are linked to AFDC; the parent's spouse is not linked.

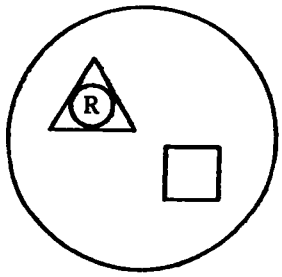
(6) 
-- both parents are linked; both children are linked. Section 50213 (f). If both members of a married couple have children from a prior union, both parents are linked to AFDC.

(7)  -- two MFBUs; all person are linked to AFDC.

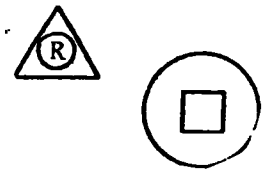
(8)  -- both parents are linked; the separate children of each parent are linked; the common child is medically indigent or in the federal poverty level programs.

(9) 

-- parent or caretaker linked to AFDC because of child who is deprived of parental support is living in the home.

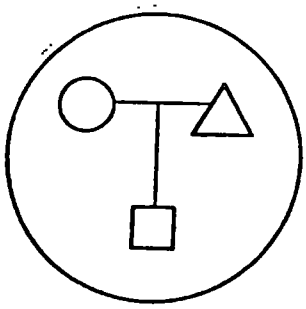
(10) 

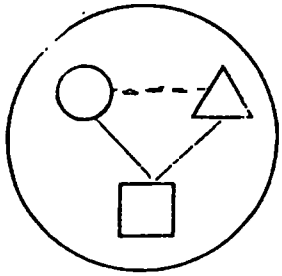
-- if caretaker relative chooses to be included in the same MFBU as the child, both are linked.

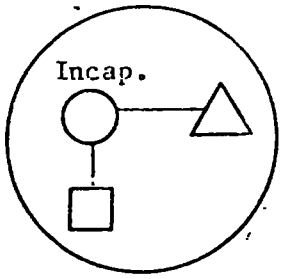
(11) 

-- if caretaker relative does not choose to be in the same MFBU as the child, only the child is linked. (Caretaker relative may be linked in other ways, e.g., by being aged, blind, or disabled.)

c. Incapacitated Parent Deprivation, Section 50211. (If incapacitated parent's condition is severe, explore linkage to SSI/SSP on basis of disability.)

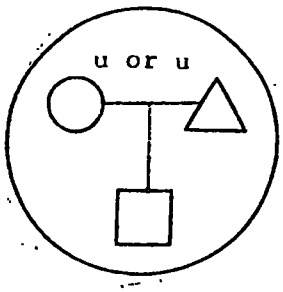
(1)  -- all linked to AFDC.

(2)  -- all linked. Section 50211 (c) (3): second parent of child whose basis of deprivation is incapacitated parent is also linked.

(3) 

-- all linked to AFDC; spouse of incapacitated parent is linked to AFDC.

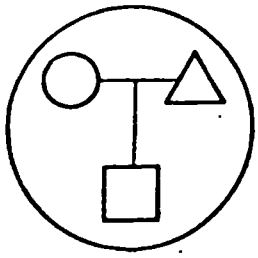
d. Unemployed Parent Deprivation, Section 50215

(1) 

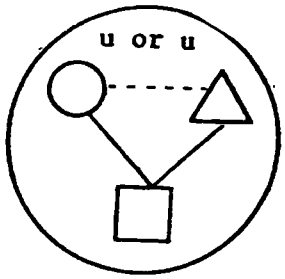
-- all linked to AFDC.

(a) Parent is the principal wage earner.

(b) Parent has worked less than 100 hours in the month.

(2)  -- no one is linked.

at least one of the conditions in previous example not met.

(3) 

-- all linked to AFDC. Section 50215 (d)(3): second parent of children whose basis of deprivation is unemployed parent is linked to AFDC.

all conditions in example 1 are met.

e. Unmarried Minor Parent Living With Parents, Two MFBUs, Sections 50373 and 50379.

In such situations, the minor parent is considered a child in determining linkage for the MFBU which includes the minor parent and his/her parent(s), and a parent in the MFBU which includes his/her child(ren) with him/her as an ineligible member.

3. EXAMPLES OF DEPRIVATION

a. Death

(1) A husband and wife have two children. The husband dies. The wife is left with two children. Is there deprivation?

Answer: Yes. Death of a parent constitutes deprivation. The wife and two children are linked to AFDC.

(2) A father and mother are unmarried and have two children in common. The father dies. The mother is left with two children. Is there deprivation?

Answer: Yes. Death of a parent (whether or not he/she was married to the other parent) constitutes deprivation. The mother and the two children are linked.

