

CHAPTER 26

BASIC ALLOWANCE FOR QUARTERS (BAQ)2601 GENERAL PROVISIONS260101. Entitlements

A. BAQ is payable to members on active duty according to the pay grade in which serving or appointed for basic pay purposes, as set forth in this chapter. See Table 26-9 for monthly rate.

B. In all cases involving enlisted members and in the cases of officers claiming BAQ for their parents, all waivers and determinations, including determination of dependency and relationships, are made by the Secretary of the Military Department concerned or by persons designated by the Secretary. The designee may redelegate this authority.

260102. Determining Dependency or Relationship for BAQ Entitlements, Army and Air Force Personnel. Determinations are made by offices shown in Table 26-1.

260103. Determining Dependency or Relationship for BAQ Entitlements, Navy and Marine Corps Personnel. Determinations are made by offices shown in Table 26-2.

260104. Fraudulent Claims. Any member who submits a claim for BAQ which contains false statements is subject to court-martial or criminal prosecution. In addition, fraudulent acceptance of benefits may cause the civilian recipient to be subject to criminal prosecution. The law provides for severe penalties of imprisonment and a fine. For military personnel, it can include dishonorable separation, total forfeitures, and confinement.

260105. Government Quarters-Responsibility for Assignment or Termination of Assignment. The base or installation commander assigns and terminates quarters. The commander also determines when quarters are "adequate" and "suitable" for assignment. government quarters or housing facilities under control of the Uniformed Services will be considered as assigned, suitable, and adequate whenever occupied by a member at the permanent station without payment of rental charges. This applies also to quarters furnished a member without charge:

- A. By an organization or institution on behalf of the United States; or
- B. By a foreign government for the member's official use; and
- C. When jointly assigned to one or more single members.

D. When member voluntarily vacates assigned quarters without approval of the installation commander. (Grade E-7 and above, without dependents, may elect not to occupy assigned quarters unless denied permission by the Secretary concerned; see paragraph 260201,

below.)

260106. Occupancy of Rental Quarters at United States Military Academy. A member is entitled to BAQ while renting quarters in the hotel on the grounds of the United States Military Academy.

260107. Computation

A. Computing BAQ. BAQ is computed in the same way as basic pay.

B. BAQ for Date of Assignment of Quarters. Except when a member is entitled to BAQ in accordance with Tables 26-3, 26-4, and 26-5, BAQ continues to accrue through the day before the date a member is assigned government quarters or begins to occupy (unassigned quarters on a non-rental basis up to 90 days) government quarters at the permanent station.

C. BAQ for Date of Termination of Quarters. BAQ begins to accrue (except as indicated in Tables 26-3, 26-4, and 26-5) on the date the assignment to government quarters is terminated, the date that quarters are vacated, or on the permanent change of station (PCS) departure date of the member and his/her dependents. (See Table 26-6.)

260108. Allowance for Quarters to Surviving Dependents. For payment of allowance for quarters to surviving dependents of members who die in the line of duty, see Chapter 36, section 3603 of this volume.

260109. Advance of Housing Allowances. Advances of BAQ, overseas housing allowance, and variable housing allowance may be authorized under the terms and conditions in the JFTR, volume 1, Chapters 8 and 9 (reference (d)).

2602 MEMBERS WITHOUT DEPENDENTS

★260201. Entitlements

★A. General. Members without dependents who are entitled to basic pay are entitled to BAQ at rates prescribed in Table 26-9 and conditions contained in Table 26-3. Members without dependents in pay grades E-7 and above, may elect at any time not to occupy government quarters at the permanent station and become entitled to BAQ unless the Secretary of the Military Service concerned or the Secretary's designee, has determined that the member's exercise of this option would adversely affect a training mission, military discipline, or readiness. See Table 26-3, rule 6 through 8 for BAQ entitlements while on field or sea duty.

★B. Members in Pay Grade E-6 not on Sea Duty. Effective on or after 1 July 1996, a member without dependents who is in pay grade E-6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Department of Defense for members in such pay grade, or to a housing facility under the

jurisdiction of a Uniformed Service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the BAQ prescribed for the member's pay grade. The Secretary of the Military Service concerned, or the Secretary's designee, can deny BAQ if determined that the member's exercise of this option would adversely affect a training mission, military discipline, or readiness.

★C. Members on Sea Duty. See Table 26-3, rule 8 for BAQ entitlements while on sea duty.

★1. Members without dependents in grade E-5 assigned to sea duty. On or after 1 July 1997, under regulations prescribed by the Secretary concerned, the Secretary concerned may authorize the payment of BAQ to a member of a Uniformed Service without dependents who is serving in pay grade E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grade E-5.

★2. Member married to member in grades below E-6 and both are assigned to sea duty. On or after 1 July 1997, two members of the Uniformed Services in a pay grade below pay grade E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are jointly entitled to one BAQ allowance during the period of such simultaneous sea duty. The amount of the allowance shall be based on the without dependents rate for pay grade of the senior member of the couple. However, this subparagraph will not apply to a couple if one or both of the members are entitled (E-6 and above) or authorized (E-5) to BAQ identified in subparagraph 260201.C.1, above.

260202. Uninhabitable Quarters Aboard Ship

A. A member may be reimbursed for expenses (not to exceed the total of the BAQ of a member of the same grade without dependents and the variable housing allowance that could be paid to a member of the same pay grade in accordance with the JFTR, volume 1 (reference (d)) incurred in obtaining quarters when the official certifies that:

1. Such a member is prevented from occupying quarters assigned aboard a ship on which the member is serving on sea duty because such quarters are uninhabitable due to repairs, overhaul, conversion, or other conditions; and

2. Government quarters are not available; and

3. The hire of quarters is not practicable. A member entitled to BAQ may not be reimbursed for expenses under the conditions of this paragraph when such member can reside with dependents who are living in the area of the ship's location. A member's dependents are considered to be living in the area of the ship's location when the residence is within a distance of 50 miles (or 1-1/2 hours travel time), one-way, of such location or the member actually commutes daily, regardless of distance. The term "commutes daily" excludes duty periods when the member is required to remain aboard or within close proximity to the ship.

See paragraph 270203 for application of the distance and travel time restriction.

B. Request for reimbursement for expenses in place of quarters must be approved by the Chief of Naval Operations (OP-134).

C. The certification may be signed by the supervisor of shipbuilding of any shipyard or dry-dock where United States naval ships are undergoing repair or conversion.

D. These provisions are effective through 30 September 1992.

E. The provisions of subparagraphs A through D, above, expire after 30 September 1992 with respect to enlisted members and apply thereafter to officers only. The reimbursement, however, is limited to an amount equal to the basic allowance for quarters of an officer of that officer's grade. This provision shall not apply to an officer who is entitled to basic allowance for quarters.

260203. Reserve Component Members (See Definitions). A Reserve Component member without dependents who is called or ordered to active duty on or after 5 December 1991, in support of a contingency operation (other than a member who is authorized transportation of household goods as a part of the call or order), is entitled to BAQ at the without-dependent rate, if the member is unable to continue to occupy his/her primary residence because of the call or order to active duty. This applies when the residence is maintained as the primary residence of the member when called or ordered to active duty and is owned by the member or for which the member is responsible for rental payments.

260204. Missing Status. Members without dependents carried in a missing status are entitled to BAQ at the without dependent rate. (See paragraph 350103.B.)

260205. Partial BAQ Entitlement

A. A member without dependents who is assigned to single-type quarters or is on field or sea duty, and is not entitled to receive a basic allowance for quarters, is entitled to partial BAQ at the rates provided in Table 26-9.

B. Conditions

1. A member without dependents assigned to single-type government quarters at the permanent station and entitled to partial BAQ who is subsequently sick in a hospital (no PCS involved), continues to be entitled to partial BAQ while hospitalized.

★2. A member grade E-6 or below, without dependents, who is offered an assignment of government quarters, or is assigned adequate government quarters but elects not to occupy such quarters and resides in private quarters at own expense, is considered assigned to government quarters and not entitled to BAQ. Therefore, such member is entitled to partial BAQ.

3. Partial BAQ is not authorized during proceed time, leave en route, and/or travel time on PCS unless member is assigned to single-type government quarters and not entitled to BAQ.

4. A member married to another member, who has no dependents other than his or her spouse, is entitled to partial BAQ when assigned to single-type government quarters and not entitled to BAQ. However, such members assigned to family-type government quarters are not entitled to partial BAQ.

5. A member occupying single-type government quarters whose dependents reside in family-type government quarters, is not entitled to BAQ and, therefore, is entitled to partial BAQ, provided the family quarters are not assigned under the member's eligibility.

6. A single member without dependents is not entitled to partial BAQ when assigned to family-type government quarters.

7. A member without dependents on sea duty being reimbursed under paragraph 260202, above, for the expense incurred for quarters when the quarters aboard ship are uninhabitable is entitled to partial BAQ.

8. A member without dependents confined in a guardhouse, brig, or correctional barracks, who was assigned to single-type government quarters before confinement and remains assigned to such quarters during confinement, is entitled to partial BAQ unless forfeiture of allowance was directed.

9. A member without dependents who is restrained in a status of arrest in assigned single-type government quarters, and therefore not entitled to BAQ, is entitled to partial BAQ unless forfeiture of allowances was directed.

10. A member without dependents being treated at a hospital (PCS involved) and assigned quarters in the hospital is entitled to partial BAQ.

