



CYBER LEGAL ADVOCACY BRIEF

A Preventive Law Series
Cyber Center of Excellence Office of the Staff Judge Advocate
Legal Assistance Division, Fort Gordon



ADDING DEPENDENTS TO DEERS

SECONDARY DEPENDENTS

Certain family members, such as your spouse or your minor child, are automatically entitled to dependency status. Other family members (such as a parent, brother, sister, or a child over the age of twenty-one) require special review before they can be considered dependents. These family members are called secondary dependents.

The Defense Finance and Accounting Service (DFAS) is the proponent agency for secondary dependency. General information, including forms, instructions, helpful hints, and FAQs, can be found at their website: <https://www.dfas.mil/militarymembers/secondarydependency/sdc/>. Applications are submitted directly to DFAS by mail or online through their website. Also, please keep in mind that your local personnel or finance office can assist you with secondary dependency questions, forms, etc.

WHAT IS SECONDARY DEPENDENCY?

There are times when a Service Member's (SM) dependents may include more than a spouse and minor children. These added dependents can increase a SM's financial responsibilities. If a SM is responsible for the financial support of other family members, the SM may be eligible to add them as secondary dependents.

WHO IS ELIGIBLE TO BECOME A DEPENDENT USING SECONDARY DEPENDENCY?

Secondary dependent status can be given to the following people:

- **Parent, parent-in-law, step-parent, parent by adoption**, or any person who stood 'in-loco parentis' (in the place of a parent) to a SM for at least five years prior to the SM's emancipation.
- **Unmarried children ages 21 or 22** who are enrolled in an accredited institution of higher education on a full-time basis.
- **Ward of the court**, unmarried, and placed in the permanent legal physical custody of the SM, or temporary custody for a period of at least 12 consecutive months. Note: This requires court documentation and cannot be achieved through a Power of Attorney.
- **Unmarried child over age 21 incapable of self-support** because of mental or physical incapacity that occurred while the child was considered a dependent of the SM, or is considered the dependent of a deceased member.

WHAT IS A "WARD OF THE COURT"?

A Ward of the Court is a person for whom a court has appointed a legal guardian. If a minor child is a ward of the court, the guardianship typically expires when the child reaches the age of 18. Guardians are usually only appointed for adults when the ward has a disability and is unable to care for themselves. If a SM wants to make a sibling, niece, nephew, cousin, etc., a military dependent, then the SM must be appointed as that family member's legal guardian in court. If the person is over the age of 18, this will usually not be possible unless the person has a disability requiring guardianship.

WHAT ARE THE OTHER REQUIREMENTS TO ESTABLISH SECONDARY DEPENDENCY?

The individual's income, not including the SM's contribution, must be less than one-half of the individual's actual living expenses. The law requires the individual to be 'in fact' dependent on a SM, meaning a SM's contribution must be more than one-half of the dependent's actual monthly living expenses. Therefore, a SM cannot just provide over 50% of the

dependent's income, the SM has to be paying for 50% of the dependent's living expenses each month because the dependent is financially incapable of providing for themselves.

WHAT ARE THE BENEFITS SECONDARY DEPENDENTS RECEIVE?

Secondary dependents will receive military identification cards and are eligible to enroll in Tricare. The SM will also be eligible for BAH at the with-dependent rate.

WHAT INFORMATION WILL I NEED TO FILE FOR SECONDARY DEPENDENCY?

A SM will need to compile the necessary paperwork to support their claim of dependency. This includes, but is not limited to, proof of income for the dependent as well as proof of household/personal expenses:

- Income includes ALL income and monetary support received by the dependent from ANY source other than yourself. This includes alimony, spousal support, grants, scholarships, wages, settlement payments, etc.
- Personal expenses include services such as cell phones, tuition payments, car payments, auto insurance, etc.
- Household expenses include rent/mortgage or the fair rental value, taxes, home insurance, food, utilities, furniture/appliances, repairs, and other similar necessary household expenses.
- Please refer to this website for more information on qualifying expenses and other Frequently Asked Questions: https://www.dfas.mil/militarymembers/SecondaryDependency/SDC/SDC_FAQ/

WHAT PAPERWORK DO I NEED TO FILE TO CLAIM A SECONDARY DEPENDENT?

