



TANF 201-4 Marital Status

Supersedes: TANF 201-2 (7/1/04)

Reference: ARM 37.78.206, .207 and .208

Overview: Certain individuals must be included within the filing/assistance unit. Marital status may indicate which individuals are required.

Married same sex couples are considered as spouses when determining TANF eligibility.

VERIFICATION:

Marital status only needs to be verified if questionable. Document status in case notes.

COMMON LAW MARRIAGE:

In Montana, a man and a woman who have not gone through a formal marriage ceremony may enter into a legally binding common law marriage. Each of the parties must be old enough to marry and not married to anyone else to enter into a valid common law marriage.

For a common law marriage to exist, 3 elements must be present:

1. Consent and agreement - the man and woman must have mutually agreed and consented to enter into a marriage relationship;
2. Competency - both were legally competent to enter into a marriage; and
3. Cohabitation - holding themselves out as married.

Under Montana law (26-1-602(30) MCA), there is a presumption that a man and woman who behave as if they were married have entered into a lawful contract of marriage. However, this presumption can be overcome by evidence to the contrary.

DOCUMENTATION REQUIREMENTS:

If the three elements are present, request a written statement from the parties attesting to these facts. If the three elements are not present in the alleged relationship, do not establish common law marriage. If there is any questionable evidence, do not consider the parties to be common law married.

Effective Date: January 01, 2018