11. A member married to another member, neither having other dependents, who is assigned to sea duty and occupies government family quarters assigned to the spouse when vessel is in port, is considered a member without dependents assigned to quarters on the vessel and is not entitled to BAQ, but is entitled to partial BAQ.

12. A member without dependents who is ordered PCS to confinement in a guardhouse, brig, correctional barracks, or to additional training in a retraining or rehabilitation facility, is assigned to certain quarters therein and not entitled to BAQ, is entitled to partial BAQ unless forfeiture of allowances was directed.

13. A member without dependents assigned to single-type government

quarters between permanent duty stations and not entitled to BAQ is entitled to partial BAQ. This includes periods in excess of 30 days' government quarters are temporarily occupied without entitlement to BAQ.

14. Member without dependents is not entitled to partial BAQ when assigned to government single-type quarters (including government-leased quarters) that substantially exceed the minimum standards of single quarters for the member's grade.

2603 MEMBERS WITH DEPENDENTS

260301. Entitlements

A. When Entitled To BAQ. A member with dependents who is entitled to basic pay is entitled to BAQ at the rates prescribed for members with dependents when:

1. Adequate government quarters are not furnished for the member and dependents without payment of rental charge.

2. Adequate government quarters are not furnished for the member's dependents, or dependents are prevented by competent authority from occupying such quarters, even though quarters are assigned for the member's occupancy. Does not apply to the provisions of paragraph 260409, below.

3. Dependents are not en route or do not accompany the member to the permanent duty station, or the vicinity thereof, so as to preclude assignment of family quarters. Under such circumstances, the mere availability of quarters which could have been assigned does not defeat the right of a member to the basic allowance for quarters for dependents.

B. Naval Aviation Cadets. A naval aviation cadet with dependents is entitled to BAQ under the conditions and at the rates prescribed for an enlisted member in pay grade E-4 (over 4 years' service) with dependents.

C. Limitation on Quarters Occupied by Member. When adequate quarters are not furnished for a member's dependents, the member may not occupy, either at the permanent or TDY station, government quarters that exceed the minimum standards for the member's grade without dependents without affecting the right to BAQ, unless the only quarters available:

1. Exceed the minimum standards; and

2. Are made available for joint occupancy with other members.

D. Quarters Occupied During Special Duty Assignment. A member, not accompanied by dependents, serving outside the United States, its territories, or possessions, in a duty assignment having official or diplomatic responsibilities involving officials of foreign governments, may be assigned to quarters that exceed the minimum standards for the member's

grade without dependents, without affecting the member's right to BAQ. However, such quarters shall not be available on a continuing basis for single occupancy, if they are adequate for assignment as family housing to members of similar grade.

E. Additional Room Assigned to Chaplain. Assignment of an additional room to a chaplain for spiritual purposes does not affect the member's right to BAQ. The room must be used for official duties and not as living quarters.

260302. Government Quarters Assigned or Occupied

A. Adequacy of Government Quarters. The term "Government quarters or housing facilities" is in the Definitions section of this volume. The base, post, or installation commander determines when government quarters are adequate and appropriate for assignment.

B. Quarters Not Designated as Family-Type Quarters. A member who neither is assigned to nor occupies government quarters is entitled to BAQ for dependents even though the dependents occupy government quarters not designated as family-type quarters. Examples of such quarters are:

1. One room occupied by a member's spouse incident to employment as a domestic servant in quarters of a commissioned officer.

2. Dormitory quarters occupied by a member's child at a school for dependents of military personnel.

3. A hospital room occupied by a dependent under the Dependents' Medical Care Act (reference (aq)). However, a member is not entitled to BAQ when a sole dependent is hospitalized in a government or civilian hospital under the Dependents' Medical Care Act (reference (aq)) and the member is assigned to and occupies government quarters (even though private quarters are maintained and occasionally occupied).

4. Off base housing, non-government quarters, occupied by member's civilian spouse incident to employment overseas with Department of Defense Dependent Schools as a schoolteacher.

NOTE: Member is separated from spouse by competent orders.

C. Quarters Furnished on Behalf of the United States. A member is not entitled to BAQ for dependents if the member and dependents are furnished adequate family quarters on behalf of the United States without rental charge. Examples of such quarters are:

1. Family quarters furnished a member in an official capacity by a foreign government.

2. Family-type quarters furnished by a state, county, municipal, or

privately owned hospital to an officer serving on active duty as an intern or resident physician.

3. Family-type quarters furnished by a college, university, or research facility as part of a fellowship, scholarship or grant.

D. Quarters Occupied by Dependents. A member furnished single-type quarters is not entitled to BAQ on behalf of:

1. A spouse who is a sole dependent and who is furnished quarters in kind as a civilian employee at a government hospital.

2. A spouse who is a sole dependent and who is furnished government quarters overseas while serving with the American Red Cross.

3. A sole dependent who is a student nurse in training at a government hospital. However, BAQ is payable on behalf of a dependent who is a student nurse in training at a civilian hospital.

4. A civilian spouse who is a sole dependent and who is furnished government quarters while assigned overseas with Department of Defense Dependent Schools as a schoolteacher.

5. Dependents evacuated from a danger area, who occupy government housing facilities at a safehaven. (See subparagraph 260302.G, below, for exception when member must continue to pay for private housing).

6. Dependents, alone or when accompanied by the member, who occupy government quarters assigned to another member for more than 90 days at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAQ entitlement does not accrue for any portion of the period of such occupancy. Visits of 90 days or less are considered temporary social visits and do not cause loss of BAQ. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.

7. Any dependent(s), if one or more of the member's dependents occupy the quarters with the member on a permanent basis or on a social visit in excess of 30 consecutive days, unless other dependents are precluded by competent orders from residing with the member.

E. Quarters Occupied by Dependents During Member's Sea Duty or Field Duty. A member whose dependents occupy public quarters while the member is on sea duty or field duty is entitled to BAQ for a period not to exceed 30 days. (See Table 26-5, rule 2.)

F. Rental Quarters (Other Than Inadequate Quarters). A member and dependents who occupy the following facilities on a rental basis are entitled to BAQ. (See

Definitions for "Rental Charge.")

1. Any housing facilities, including trailers, under the jurisdiction of the government other than public quarters constructed or designated for occupancy without charge. The member may sublease such quarters to a temporary sublessee with or without charge and neither the sublessor nor sublessee will lose their right to BAQ.

2. The hotel on the grounds of the United States Military Academy.

3. Quarters furnished a member in connection with service in a capacity other than that of a member; for example, while serving under Panama Canal employment.

G. Quarters at Safehaven Temporarily Occupied by Dependents. A member is entitled to otherwise proper credit of BAQ for dependents when:

1. The member's dependents occupy government-provided housing at a safehaven area after emergency evacuation from private housing at the permanent station; and

2. Due to conditions beyond the member's control is required to continue payment of rental for the private housing in order to house furnishings and belongings and to have quarters available upon return of the dependents.

3. This entitlement will continue until such time as dependents are authorized to return to member's permanent duty station or arrive at a designated place as contemplated by JFTR, volume 1, part C, chapter 5, paragraph U5240A (reference (d)).

H. Lease on Private Rental Quarters. When a member is ordered to make a local move from private, leased quarters to government housing, BAQ is payable for the remainder of the lease on the private quarters, up to a maximum of 30 days, provided the member is required to honor the lease.

260303. Quarters Designated as Inadequate Quarters

A. Entitlement to BAQ. A member with dependents may be assigned designated inadequate quarters on a rental basis without loss of BAQ. This does not apply to bachelor officer quarters, visiting officer quarters, guest houses, and similar type facilities, or to assigned quarters undergoing ordinary repairs. Orders stating that quarters were inadequate while repairs were being made do not operate to authorize BAQ during the period involved.

B. Effect of Subleasing Inadequate Quarters. The member may share the quarters with others or permit occupancy by others while on leave of absence. The member may also sublet the quarters on a rental basis without loss of BAQ, the amount of rent being immaterial.

C. Rental Charge for Inadequate (Substandard) Quarters. Collect rent from the member at the fair rental value of the quarters, as established by base housing personnel. The rental charge for the quarters will be the fair rental value of such quarters, not to exceed 75 percent of the member's with dependent BAQ rate. Rental charge is completely independent of the amount and type of BAQ being paid to the member. See also subparagraph 260302.G, above, for assignment of inadequate quarters to members married to one another. A member's receipt of BAQ-DIFF will not directly affect the rental charge.

D. Effective Date of BAQ and Rental Charge. BAQ and rental charge begin on the date of the member's assignment to such quarters or on the date the determination of inadequacy is effective, whichever is later.

E. Computation of BAQ and Rental Charge. Compute BAQ and rental charge on a 30-day month basis and prorate at one thirtieth of the monthly rate for each day inadequate quarters are assigned. Do not pay BAQ or charge rent for the 31st day of a month. Pay BAQ for 3 days and charge rent for 3 days when inadequate quarters are assigned on the 28th of February. Do not charge rent for the day the assignment is terminated. BAQ accrues for the day of termination if government quarters are not occupied on that day.

F. Inadequate Quarters Redesignated Adequate. Rental charges and BAQ cease on and after the date rehabilitated inadequate quarters are redesignated as adequate public quarters. If a member's assignment was continued during the period of rehabilitation, the redesignation of adequacy will be made effective as of the first day of the month following the month in which the rehabilitation was completed.