The paperwork necessary to claim a secondary dependent is based on the type of secondary dependent a SM is trying to claim. The list for each type can be found at the following website with links to the required forms: <https://www.dfas.mil/militarymembers/secondarydependency/sdc/>

DFAS will send the proposed dependent a questionnaire verifying your information and his/her desire to become your dependent. If the dependent has the capacity to do so, the dependent must sign the questionnaire and have his or her signature notarized. You will then receive notice that DFAS is processing your application. If the proposed dependent is approved, you must bring the approval document to your unit Personnel Administration Center (PAC) and request a DD Form 1172.-2 to enroll your new dependent in DEERS.

HOW OFTEN DO I NEED TO RENEW THE SECONDARY DEPENDENT'S STATUS?

Once a secondary dependency claim for BAH support has been approved, a SM will be required to submit forms and documents to maintain dependent status and eligibility. This **MUST** be done **annually** in order to continue receiving BAH payments uninterrupted. Should a secondary dependent's status lapse and a SM's BAH stopped or reduced, the SM will **not** be authorized back payment of BAH for the period during which the individual(s) were not officially recognized in a dependent status.

IF MY REQUEST IS DENIED, WHAT DO I NEED TO DO FOR IT TO BE RECONSIDERED?

If a claim is denied, a SM will receive a letter including the reason for denial and the action(s) needed for correction. Upon completing the correction(s), a SM should resubmit their claim and supporting documentation on a new ticket. There is no waiting period to submit a new claim.

OUT-OF-WEDLOCK CHILDREN

HOW DOES A FEMALE SM ADD A CHILD AS A DEPENDENT IF THE CHILD WAS BORN OUT OF WEDLOCK?

To add a child to the mother's DEERS record, you must provide an original or certified copy of the child's birth certificate or a certificate of live birth, authenticated by the attending physician or other responsible person from a hospital. The Social Security card must also be provided as soon as it is acquired.

HOW CAN A MALE SM ADD A CHILD AS A DEPENDENT IF THE CHILD WAS BORN OUT OF WEDLOCK?

Additional documents are needed to add a child to a father's DEERS record for an out-of-wedlock child, aside from the birth certificate/certificate of live birth and Social Security card, as mentioned above. To have a child who is born out-of-wedlock listed as a dependent, the male SM has the following options:

(1) Provide a court order establishing paternity. For a child born in Georgia, the father must also file a Petition for Legitimation through the Georgia court system. A DNA test is not sufficient.

(2) Marry the mother of the child;

(3) Depending on the state, the SM may be able to sign a voluntary acknowledgement of paternity and/or legitimation. **NOTE:** Georgia no longer allows voluntary acknowledgment of paternity **and legitimation** for children born after July 1, 2016. If applying in a state other than Georgia, the SM must properly execute a voluntary acknowledgment of paternity and/or legitimation (if the state allows), usually in the state where the child was born.

CAN A CHILD BE REMOVED FROM DEERS, ONCE THE CHILD HAS BEEN ADDED?

A male SM has 30 days to change his mind regarding his relationship to the child and request that the child be removed from DEERS. After 30 days, the child will remain in DEERS as the SM's child until they reach age 21 or 23, depending on the child's status.

This Information Paper from the Fort Gordon Legal Assistance Office contains general legal information on a topic upon which Legal Assistance Attorneys typically advise. The information provided is general in nature and does not constitute formal, specific legal advice. If you wish to receive legal advice specific to your situation, please consult an attorney. You may schedule a legal assistance appointment by calling the Fort Gordon Legal Assistance Office at 709-791-7812/7813.