(3) A husband and wife have one child. The husband goes on a boating trip and is presumed lost at sea. He has been missing over 30 days, and the search is called off. The wife comes in and applies for Medi-Cal for herself and her child. Is there deprivation?

Answer: Yes. The preponderance of the evidence establishes the death of a parent; however, it would not be incorrect to instead base deprivation on continued absence. The mother and child are linked.

(4) A husband and wife have adopted four children. The wife dies in an auto accident. Is there deprivation?

Answer: Yes. For adopted children, adoptive parents take the place of natural parents in determining deprivation. The husband and four children are linked.

(5) The wife has a child by another marriage, but the husband does not adopt the child. The husband dies. Is there deprivation?

Answer: Yes, but not due to the death of the stepfather since deprivation is based only on a parent's ability to support and care for a child. Deprivation would be based on the child's father's death or absence. The wife and child are linked.

b. Absent Parent (also see "Persons Living in the Home" Chapter 2, Article 1, Section B.)

(1) A husband and wife have two children. The husband leaves home to seek employment in New York. He does not establish a permanent residence in New York and has not relinquished care and control of his children. Is there deprivation?

Answer: No. Temporary absence due to employment does not establish deprivation.

(2) A husband and wife have two children. The husband is in the armed forces. He is being assigned to Germany for a period of two years. His wife and family may go with him. His wife works for the State as a deputy director of a department and the children are 16 years old and both work. The mother and children do not go with him because of employment. Is there deprivation?

Answer: No. Absence due solely to active duty in the uniformed services of the United States does not constitute deprivation.

(3) A husband and wife have one child. The husband separates from his wife. The wife applies for Medi-Cal for herself and child and states on the Statement of Facts that the father left the family. Is there deprivation?

Answer: Yes. The duration of the absence is indefinite and the father is physically absent (not providing guidance to the child).

c. Physical or Mental Incapacity

(1) A father and mother are married and have three children. The husband was a construction worker. He is injured on the job. The husband is in the hospital in a coma for the last 28 days. Is there deprivation?

Answer: Yes. The deficiency is expected to last at least 30 days. Even if the husband were to regain consciousness on the 29th day, he would still be incapacitated for longer than 30 days and would not have the capacity to support his child or care for the child. The mother, father, and child are linked due to incapacity, providing the verification required by Section 50167 (a)(2) is obtained.

(2) A mother and father are married. They have two children. The mother is injured in an auto accident, has two broken legs and two broken arms. Expected recovery item per the CA 61 is six months. Is there deprivation?

Answer: Yes. The deficiency will last longer than 30 days and will substantially reduce the parent's ability to care for her children. The parents and both children are linked due to incapacity.

(3) A husband and wife have five children. The husband is a construction worker who is injured on the job. He loses one of his limbs. He cannot return to his old position. The physician stated on the CA 61 that the husband's incapacity will last for two months and he will be unable to do any work during that time. Is there deprivation? If so, for how long?

Answer: Yes. There is deprivation due to incapacity for two months because of a physical problem which prevents him from returning to his former occupation or to any other occupation. The husband, wife, and five children are linked. If, at the end of the two-month period, the physician completes another CA 61 stating that the husband still cannot work for another period of time, deprivation will continue through that additional period.

(4) A husband and wife have two children. The husband was a computer programmer. As a result of an auto accident, he suffered brain damage. The damage did not prevent him from performing the technical aspect of his job; however, it altered his personality and behavioral patterns to the point that he could no longer perform his job. Because of this disorder, other attempts to secure employment have been futile. Is there deprivation?

Answer: Yes. A mental problem which prevents one from securing and maintaining employment would justify deprivation based on incapacity. The husband, wife and two children are linked, providing the verification required by Section 50167 (a)(2) is obtained.

(5) A husband and wife have one child. The husband is a police officer who loses his position due to disciplinary problems, e.g., he abuses his prisoners. He cannot obtain another position in his field because no one will hire him. He has no other skills. Is there deprivation?

Answer: Deprivation due to incapacity exists if employers refuse to hire him because of his behavioral problem and the verification required by Section 50167 (a)(2) is obtained. The husband, wife, and child are linked. If the husband could be employed in another job for which he is equipped by education, training, experience, or on-the-job training, deprivation due to incapacity does not exist.

(6) A husband and wife have one child. The husband was a banker and is blinded in a bank holdup. Is there deprivation?

Answer: Yes. A parent is blind. The husband, wife, and child are linked, providing the verification required by Section 50167 (a)(2) is obtained. The husband could also qualify as Aged, Blind, and Disabled-Medically Needy.

(7) A husband and wife have one child. The husband works for a bank as a keypunch operator. He is paid on the basis of the number of items processed an hour. The husband loses a hand in an auto accident. He returns to work but his production decreases due to the injury, so he is paid less than the other workers. Is there deprivation?