G. Husband and Wife Entitled to BAQ. When a husband and wife are both members who jointly occupy inadequate family quarters on a rental basis, use Table 26-4 to determine their respective BAQ entitlements just as if they were residing off base with appropriate permission. The rental charge for the quarters will be the fair rental value of the assigned inadequate family-type quarters, but will never exceed 75 percent of the with dependent BAQ rate which would be payable to a member of the same grade and rank as the member under whose eligibility the quarters are assigned. The amount of BAQ being paid to the respective members does not affect the amount of rent charged, even where a member is receiving BAQ-W/O as well as BAQ-DIFF. Collect as follows:

1. Army and Air Force Members. Compute the applicable rent as a percentage of the with-dependent BAQ rate for the member to whom the quarters are assigned and collect one half of the rent from each member, without regard to the fact that the members may be of different grades or ranks.

2. Navy and Marine Corps Members. Collect the entire rental charge from pay account of the member to whom the quarters are assigned. Do not collect any rent from the other member. This may mean that the rental charge may exceed the BAQ being paid to the member to whom the quarters are assigned. For inter-Service marriages, the rental charge will be collected in accordance with the policy of the Military Service furnishing the quarters.

H. Rental Charge for One Member Entitled to BAQ at the Without Dependent Rate. When one member, entitled to BAQ at the without-dependent rate, occupies inadequate family quarters, the rental charge is based on the with-dependents BAQ rate of the member and computed as in subparagraph 260303.C, above. Situations contemplated by this paragraph may arise when in the case of a member married to a member, there is a divorce, legal separation, or separation resulting from military orders.

260304. Dependent. The term "dependent" for BAQ purposes is the same as defined in the Definitions.

A. A member is not entitled to BAQ on behalf of:

1. A minor child who is entitled to basic pay as a member on active duty in a Uniformed Service. This includes a minor child attending one of the Military Service academies where quarters are furnished by the United States.

2. A spouse who is on active duty in a Uniformed Service of the United States and entitled to basic pay and allowances in his or her own right. When both spouses are in the Military Service and entitled to basic pay and allowances. (See Table 26-4 for guide to BAQ entitlement.)

3. A dependent for whom the member has been absolved of the requirement to provide support (for example, due to desertion without cause or marital infidelity).

4. A dependent whose whereabouts is unknown and whose absence or whereabouts remains unexplained.

5. A former spouse to whom the member is paying alimony ordered by a divorce decree.

6. A dependent who occupies government quarters as a permanent residence without payment of a rental charge. (See paragraph 260411, below, for exception.)

B. A member is entitled to BAQ on behalf of a spouse in military service of a government other than the United States. This applies even though furnished quarters or paid a monetary allowance in lieu of quarters by that government.

C. Dependency must be approved before entitlement to BAQ is authorized. After initial approval, the Military Services shall maintain adequate levels of internal audit to assure the legality, propriety, and correctness of all disbursements for BAQ. See individual Military Service regulations for procedures.

D. Each member (includes Reserve Component member) who is entitled to

BAQ on behalf of dependents must, when called upon, provide an annual certification to the Secretary concerned indicating the status of each dependent of the member to support entitlement to BAQ on behalf of dependents. If a member fails to provide the certification in a timely manner, take action to stop the BAQ on behalf of dependents at the end of the month in which the certification is due, but continue to pay BAQ at the appropriate partial or without-dependent rate unless the member is not entitled to that allowance for some other reason. Resume paying BAQ at the with-dependent rate effective the date the member provides proper certification of entitlement. Do not pay the higher rate retroactively in the absence of certification from the member's commander that the failure to certify timely was for reasons beyond control of the member.

260305. Entitlement During Leave, Travel Status, etc. See Table 26-5.

260306. Effective Dates To Start and Stop BAQ See Tables 26-6, 26-7, and 26-8.

2604 RULES FOR DETERMINING RELATIONSHIP AND DEPENDENCY

260401. Application of Rules This section includes rules and factors used in determining relationship or dependency for BAQ entitlement. It is to be used:

A. By applicable officers in determining relationship or dependency for those classes of dependents for which they are authorized in Tables 26-1 or 26-2 to decide.

B. To guide applicable officers in counseling members about their rights to BAQ on behalf of dependents.

260402. Lawful Spouse and Legitimate, Unmarried, Minor Children. A member's lawful spouse and legitimate, unmarried, minor children are at all times considered dependents for BAQ purposes, except under the situations shown below and in subparagraphs 260304.A, above, or 260406, below. A determination of relationship is required, but usually a determination of dependency is not. In all instances of a member having a spouse on active duty, full details must be given showing full name, social security number, duty station, and branch of Military Service of that spouse.

A. When two members are married to each other, they may elect which member will receive BAQ on behalf of their adopted children or children born of their marriage. Such election must be agreed to by both members. If the members cannot agree as to the election, entitlement to BAQ for their children will rest with the senior member. Entitlement may later be transferred to the other member in the event of promotion or similar change of circumstances which would merit such transfer. When only a stepchild is involved, either the stepparent or the natural parent may claim that child for BAQ purposes. The stepparent must meet the requirements of paragraph 260409, below, to be entitled to BAQ on behalf of the stepchild. However, if the natural parent objects to the other member claiming the stepchild, then BAQ entitlement rests with the natural parent.

Elections to transfer BAQ entitlement on behalf of adopted children, stepchildren, and children born of the marriage from one member to the other can only be applied to BAQ entitlement from the date of the election. Such elections cannot be retroactively applied.

B. When one of two members married to each other is already receiving BAQ at the with-dependent rate, on behalf of an adopted child(ren), child(ren) from a previous marriage, or an illegitimate child(ren), then any child(ren) born of their marriage or adopted by them, is considered to be within the class of dependents for which the member is receiving BAQ, and the other member may not claim the children for BAQ purposes. However, if the member elects to stop receiving BAQ at the with-dependent rate, then the other member may claim the child(ren) of their marriage or adopted by them for BAQ purposes. When married members are assigned to different locations, pursuant to competent military orders, their entitlement to increased allowances or to government-furnished quarters should be determined separately, without regard to the general rule that all children of the members are dependents of the same class for the purpose of determining allowance entitlements. (See Table 26-4.)

C. When one of two members married to each other is receiving BAQ at the with-dependent rate on behalf of a dependent parent(s), then the other member would be entitled to BAQ at the with-dependent rate on behalf of child(ren) born of their marriage, their adopted child(ren), child(ren) of a previous marriage, or an illegitimate child(ren), provided government family quarters are not assigned or occupied and no other member is entitled to the BAQ on behalf of the child(ren) of a previous marriage or an illegitimate child(ren).

260403. Validity of Member's Marriage. Any case where the validity of a member's marriage is questioned is considered a case of doubtful relationship. Cases in this category include:

A. Remarriage Within Prohibited Period Following Divorce. Under the laws of some states, a marriage is not dissolved until a specified period has elapsed after granting of a divorce decree. Remarriage is prohibited within the specified period. Moreover, in all states which grant an interlocutory decree before they grant a final divorce decree, remarriage may not be contracted before the final decree is granted.

B. Marriage by Proxy. Proxy marriages are considered valid if performed in a jurisdiction which recognizes common-law marriages and has no statute or judicial determination prohibiting proxy marriages.

C. Marriage by Telephone. A marriage by telephone will be recognized as entitling a member to BAQ on behalf of a "lawful spouse" only if a statute or court decision authorizes or recognizes telephone marriages in the jurisdiction where the marriage was performed.

D. Common-Law Marriages. Under laws of certain states, an informal (common-law) marriage may be entered into by persons who do not obtain a license to marry or go through certain other formalities. Common-law marriages entered into in those states are

considered valid if they are contracted in accordance with state law.

E. Foreign Nation Divorce. A foreign nation divorce may or may not be recognized as valid in the United States, depending on several factors. These factors include place of residence of the parties involved, whether they appeared in person to obtain the divorce, and applicable state laws. Any claim involving remarriage of a member following a foreign nation divorce and any claim by or on behalf of the spouse from whom the member has obtained a foreign nation divorce are cases of doubtful relationship. A claim based on a member's marriage to a person who has obtained a foreign nation divorce is also a doubtful case.

F. Purported Marriage

1. Void Marriage. If a member's marriage is void (because of a pre-existing marriage of the spouse, for example) the member has no lawful spouse and is not entitled to BAQ as a result of the purported marriage. When invalidity of the marriage is discovered, no further BAQ payments may be made for any period. (See Table 26-7, rule 4.) The member may retain payments already received if they are validated under Chapter 50, section 5005. When validity of a marriage is questionable, submit the case to the office shown in subparagraph F.3, below, for a determination on validity of the marriage and, if necessary, validation of payments already made.

2. Annulled Marriage. If a member's marriage is annulled by court decree, no further BAQ payments may be made for any period. (See Table 26-7, rule 3.) The member may retain payments received before the effective date of the decree. Since validation under Chapter 50, section 5005, is required for retention of such payments in some annulment cases (based on legal factors), submit all annulment cases to the office shown in subparagraph F.3, below, for review and, if necessary, validation of payments made.

3. Determination and Validations Submit requests for determination on validity of a marriage or for validation of payments to the appropriate address shown below:

- a. Army:
Director
DFAS-IN
Indianapolis IN
46249-0855
- b. Navy:
Director
Navy Family Allowance Activity
Anthony J. Celebrezze, Federal Building
Cleveland OH 44199
- c. Air Force:
DFAS-DE/FJPD

6760 E. Irvington Place
Denver CO 80279-7000

- d. Marine Corps:
Commandant of the Marine Corps
(Code MPH-82)
Washington, DC 20380

260404. Child of Marriage Null in Law. An unmarried minor child of a ceremonial marriage null in law, or annulled as void or voidable, is an eligible dependent for BAQ purposes unless and until a court finds such child is illegitimate. See paragraph 260408, below, concerning entitlement to BAQ for an illegitimate child.

260405. Reserved

260406. Support of Dependent--General

A. Proof of support of a lawful spouse or unmarried, minor, legitimate child of a member generally is not required. However, when evidence (e.g. special investigation reports; record reviews; fraud, waste and abuse complaints; sworn testimony of individuals; statement by member) or complaints from dependents of nonsupport or inadequate support of dependents are received, proof of adequate support as stated in subparagraph E, below, will be required. Failure to support a dependent, on whose behalf BAQ is being received, will result in nonentitlement to BAQ and recoupment for periods of nonsupport or inadequate support. Unless a period of nonsupport or inadequate support was caused as a result of mission requirements of the Military Service concerned (e.g., remote assignment, deployed, limited access to administrative support and/or financial networks, etc.), or the actions of outside agencies (such as financial institutions, postal service, etc.) over which the member has no control, as determined by Military Service regulations, the subsequent payment of arrears of support does not entitle a member to with-dependent rate BAQ for the period of non-support or inadequate support. If a member is not entitled to BAQ for dependents under any of the subsequent subparagraphs, consider entitlement to without-dependent or partial-rate BAQ under section 2602, above.

B. Member Refuses or Does Not Provide Support. A member is not entitled to BAQ on behalf of a dependent the member refuses to support or does not support. The statutory purpose of with-dependent rate BAQ is to at least partially reimburse Military Service members for the expense of providing private quarters for their dependents when government quarters are not furnished, and not to grant the with-dependent rate of BAQ as a bonus merely for the technical status of being married or a parent. Unless a period of non-support or inadequate support was caused as a result of mission requirements of the Military Service concerned (e.g., remote assignment, deployed, limited access to administrative support and/or financial networks, etc.), or the actions of outside agencies (such as financial institutions, postal service, etc.) over which the member has no control, as determined by Military Service regulations, the subsequent payment of arrears of support does not entitle a member to with-dependent rate BAQ for the period of nonsupport or inadequate support.

NOTE: A member does not avoid the legal responsibility to comply with a court order for support by forfeiting BAQ.

C. Legal Separation Agreement or Court Decree, Judgment or Order Silent on Support, Not Stating Amount of Support, or Absolving Member of Support Responsibility. A legal separation agreement, court decree, judgment, or order that is silent on dependent support does not state the amount of dependent support, or absolve the member of dependent support responsibility, does not of itself deprive the member of BAQ for a lawful dependent(s) (as defined in the Definitions). This is true regardless of the jurisdiction in which the decree, agreement or order was issued or in which the dependent(s) are domiciled. The member is entitled to BAQ if he or she contributes to the support of the dependent(s) in the full amount of the BAQ, or a reasonable amount requested by or on behalf of the dependent(s), whichever is less, but in no case may the support contributions be less than the difference between the member's applicable "with-" and "without-" dependent BAQ rates. If satisfactory evidence is received that the member has not provided the support specified above, action will be taken to recoup BAQ from the member for any period such support was not provided.

D. Legal Separation Agreement or Court Order Stating Amount of Support. If there is a court order or legal separation agreement stating the amount of support, the member must contribute to the support of the dependent the amount specified therein, or the full amount of BAQ, whichever is less, but in no case may the support payments be less than the difference between the applicable BAQ at the "with-" and "without-" dependent rate. If satisfactory evidence is received that the member has not provided the support specified above, action will be taken to recoup BAQ from the member for any period adequate support has not been provided.

1. When a member is divorced from a nonmember, and both share legal custody of a legitimate child, and the ex-spouse is awarded primary physical custody and is not living in government quarters, then the member is considered a noncustodial parent for the purpose of entitlement to BAQ. If the member's court-ordered support is less than the difference between the BAQ at the "with-" and "without-dependent" rate for his/her grade, then the member is entitled to the BAQ at the rate for members without dependents only if he/she is not residing in government quarters. However, if the ex-spouse having primary custody of the child agrees to accept an additional support amount in order for the member paying support to qualify for BAQ at the "with-dependent" rate, the member accordingly would be entitled to BAQ.

2. When the member has temporary custody of the child and both reside in private quarters, then the cost of maintaining a residence is not a factor in determining entitlement to BAQ with dependents and cannot be used instead of, or in addition to, child support to qualify for increased allowances. The dependent child must reside with the member on a nontemporary basis, e.g., for a continuous period of more than 90 consecutive days, to qualify for the BAQ "with-dependent" rate for the nontemporary period. The cost of maintaining a home cannot be added to the child support amount to qualify for the increased allowances.

E. Evidence or Complaints of Nonsupport or Inadequate Support. Support

requirements will apply if established as in subparagraphs C and D, above. If the support requirements are not established by court order or mutual agreement, as in those subparagraphs, the member must provide proof of support in an amount that is at least the lesser of (1) the BAQ received on behalf of the claimed dependent(s), or (2) a reasonable amount requested by or on behalf of the dependent(s); however, in no case may the support contributions be less than the difference between the "with-" and "without-" dependent BAQ rates applicable to the member's grade. Unless a period of nonsupport or inadequate support was caused as a result of mission requirements of the Military Service concerned (e.g., remote assignment, deployed, limited access to administrative support and/or financial networks, etc.), or the actions of outside agencies (such as financial institutions, postal service, etc.) over which the member has no control, as determined by Military Service regulations, the subsequent payment of arrears of support does not entitle a member to with dependent rate BAQ for the period of nonsupport or inadequate support. The amount of support required for entitlement to retain or receive BAQ on behalf of dependent(s) does not necessarily mean that such amount is deemed adequate to meet the policy of the Military Service concerned regarding what constitutes adequate support in the absence of a written mutual agreement or court order.

F. Increase in Support Required by Increase in BAQ Rates. Whenever there is an increase in BAQ rates, the minimum required support under subparagraphs C, D, and E, above, increase to the difference between the "with-" and "without-" dependent BAQ rates. The non-custodial member will continue to be entitled to the "with-dependent" BAQ rate only if the support order (if any) is modified to require increased support in the appropriate amount, or if there is a mutual agreement between the parents that the custodial parent will accept such increased support.

G. Voluntary Support Payments. Voluntary support payments will not be considered for purposes of determining BAQ entitlement unless there is a mutual agreement between the parents that the support payments will be accepted by the custodial parent.

H. Settlement Agreement

1. Property settlements made under a court order or written agreement are not considered support for BAQ purposes.

2. Payments made under a settlement in place of support are considered support for the period expressly provided in the written agreement or court order.

3. A lump-sum settlement in place of support made under written agreement or court order is considered support for the period the lump sum would reasonably cover support of the dependent.

I. Interlocutory Decree of Divorce. If an interlocutory decree of divorce does not provide for support to the spouse, the member is not entitled to BAQ for the spouse after the date of the decree unless proof of support is furnished.

J. Doubtful Cases. Submit any doubtful cases involving support for determination by authority shown in Tables 26-1 or 26-2.

260407. Support of Dependent, Both Parents Are Members

A. Divorce or Legal Separation Effective or Amended Before 1 July 1992. In addition to the provisions of paragraph 260406, the following subparagraphs apply when the divorced or legally separated parents are both members and the divorce or separation occurred prior to 1 July 1992. All of the situations set forth apply only when neither member is assigned to family-type government quarters, unless otherwise specified.

1. The non-custodial parent is entitled to BAQ at the with-dependent rate through 4 December 1991, on behalf of the child(ren), provided the payment of child support is an amount that is at least equal to the difference between the applicable BAQ-with and BAQ-without dependent rates. During the period 5 December 1991 through 30 June 1992, the non-custodial parent living in single-type government quarters will only be entitled to BAQ-DIFF for child support (unless "grandfathered," as described in paragraph 260416). If not residing in single-type government quarters, the non-custodial parent may also be entitled to BAQ at the without-dependent rate as described in paragraph 260201. If the non-custodial parent does not provide the required child support and resides in single-type quarters, then the member's BAQ entitlement is partial rate BAQ. The custodial parent is also entitled to BAQ in his or her own right at the without-dependent rate.

2. If the non-custodial member does not pay the required amount of child support (at least equal to that member's DIFF rate), the custodial member is entitled to BAQ at the with-dependent rate on behalf of the child(ren).

3. The custodial member is entitled to the with-dependent rate on behalf of the child(ren) if the non-custodial member declines to claim the child(ren) for BAQ purposes. Such declination should be in writing, if possible, and may be revoked at any time. Such revocation may not be retroactive. If the non-custodial member is entitled to the with-dependent rate of BAQ on behalf of another dependent, the custodial member is entitled to the with-dependent rate on behalf of the child(ren) of the marriage, provided the custodial member is providing substantial support to the child(ren).

4. Only one parent is entitled to BAQ on behalf of children of the marriage when all of the children reside in one household; this applies even if child support payments are specifically for support of only some of the children.