Answer: Yes. The physical disorder prevents the parent from accomplishing the same tasks and his rate of pay is decreased. The husband, wife, and child are linked, providing the verification required by Section 50167 (a)(2) is obtained.

(8) A parent has an acceptable verification of incapacity as required in Section 50167 (a)(2), but has been unable to work for several or many years due to the same or different injury or health condition. Since the work history is not recent, is the parent's ability to support or care for the child reduced or eliminated?

Answer: Yes. If a parent has been unable to work for several or many years due to a disability, i.e., injury, health condition, he/she may be determined to be incapacitated.

(9) If a parent is a homemaker and has no work history and claims incapacity based on a reduced ability to care for his/her teenage children who are fairly self sufficient, how does the EW decide if the health condition actually reduces or eliminate the parent's ability to care for the children?

Answer: Since the regulations do not specifically define "substantially reduced", the EW should ask the parent how his/her condition reduces or eliminates his/her ability to care for the children. The answer should be written in the case.

If the parent is able to provide an example, he/she should be considered incapacitated if the verification meets the criteria in Section 50167 (a)(2). Although it is possible that the parent's condition does not reduce or eliminate his/her ability to work or care for his/her children or cause one of the following situations described in Section 50211 (b)(2), it is unlikely that the parent will not be able to give a reason.

If a parent is determined not to be incapacitated and requests a fair hearing, the county should be able to justify the reason for the denial.

(10) If a parent has a permanent disability or a condition which is expected to result in death and received Title II Social Security disability benefits or Title XVI (SSI/SSP) benefits as specified in Section 50223, would he/she be also incapacitated?

Answer: Yes. These benefits are acceptable verifications of incapacity and Section 50211 (b)(2)(D) also states that a blind or disabled parent who meets the conditions of Section 50223 is incapacitated. A determination from the Disability Evaluation Division (DED) is also acceptable since they use the same criteria as the Social Security Administration. However, a referral to DED for the sole purpose of establishing incapacity is not appropriate.

(11) If a parent is incapacitated, should the EW also make a referral to DED or vice versa?

Answer: If an incapacitated parent has a condition which will last more than 12 months and/or is expected to result in death, the EW should make a referral to DED because an aged, blind or disabled person receives certain income deductions as described in Section 50549. Also aged, blind, and disabled persons are treated differently if in long term care for MFBU purposes (Section 50377).

A parent who is determined to be disabled should be evaluated for incapacity if he/she has a minor child and spouse in the home and the spouse requests Medi-Cal benefits since the spouse or second parent of the child can be linked to a child of an incapacitated parent.

(12) A pregnant woman can be incapacitated if her physician states that she is unable or has a reduced capacity to work (CA 61); however, if the woman has no work history and the only child is unborn, can she use the argument that her condition reduces her ability to care for the child?

Answer: If a pregnant woman has verification from her physician that she has a condition which affects her pregnancy (unborn) such as diabetes, high blood pressure, or drug addiction, she should be considered incapacitated. If her condition did not affect her pregnancy, i.e., broken arm, she could be aided as a Medically Indigent pregnant woman or under the Income Disregard program; however, her husband or father of the unborn could not be linked.

d. Unemployed Parent

(1) A husband and wife have ten children. In the last two years, the husband worked full time and his wife worked part time. The husband is laid off from his job. He applies and is approved for Unemployment Insurance Benefits (UIB). Is there deprivation?

Answer: Yes. The husband is the principal wage earner (PWE), is no longer employed, and has been determined eligible for UIB. The husband, wife, and ten children are linked.

(2) A husband and wife have two children. In the last two years the husband worked full time and his wife worked part time. The wife loses her job because of plant closure. Is there deprivation?

Answer: No. The wife is not the PWE.

(3) A husband and wife have one child. Neither parent works and neither has ever been employed. Is there deprivation?

Answer: Yes. When both parents qualify as the principal wage earner (PWE) and have earned an identical amount of income (or no income) in a 24-month period, the county in consultation with the parents shall **designate** which parent is the PWE. Once the PWE has been determined, this parent continues to be the PWE for each consecutive month, even if the other parent has earnings in the next two years as stated in Section 50215 (c), Title 22, California Code of Regulations.

(4) A husband and wife have three children. The husband is employed full time. In June 1995, the wife became unemployed. The wife was employed full time for the 3 years before June 1995 and had income equal to or greater than her husband in 12 of the last 24 months in that period. Is there deprivation?

Answer: There would be deprivation if 1) the wife were the PWE, (i.e., if either the wife's income exceeded the husband's income during the June 1993 through May 1995 period or if her income equaled his during this period, if she were designated as the PWE) and 2) the remaining requirements of Section 50215 were met.