5. When the child(ren) of the marriage are in the custody of a third party, only one member is entitled to BAQ on behalf of the child(ren), even though both members are paying sufficient child support to qualify for the entitlement. The member senior in rank will receive BAQ on behalf of the child(ren) when the two members cannot agree on which person will claim the entitlement. If the members are of equal rank, date of rank will determine which one receives BAQ on behalf of the child(ren).

6. When each member has legal custody of one or more of the children of the marriage, then each member who is not assigned to government quarters is entitled to the with-dependents rate of BAQ in behalf of the child(ren) in his/her custody. Occupancy of family-type government quarters by the other child(ren) of the marriage does not affect a member's entitlement. If, however, one member is paying child support in an amount at least equal to that member's DIFF rate on behalf of the child(ren) in the other member's custody, the member not paying child support is not entitled to BAQ on behalf of the child(ren) in that member's custody.

7. In cases of joint legal custody, when physical custody changes from one parent to another, each parent is entitled to the with-dependent rate of BAQ during those periods the child(ren) are actually in their physical custody, except when there is a payment of child support to one of the parents, in which case the member paying child support is at all times entitled to BAQ on behalf of the child(ren), provided the amount of child support is at least equal to that member's DIFF rate.

8. In cases when a non-custodial member is paying child support to a member who also has another dependent who would make that member eligible for the with-dependent rate of BAQ, there is a presumption that the custodial member's entitlement is based on the dependent(s) other than the child(ren) of the marriage. Both the custodial and non-custodial members are entitled to the with-dependent rate of BAQ in such circumstances, provided neither member is assigned to government quarters.

B. Divorce or Legal Separation Effective or Amended After 30 June 1992. In addition to the provisions of paragraph 260406, above, the following subparagraphs apply when the divorced or separated parents are both members and the divorce or separation occurred after 30 June 1992. All of the situations set forth apply only when neither member is assigned to family-type government quarters, unless otherwise specified.

1. Unless the members agree between themselves to the contrary, and provided the child(ren) of the marriage do not reside in government quarters, the member having custody of the child(ren) is entitled to with-dependents rate BAQ on their behalf, regardless of the amount of child support received by that member. An order of a court in a divorce decree is not considered an agreement between the members. An order of a court will only be used to verify court-awarded custody. In addition to the court order, a separate notarized agreement between the members must be provided in order for the non-custodial member to receive BAQ on behalf of the child(ren). The non-custodial member is entitled to partial BAQ if assigned to single-type government quarters, or BAQ at the without-dependent rate if not assigned to government quarters.

2. When the members each have sole custody of one or more of the children of the marriage, they are each entitled to the with-dependent rate of BAQ on behalf of the child(ren) in their individual custody, regardless of any child support payments to one member by the other.

3. When the child(ren) are in the custody of a third party, apply the rule in subparagraph 260407.A.5, above, applies.

4. In cases when there is joint legal custody, with physical custody changing from one parent to the other, each parent is entitled to BAQ on behalf of the child(ren) during those months in which that parent maintained the principal residence and extended physical custody of the child(ren), regardless of any child support payments made to one member by the other. In cases when it cannot be determined which parent maintained the principal residence during a particular month, the senior member will be entitled to receive BAQ on behalf of the child(ren).

5. The rule in subparagraph 260407.A.8, above, applies without regard to the date of divorce or separation.

260408. Child Living With Former Spouse Remarried to Another Service Member

A. When the child's stepparent is assigned public quarters and the child occupies such quarters, then the divorced member parent paying child support is entitled to BAQ under section 2602, above, as a member without dependents.

B. If the child's stepparent is not assigned public quarters, but is paid BAQ, the divorced member is entitled to BAQ on behalf of the child, if otherwise eligible, even if assigned to or occupying single-type government quarters. However, BAQ may not be paid to both the stepparent and natural parent at the same time for the same dependent. The natural parent has priority to BAQ if supporting the child.

260409. Child Living With Former Spouse-Member Remarries

A. The provisions of subparagraph 260301.A.2, above, are not for application in the case of a member who is required to support a child in the custody of a former spouse when the member remarries and is assigned to and/or occupies government family quarters. The member is not entitled to basic allowance for quarters on behalf of the child living with the former spouse. This is equally applicable when, upon remarriage, the member marries a member.

B. If, in subparagraph A, above, the remarriage is of a member to a member with child(ren) born of marriage, and the member paying child support vacates government family quarters on PCS assignment with quarters being reassigned to spouse and child(ren), then the member reassigned PCS is entitled to with-dependent BAQ for child(ren) of the former marriage when that member or child(ren) do not reside in government family quarters.

C. When the former spouse with child custody in the situation cited in subparagraph A, above, is also a member, the former spouse may claim the child(ren) for BAQ purposes if not assigned to government family quarters and the member paying support has made

a declination in accordance with subparagraph 260407.B.2, above.

260410. Child(ren) Living With Former Spouse or Estranged Spouse Who is Member Assigned Family Quarters. When the member parent having custody of the child(ren) is assigned to, or occupies, adequate family-type quarters with the child(ren) while receiving child support, then the member parent paying child support is entitled to BAQ under section 2602, above, as a member without dependents.

260411. Child Living With Former or Estranged Spouse in Family Quarters Visits Member. When a child(ren) who normally resides in government family quarters with a member's former or estranged custodial spouse visits with the member in private quarters for more than 90 days, the visit is considered non-temporary and the member may claim BAQ for the child(ren) from the first day of the visit. If the visit is 90 days or less, BAQ is not payable for any part of the visit.

260412. Illegitimate Child. Public Law 93-64, 9 July 1973, amended 37 U.S.C. 401 (reference (ar)) to include in the definition of a dependent, an unmarried illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member-father or mother. Such a dependent either must be under 21 years of age or, because of a mental or physical incapacity, incapable of self-support and in fact dependent on the member. A member may claim basic allowance for quarters (BAQ) on behalf of an illegitimate child within the following guidelines:

A. General. A member who claims BAQ on behalf of an illegitimate child must show proof of parentage. In cases involving foreign court decrees, parentage must also be admitted in writing and under oath. Proof of in-fact dependency is required in all cases and will be recertified annually. This requires documentary evidence to substantiate that support has been provided in an amount not less than that specified in subparagraphs B or C, below. A voluntary allotment payable to or on behalf of a child in the applicable amount is adequate evidence to show proof of intent to provide continued support.

B. Illegitimate Child is in Physical Custody of Another Person and Member is Assigned Single-Type Government Quarters. The member-parent may claim such child as a dependent for BAQ purposes provided the amount of support paid is at least equal to the amount of BAQ received because of the dependency of the child. If a member is entitled to BAQ-DIFF, child support paid must equal or exceed member's BAQ-DIFF rate. Likewise, if the member is in government single-type quarters, and entitled to BAQ at the with-dependent rate on behalf of the child, the requirement for support must equal or exceed the member's BAQ-DIFF rate.

C. Illegitimate Child is in Physical Custody of Member-Parent or Another Person and Member is Not Assigned Government Quarters. The member-parent may claim such child as a dependent if proof is shown that monthly support is provided in an amount the greater of:

1. Over one-half of the child's support, or
2. The difference between the applicable BAQ at the "with-" and "without-" dependent rates. In any case where the amount in subparagraph C.1, above, exceeds the applicable BAQ at the "with-dependent" rate, support in at least the amount of the BAQ at the "with-dependent" rate will be considered adequate.

D. When Both Parents Are in the Service. When both parents are members of the Armed Forces, the one having physical custody of the illegitimate child is the only one authorized BAQ on behalf of that child. If neither has physical custody, the member providing chief support of the illegitimate child is considered to be the only member with a dependent for entitlement to BAQ on behalf of such child. In either case, the member-parent must meet the applicable guidelines furnished above. If the parents subsequently are married to each other, the child is then considered a legitimate child of the marriage and paragraph 260302, above, applies.

E. When Illegitimate Child is Adopted by Another Person. BAQ does not accrue to the natural father or mother of an illegitimate child when that child has been adopted by another person.

F. When Member Marries Mother of Illegitimate Child. The member may claim the illegitimate child of his spouse as a dependent, although he is not the father of the child. The child qualifies as a dependent, in the same manner as any other stepchild, when the member has accepted full responsibility for that child by marriage to the child's mother.

260413. Adopted Child or Stepchild

A. Adopted Child. A child adopted by a member is an eligible dependent for BAQ entitlement if a final decree of adoption has been entered and the child is, in fact, dependent upon the member. In cases involving interlocutory decrees, and those where the child receives support from other sources, see Tables 26-1 and 26-2.

B. Stepchild. A stepchild is an eligible dependent for BAQ entitlement if the child is in fact dependent on the member. This includes an illegitimate child of the spouse, when the member is not the blood parent (see subparagraph 260412.F, above). A member is not entitled to BAQ for a stepchild if the child is receiving support from the natural parent, who receives BAQ for the child. A stepparent-stepchild relationship ends upon divorce from the blood parent, but not upon death of the blood parent. Hence, entitlement to BAQ for a stepchild may be established after death of the blood parent.

C. In Fact Dependency. An adopted child or a stepchild is considered in fact dependent if the member contributes a substantial portion of the child's support, and if the child's welfare would be affected without this contribution. Residence in the member's household does not of itself establish dependency, nor is a child in fact dependent if the member's contributions merely improve the child's living conditions.

260414. Dependent Child Adopted by a Third Party. A member is not entitled to BAQ for a child after the child is adopted by a third party and final order or decree of adoption has been entered. Entitlement to BAQ continues after an interlocutory decree has been entered if the decree does not change the legal relationship between the child and adopting parent, and the member supports the child.

260415. Spouse or Child Confined in Penal or Correctional Institution

A. BAQ Payable. Confinement of a member's lawful spouse or unmarried minor child in a penal or correctional institution does not affect member's right to BAQ on the dependent's behalf, unless the:

1. Member refuses to support the dependent; or
2. Member has been absolved from supporting the dependent; or
3. Period of confinement may extend beyond 5 years; or
4. Case is otherwise doubtful.

B. Doubtful Cases. Submit cases involving sentence extending beyond 5 years, and any other doubtful cases, as follows:

1. Officer's Dependent. Request advance decision of the Comptroller General of the United States. Do not credit BAQ pending decision.

2. Enlisted Member's Dependent. Send the case to the appropriate address shown in subparagraph 260403.F.3, above, for determination. Do not credit BAQ pending determination if sentence provides for confinement beyond 5 years.

260416. Limitation on the Amount of BAQ Payable to a Member Entitled to BAQ Solely on the Basis of the Member's Payment of Child Support. The provisions of this paragraph are effective 5 December 1991.

A. Except as provided in subparagraphs 260416.B or C, below, a member of a Uniformed Service assigned to single quarters is authorized an allowance for quarters (referred to as BAQ-DIFF) for the payment of child support. The amount of BAQ-DIFF shall be equal to the difference between the with-dependent and without-dependent rates for the member's pay grade.

B. A member shall not be entitled to BAQ-DIFF solely on the basis of the member's payment of child support if the monthly rate of that child support is less than the BAQ-DIFF rate identified in subparagraph 260416.A, above.

C. A member who was assigned to single-type government quarters and

entitled to BAQ solely on the basis of the member's payment of child support on 4 Dec 1991, shall continue to be entitled to BAQ at the with-dependent rate until such time as that member becomes entitled to receive BAQ at the with-dependent rate for a reason other than, or in addition to, the member's payment of child support.

D. A member not assigned to government quarters, who is entitled to BAQ on behalf of a dependent solely on the basis of payment of child support, is entitled to BAQ at the without-dependent rate plus BAQ-DIFF, if the amount of the child support is equal to or greater than BAQ-DIFF.

E. The requirement to pay child support and the amount thereof will be documented either by a court order or by a statement signed by both the member and the custodian of the child on whose behalf support is paid. This signed statement will indicate the custodian's willingness to accept such support payments from the member and will be notarized.

260417. Dependent Parent. The term "parent" is defined in the Definitions. The term "dependent" as applied to father or mother means two dependents, if applicable.

A. Basis of Determination. Dependency of a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under regulations prescribed by the Secretary concerned. Upon receipt of the member's application, the authority designated in Tables 26-1 or 26-2 sends a form to the parent for completion (thus delaying notification to the disbursing officer of final action on the member's application). A custodian or legal guardian may complete the form for a mentally incompetent parent. If a parent dies before completing the affidavit, payment of BAQ is precluded.

B. Dependency Requirement. A member does not qualify for BAQ on behalf of parents because of relationship alone. The additional factor of dependency must be met. The parents must be dependent upon the member for over one-half of their support. This means:

1. The parents' income, not counting the member's contribution, must be less than one-half of their monthly living expenses.

2. The member's contribution must be more than one-half of the parent's monthly living expenses.

C. Change in Status of Dependent. A member may be paid BAQ for any active duty period during which dependency of the parent is shown to exist, whether the dependency arose before or after the member entered service. If dependency arises because of changed circumstances, and the facts show the member has started to contribute over one-half of the parents' support, BAQ is authorized from the date the contribution began. No waiting period is required.

D. Stepparent. A stepparent-stepchild relationship ends upon divorce from the blood parent, but not upon death of the blood parent. Hence, BAQ entitlement because of a

steparent may be established after death of the blood parent.

260418. Factors Used in Parent Determinations

A. Family Unit Rule. In determining dependency of a parent, the total income and expenses of the family unit of which the parent is a member must be considered. Normally, the member's contribution to the expenses of the unit must exceed one-half of the unit's total expenses before any one person in the unit can be considered dependent on him or her. For example, a mother cannot be considered dependent if she is a member of a family unit in which her husband is supporting himself but is not providing sufficiently for the mother's individual needs.

B. Equity and Good Conscience. When application of the family unit rule results in manifest injustice, any other available evidence of dependency is considered, and determination made according to principles of equity and good conscience.

C. Charity. Contributions made to parents by charitable organizations are not considered income.

D. Parents in a Charitable Institution. Residence of a parent in a charitable institution, public or private, is not a bar to entitlement if the member claims BAQ on behalf of the parent and other conditions of entitlement are met.

E. Social Security, Unemployment Compensation, and Pensions. Payments made to the parent from the Social Security Administration, and unemployment compensation are considered to be income. Pensions received by the parent also are considered to be income.

F. Capital Assets. Unliquidated capital assets are not considered income, and parents are not required to deplete their capital assets in order to establish dependency on a member for BAQ purposes. However, proceeds derived from the liquidation of capital assets are considered income. Amounts placed in reserve for depreciation of property held for income normally are considered available for current living expenses of a parent and, therefore, are considered to be income.

G. Rate of Return Rule. In determining dependency of parents who possess uninvested capital, compute the income return on the basis of 5-1/4 percent per annum.

2605 PAYMENT OF BAQ, MEMBERS IN A NON-PAY STATUS

260501. Entitlements. BAQ for members in pay grades E-1, E-2, E-3, or E-4 (4 years' or less service) with-dependent is authorized under the same conditions as specified for other enlisted members except that during periods such members are in a non-pay status as specified below, entitlement shall be as follows:

A. Unauthorized Absence or in Hands of Civil Authorities. For a period not to exceed 2 months from the first day of absence, BAQ at the rate being credited a member at the time absence commenced may be paid to a dependent on whose behalf BAQ was claimed prior to commencement of the absence, under the following conditions:

1. The member has been in an unauthorized absence status for more than 29 consecutive days.

2. The dependent applies for payment of BAQ and the application is received by appropriate authority within 3 months after the date absence commenced.

3. If the Military Service concerned fails to provide timely notice to dependents of their right to apply for BAQ, a waiver of the 3-month stipulation in subparagraph A.2, above, may be granted on a case-by-case basis by the authority specified in subparagraph B.1, below. If such a waiver is granted, payment may only be made on those applications received within 2 months after the dependents are properly notified of their right to submit such applications.

4. No positive information has been received that the dependent is residing or has joined the member at the place of absence.

5. If a member is assigned government family-type quarters (adequate or inadequate), no payment of BAQ may be made.

6. Payment of BAQ will not be made directly to the member on behalf of a dependent. Payment shall be made only to dependents residing in the home of the member, that is, members of the family unit whom member would ordinarily control and supervise as the head of the family. This includes dependents who were not, by reason of separation pursuant to competent orders, actually residing with the member at the time absence commenced.

B. Pretrial Confinement in a Foreign Country. Payment of BAQ is authorized as follows:

1. For enlisted members in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service). Payment is authorized for a period not to exceed 2 months under the conditions stated in subparagraph A, above. For any subsequent months there must be showing of hardship on the dependent and approval on a case-by-case basis as follows:

- a. Army:
Director
DFAS-IN
ATTN: SAFM-FAA-EC
Indianapolis IN 46249-2201
- b. Navy:
Commander
Naval Military Personnel Command (NMPC-64)
Washington DC 20370
- c. Air Force:
HQ USAF/DPPC
Washington DC 20330-5000
- d. Marine Corps:
Commandant of the Marine Corps
(Code MPH)
Washington DC 20380

2. For enlisted members in pay grades E-4 (over 4 years' service) and above (cases where there has been a showing of hardship on the dependent). The approval authority for the initial and any subsequent payments is as shown in subparagraph A.1, above. No payment may be made without the approval of such authority on a case-by-case basis. Payments are subject to the conditions stated in subparagraphs A.1, 2, 3, 5, and 6, above. See Military Service regulations for procedures on processing claims.

C. Excess Leave. BAQ will continue to be paid to a member in pay grade E-4 (4 years' or less service) or below, with dependents, for a period not to exceed 2 months during which an excess leave status exists unless it is anticipated that member will not return to duty, for example, appellate leave. The 2-month period shall be computed from the first day of excess leave.