(5) A husband and wife have eight children. The husband works full time; the wife is not employed. The husband's union goes out on strike. Is there deprivation?

Answer: Yes. A person can be on strike and be aided under U-Parent deprivation.

(6) May the nonparent spouse of an unemployed parent (i.e., a stepparent to the parent's separate children) be linked to the Medi-Cal program if they have no mutual children?

Answer: No. Although the former AFDC program links the nonparent spouse, Medi-Cal regulations do not presently allow this except for the 1931(b) program.

(7) Must the PWE actively seek work?

Answer: No. This is no longer a requirement for this program.

(8) The family was receiving Medi-Cal for three years due to the incapacity of the mother. The father worked during this time. The mother returned to work but the father became unemployed. Who is the PWE?

Answer: The father. Per Section 50125 (c), "the principal wage earner is the parent who has earned the greater amount of income in the 24-month period immediately preceding either of the following:

a) The month of application, reapplication or restoration.

b) The date of a redetermination that a family's circumstances have changed in such a way as to meet the requirements for deprivation due to the unemployment of a parent.

(9) The family received a California Work Opportunity and Responsibility to Kids (CalWORKs) cash grant based on unemployed parent. The father was determined to be the PWE. The family was discontinued from CalWORKs due to the mother's unearned income. For Medi-Cal only purposes, is the father still the PWE or is it now the mother?

Answer: The father continues to be the PWE as there was no break in Medi-Cal benefits.

(10) May a parent be determined as the PWE if his/her only employment was in a refugee camp outside the United States? His earnings were not part of the regular camp requirements.

Answer: Earnings whether in cash or in-kind from work performed either inside or outside the United States, including work performed in refugee camps are acceptable, as long as they meet the definition of earned income contained in Article 10.

(11) A principal earner is self-employed as a salesperson selling a product door-to-door. The individual spent the following hours in the month of April in connection with his occupation:

40 hours collecting orders for the product.

15 hours ordering the products from the supplier. This includes completing the necessary work and going to the post office.

5 hours developing and delivering flyers advertising the business.

4 hours with floor duty at the distributor's office.

32 hours delivering the products to the customers.

10 hours distributing new catalogs.

Are all these hours counted?

Answer: In this situation, all of the above hours count as hours worked because all hours were spent promoting the business or attempting to or making contact with prospective or actual customers.

(12) Some self-employed persons may possibly control their hours. If they work under 100 hours and are the PWE, do we have to aid them?

Answer: Yes. There is nothing that precludes us from doing so.

(13) Are paid vacation and sick leave hours counted in determining hours?

Answer: Yes. Paid vacation and sick leave hours are counted in determining hours.

(14) Would we aid a working individual under U-Parent Deprivation if a person worked less than 100 hours in the prior two months, nor was expected to work 100 or more hours in the following month.

Answer: Yes.

(15) Assume the U-parent has, without good cause quit a job or employment training or refused a bona fide offer of employment or employment related training. Do these requirements still exist to determine U-Parent deprivation in the MN Program?

Answer: No. These requirements no longer pertain to unemployment parent deprivation for the medically needy.

(16) What if an individual comes in on the first day of the month, how would this case be treated?

Answer: The eligibility worker (EW) can look at the past history of the individual. If the person has no work history in the last month and indicates he/she does not expect to work the rest of the month, grant Medi-Cal if otherwise eligible. If the person has a sporadic work history where it is apparent that this individual has worked over 100 hours in past months and may do so in the current month, the EW can request that this individual verify (written verification from his employer) that he will not exceed the 100-hour requirement.

e. Multiple Linkage Factors

A husband and wife have one mutual child. The wife has two children by a previous marriage, and the husband has three children by a previous marriage. They all live together. Neither absent parent is deceased. The father is unemployed according to the provision of Title 22, CCR, Section 50215. All are requesting Medi-Cal. Is there deprivation for each child? Are the parents linked?

Answer: Yes. The wife's separate children and the husband's separate children are

deprived by the absence of a parent. Both parents may be linked by absence. The mutual child is deprived by the unemployment of his father. Both parents may also be linked due to unemployment. If the parents choose to be linked due to unemployed parent deprivation, the deprivation should shift to absence when the father returns to work. Only the mutual child will lose linkage once the father returns to work but may be aided under the federal poverty programs or as medically indigent.

Note: If there were no deprived mutual children and one spouse had no separate children, that spouse's only linkage must be through the spouse's incapacity (see previous example), or pregnancy or disability. The spouse may not be linked through the employment of the spouse for the AFDC MN program. This rule does not apply to Section 1931(b), which may aid the stepparent as an esential person because the spouse's child is deprived through absence of his or her parent.