WHO DETERMINES RELATIONSHIP OR DEPENDENCY FOR BAQ ENTITLEMENT FOR ARMY AND AIR FORCE MEMBERS										
R U L E	A	B	C	D	E	F	G	H	I	J
	If dependent claimed is	and marriage is	and is under 21 years	and is	and certified court adoption papers are	and child has income from sources other than the member	and is incapable of self-support because of mental or physical incapacity	then -		
								determination is made by	send a claim to DFAS-IN for determination, opinion, or submission to Comp Gen of US for decision	
								Army disbursing officer or designee	Air Force AFO or designee	
1	spouse	lawful						X (note 8)	X	
2		of questionable legality (note 1)							X (note 9)	X
3	child, unmarried		yes	legitimate, or legitimated by marriage of blood parents				X (notes 4 and 8)	X (note 4)	
4			yes	adopted (note 3)	available (note 5)	no		X (notes 4 and 8)	X (note 4)	
5			yes	adopted (note 3)	available (note 5)	yes			X (notes 4 and 9)	X (note 6)
6			yes	adopted (note 3)	not available				X (notes 4 and 9)	X (note 6)
7			yes	stepchild (notes 3 and 7)		no		X (notes 4 and 8)	X (note 4)	
8						yes			X (notes 4 and 9)	X (note 6)

Table 26-1. Who Determines Relationship or Dependency for BAQ Entitlement for Army and Air Force Members

R U L E	A	B	C	D	E	F	G	H	I	J
	If dependent claimed is	and marriage is	and is under 21 years	and is	and certified court adoption papers are	and child has income from sources other than the member	and is incapable of self-support because of mental or physical incapacity	then -		
								determination is made by		send a claim to DFAS-IN for determination, opinion, or submission to Comp Gen of US for decision
								Army disbursing officer or designee	Air Force AFO or designee	
9	child, unmarried		yes	illegitimate child of member or legitimated by affidavit or court order					X (note 9)	X
10			no				yes (note 2)		X (note 9)	X
11	child, married	terminated by divorce, annulment, or death of spouse	yes						X (note 9)	X
12	parent (including "in loco parentis") (note 2)								X (note 9)	X

NOTES:

1. Includes common-law spouse; those married by proxy or telephone or within a prohibited period following divorce, or a divorce granted by a foreign country; and purported marriages.
2. Must be in fact dependent on service member for substantial portion of his or her support.
3. Must be in fact dependent on service member for substantial portion of support.
4. Applies also if child is in custody of someone other than service member (divorced spouse, parent, etc.).
5. If this is interlocutory decree of adoption, case must be submitted to DFAS-IN or DFAS-DE for determination or submission to the Comptroller General.
6. In case of an Army member, the claim will be sent to DFAS-IN only when determination cannot be made by disbursing officer under AR 37-104-3 chapter 2, part 3 or is not covered by note 8.
7. This includes an illegitimate child of the spouse, when the member is not the blood parent. See paragraph 260412.F.
8. In the case of Army Reserve Component (RC) personnel, initial determinations for dependents listed in rules 1,3,4, and 7 can be made by the RC unit commander or servicing Military Personnel Officer.
9. Claim will be sent to DFAS-DE only when determination cannot be made by AFO or designee as prescribed in DFAS-DE 7073.1-M, or when requesting submission to Comptroller General.

Table 26-1. Who Determines Relationship or Dependency for BAQ Entitlement for Army and Air Force Members (Continued)

WHO DETERMINES RELATIONSHIP OR DEPENDENCY FOR NAVY OR MARINE CORPS MEMBERS													
R U L E	A	B	C				D	E	F				
	If dependent claimed is	and	and member is a				and	and	then determination is made by				
			Navy Officer	Marine Corps Officer	Navy Enlisted Member	Marine Corps Enlisted Member			Navy Family Allowance Activity	Commandant of the Marine Corps	Commanding Officer of a battalion, squadron, or separate detached command	Disbursing Officer	Claim must be submitted through channels for determination or submission to Comp Gen of US for decision
1	any person who can qualify as a dependent				X				X				
2	a spouse	marriage is legal (unquestionable)	X									X	
3				X		X	neither member has been previously married	marriage was contracted within the various states or territories by legal civil or religious ceremony			X (note 1)		
4		marriage is of doubtful legality (see para 260403)				X				X			
5			X	X									X

Table 26-2. Who Determines Relationship or Dependency for Navy or Marine Corps Members

R U L E	A	B	C				D	E	F				
	If dependent claimed is	and	and member is a				and	And	then determination is made by				
Navy Officer			Marine Corps Officer	Navy Enlisted Member	Marine Corps Enlisted Member	Navy Family Allowance Activity			Commandant of the Marine Corps	Commanding Officer of a battalion, squadron, or separate detached command	Disbursing Officer	Claim must be submitted through channels for determination or submission to Comp Gen of US for decision	
6	an un-married legitimate child	child is under 21 years of age	X									X (note 2)	
7				X							X (note 2)		
8							X	Dep- E- n- d- e- n- t is c- h- i- l- d o- f p- r- e- s- e- n- t o- r f- o- r- m- e- r s- p- o- u- s- e (note 3)				X (note 4)	
9	a combination of any of the dependents in rules 2 through 8	child is under 21 years of age				X						X (note 4)	
10	an un-married child	child is over 21 years of age	X	X									X
11						X				X			

Table 26-2. Who Determines Relationship or Dependency for Navy or Marine Corps Members (Continued)

R U L E	A	B	C				D	E	F				
	If dependent claimed is	and	and member is a				and	and	then determination is made by				
			Navy Officer	Marine Corps Officer	Navy Enlisted Member	Marine Corps Enlisted Member			Navy Family Allowance Activity	Commandant of the Marine Corps	Commanding Officer of a battalion, squadron, or separate detached command	Disbursing Officer	Claim must be submitted through channels for determination or submission to Comp Gen of US for decision
12	an unmarried stepchild or adopted child	child's dependency relationship is not doubtful	X		X				X				
13				X							X		
14						X					X		
15				X		X			X				
16					X		X				X		
17	an unmarried illegitimate child			X		X			X				
18						X			X				
19										X			
20	a parent (including "in loco parentis")							X					
21									X				

NOTES:

1. This same rule applies when either member or spouse has been previously married, if the previous marriage was dissolved by death, final decree or divorce, or by annulment (not prohibiting remarriage).
2. Submit doubtful cases through channels to the Comptroller General of the United States.
3. The birthdate of the child must be after the date of the marriage concerned.
4. Submit questionable cases to the Commandant of the Marine Corps.

Table 26-2. Who Determines Relationship or Dependency for Navy or Marine Corps Members (Continued)

BAQ ENTITLEMENTS, MEMBERS WITHOUT DEPENDENTS, ENTITLED TO BASIC PAY			
R U L E	A	B	C
	Member is	then: BAQ accrues	BAQ does not accrue
1	Assigned to a permanent station	if government quarters or housing facilities are not assigned (notes 3 and 11)	if member is assigned or occupies Government quarters suitable and adequate for the member's grade (notes 9 and 10).
2		while on short period of special alert duty during which the member is furnished sleeping accommodations at the permanent station where government quarters are not available for assignment.	
3		while on short training periods not to exceed 45 days during which, due to military necessity, the member is furnished sleeping accommodations at the permanent station where government quarters are not available for assignment.	
4	Assigned to an off-ship crew of a nuclear powered submarine, temporarily serving ashore for more than 15 consecutive days for training and rehabilitation	if government quarters are not available at the training or rehabilitation site	if adequate government quarters are available for occupancy at the training or rehabilitation site.
5	in pay grade E-4 (less than 4 years' service), or lower and is ordered to report for TDY in connection with the fitting out or conversion of a vessel and permanent duty aboard when the vessel is placed in commission	if per diem allowance is not authorized for the period of TDY (note 1)	if quarters are available or member is entitled to per diem allowance for the period of such duty.
6	on field duty, PCS not involved (note 15)	if receiving BAQ at permanent station	if assigned or occupying government quarters at permanent station.
7	assigned PCS to a unit on field duty	if the commander certifies member was required to procure quarters at own expense at the initial field duty site	for the initial field duty in progress at time of PCS, unless member is required to procure quarters at own expense at field duty site.
★8	on sea duty (note 2)	if member is grade E-6 or above while aboard ship in homeport or overhaul and elects on or after 1 July 1996 not to occupy available quarters (notes 13 and 14).	if member is grade E-5 or below.
9	on authorized leave, accrued, advanced, or in connection with release from active duty or discharge (PCS not involved)	if receiving BAQ at permanent station or assigned quarters are terminated incident to separation (notes 3 and 11).	if assigned quarters at permanent station.
10	on excess leave		for any period of time.
11	sick in hospital, or on sick leave from a hospital (PCS not involved)	if receiving BAQ at permanent station, (notes 3 and 11).	if assigned quarters at permanent station.
12	being treated at hospital TDY en route PCS; or assigned PCS direct to hospital for treatment	if not assigned quarters	if assigned quarters in the hospital.

Table 26-3. BAQ Entitlements, Members Without Dependents, Entitled to Basic Pay

R U L E	A	B	C
	Member is	then: BAQ accrues	BAQ does not accrue
13	on TDY (PCS not involved), or TAD, including such duty on transport or under permissive orders (notes 6, 12, and 15)	if receiving BAQ at permanent station	if assigned quarters at permanent station.
14	in pay grade E-4 (4 or more years' service), or higher, in travel status on PCS, including travel under permissive orders, TDY en route, leave en route and proceed time; or is assigned PCS and is on authorized leave or duty at the old or new station (note 6)	if member is not assigned government quarters, or for the first 30 days member temporarily occupies government quarters at any one location (notes 4, 7, 11, and 16)	if member is assigned government quarters, or for any period in excess of 30 days member temporarily occupies government quarters at any one location.
15	in pay grade E-4 (less than 4 years' service), or lower, and is in a travel status on PCS, including leave en route and proceed time (note 8)		on and after the day of departure from old station.
16	in pay grade E-4 (less than 4 years' service), or lower, assigned PCS and is on authorized leave or duty at the old or new station	for not more than 30 days that member temporarily occupies government quarters incident to the PCS at either old or new station (notes 11 and 16)	for period of occupancy of government quarters not incident to a PCS.
17	in pay grade E-4 (less than 4 years' service), or below, initially assigned to a station for basic training, and after completion of such training performs temporary duty at that location pending the receipt of orders designating a permanent duty station to which member will report	between the date of completion of basic training the date member departs the basic training station to comply with PCS orders, when government quarters are not available for assignment.	
18	in pay grade E-4 (4 or more years' service), or higher, assigned to active duty and is performing temporary duty at other than basic training station pending receipt of orders designating a permanent duty station to which member will report upon completion of temporary duty	when government quarters are not available for assignment.	
19	in pay grade E-4 (less than 4 years' service), or lower, assigned to active duty and is performing temporary duty at other than basic training station pending receipt of orders designating permanent duty station to which member will report upon completion of temporary duty	between the date of commencement of temporary duty and the date of receipt of orders naming a permanent duty station when government quarters are not available for assignment.	
20	in pay grade E-4 (4 or more years' service), or higher, ordered home or to a place other than a military organization awaiting further orders in connection with Physical Evaluation Board proceedings	on and after day of departure from hospital or old station through day of discharge, or day prior to effective date of retirement.	

Table 26-3. BAQ Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

R U L E	A	B	C
	Member is	then: BAQ accrues	BAQ does not accrue
21	in pay grade E-4 (less than 4 years' service), or lower, ordered home or to a place other than a military organization awaiting further orders in connection with Physical Evaluation Board proceedings	on and after day of arrival at the designated place, through day of discharge, or day prior to effective date of retirement (note 5)	while in travel status from hospital to the designated place or during delay en route chargeable as leave.
22	training for, attending or participating in Pan Am or Olympic games, or other international amateur sports competition	if not furnished quarters by the government or by an agency sponsoring the member's participation	if furnished quarters by the government, or by an agency sponsoring participation.
23	a medical officer on active duty in an intern or resident physician status at a state, county, municipal, or private hospital	if not furnished quarters without charge by the hospital	if furnished quarters without charge by the hospital. Such quarters are considered furnished on behalf of the United States.
24	a student training on a fellowship, scholarship or grant	if not furnished quarters by the college, university, or research facility	if furnished quarters by the college, university, or research facility. Such quarters are considered furnished on behalf of the United States.
25	a Nurse Corps officer or Nurse Corps candidate attending a course of instruction or affiliating with a state, county, municipal, or private hospital	if member is not furnished quarters without charge.	if furnished quarters without charge by the hospital. Such quarters are considered furnished on behalf of the United States.
26	in confinement in a guardhouse or brig pursuant to a court-martial	if acquitted, the charges are withdrawn or the sentence is set aside or disapproved and member is otherwise entitled to BAQ.	while confined pursuant to a court-martial (includes awaiting trial and serving sentence) and the sentence is approved, or, if acquitted, etc., when the member was not receiving BAQ on the day before the day of confinement and government quarters assignment was not terminated before or during confinement. Quarters termination must be certified by the commander under Military Service procedures.
27	a Reserve Component member in pay grade E-4 (4 or more years' service), or above, ordered to active duty for training (See subparagraph 570502.D for active duty other than for training)	at permanent duty station and for authorized travel time from home to first duty station and from last duty station to home (note 7).	For any period government quarters are occupied (notes 9 and 10).
28	a Reserve Component member in pay grade E-4 (less than 4 years' service), or lower, ordered to active duty for training (See subparagraph 570502.D, for active duty other than for training)	if the member was not assigned government quarters at the permanent duty station (note 7).	
29	a Reservist in any pay grade called or ordered to active duty on or after 2 Aug 1990, in connection with Operation Desert Shield/ Storm; a Reserve Component member in any grade called or ordered to active duty on or after 5 Dec 1991 in support of a contingency operation (other than for a member who is authorized transportation of household goods as part of the call or order)	If the member is unable to continue to occupy a primary residence which is maintained by the member and which is owned by the member, or for which the member is responsible for rental payments.	If the member is assigned or occupies government quarters suitable and adequate for the member's grade and does not maintain and own a primary residence or is not responsible for rental payments on the member's primary residence (notes 9 and 10).

Table 26-3. BAQ Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

NOTES:

1. BAQ accrues from the date of reporting through the day before the date the ship is placed in full commission, reduced commission, or in service not in commission, whichever occurs first.
2. For the purpose of payment of BAQ under rule 8, duty for a period of less than 3 months is not considered to be sea duty. Duty for more than 3 months under temporary orders (TDY/TAD) which provide for return to the member's same permanent station is not considered sea duty. Ship-based staffs are not considered to be on sea duty for BAQ purposes when the entire staff is ordered ashore by written orders and the duty ashore is not considered to be service in a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities.
3. When not assigned to government quarters at the permanent station, BAQ accrues for up to 30 consecutive days at one location where government quarters are temporarily occupied while in a duty or authorized leave status not incident to PCS. BAQ for a 30-day period is not forfeited if occupancy exceeds 30 days.
4. Entitlement to BAQ for 30 days in government quarters applies only when occupancy of government quarters is of a temporary nature incident to the PCS as certified by the commander of the station involved. (For rule 16 the period of entitlement must be after receipt of PCS orders and before departure from old station and/or after arrival at new station.)
5. Entitlement begins on actual or constructive date of arrival home or other designated place, whichever date is earlier. (Compute constructive time arrival date via commercial transportation mode based upon the rules and provisions of the JFTR, Volume 1.)
6. Also applies to members entitled to pay and allowances while attending school under Operation Bootstrap.
7. BAQ and per diem may be credited for the same periods, if otherwise qualified.
8. This rule is not applicable when a member is performing temporary duty under PCS orders at a station which is ultimately the member's permanent duty station upon completion of the temporary duty; in such instances, see rule 1 of this table.
9. Government quarters in fact occupied without payment of rental charges shall be deemed to have been assigned as appropriate and adequate quarters.
10. Does not apply to temporary occupancy of government quarters assigned to another member for 90 days or less at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAQ entitlement does not accrue for any portion of the period of such occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.
11. The intent of these entitlements is that BAQ continue for a maximum of 30 days at any one location. Movement from one unit of government quarters to another, or in and out of the same unit, at the same location, with or without a break in occupancy, does not break the consecutiveness and does not create new periods or extend the authorized 30 days without loss of BAQ. Occupancy of government quarters at different locations creates a new 30-day period at each location. However, if government quarters at one location are considered to be occupied by a member at the same time the member occupies government quarters at a second location, a new 30-day period does not begin at the second location.
12. A member away from permanent station may occupy quarters of the United States designated for members without dependents at the member's temporary duty station without affecting the member's right to receive payment of basic allowances for quarters or assignment of quarters, if any, at the member's permanent station. Under such circumstances, a member may not occupy quarters of the United States which exceed the minimum standards for members of that grade without dependents, as prescribed by the Secretary concerned, unless the only quarters available (a) exceed the minimum standards, and (b) are made available for joint occupancy with other members.
- ★13. Members in grade E-6 or above, who are assigned to an off-ship crew of a nuclear powered submarine, are entitled to BAQ under rule 8 upon reassignment as the on-ship crew provided entitlement accrued during training and rehabilitation.
- ★14. A member is also entitled to receive BAQ after reporting to a deployed vessel, if the homeport of that ship is the same as the previous assignment and the member was receiving BAQ at the homeport. Members TAD to the ship are also entitled to BAQ after reporting to the deployed vessel if in receipt of BAQ at the permanent duty station before being detached on TAD. Members in grade E-5, without dependents, assigned to sea duty may be authorized BAQ if appropriate considering the availability of quarters for E-5s. A member married to another member below pay grade E-6 may be authorized one BAQ Allowance. (See subparagraph 260201.C).
15. For members below pay grade E-7, entitlement does not exist during TDY or TAD if quarters are assigned or furnished at the permanent station, even though the quarters are vacated at the beginning of the TDY or TAD.
16. Installation commanders may, for reasons of military necessity or relief of hardship, authorize non-TDY members affected by PCS orders to temporarily occupy government quarters beyond 30 days without loss of BAQ.

Table 26-3. BAQ Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

BAQ ENTITLEMENT AT PERMANENT STATIONS FOR SPOUSES IN UNIFORMED SERVICE- FAMILY-TYPE QUARTERS NOT ASSIGNED (Notes 1-7 and Note 16)									
R U L E	A	B	C	D		E		F	
	When member A has dependents other than spouse	and member B has dependents other than spouse	and members acquire a child(ren) (note 8)	and single-type government quarters are assigned to (note 9)		then member A is entitled to BAQ as a member		and member B is entitled to BAQ as a member (note 15)	
				member A	member B	with dependent	without dependent (notes 11 & 13)	with dependent	Without dependent (notes 11 & 13)
1	No	No	No				X		X
2	No	No	No	X	X				
3	No	No	No	X					X
4	No	No	No		X		X		
5	No	No	Yes			X (note 10)			X
6	No	No	Yes	X	X	X (note 10)			
7	No	No	Yes	X		X (note 10)			X
8	No	No	Yes		X	X (note 10)			
9	Yes	No	No			X (note 12)			X
10	Yes	No	No	X	X	X (note 12)			
11	Yes	No	No	X		X (note 12)			X
12	Yes	No	No		X	X (note 12)			
13	Yes	No	Yes			X			X
14	Yes	No	Yes	X	X	X			
15	Yes	No	Yes	X		X			X
16	Yes	No	Yes		X	X			
17	Yes	No	No			X (note 14)			X
18	Yes	Yes	No	X	X	X		X	
19	Yes	Yes	No	X		X		X	
20	Yes	Yes	No		X	X		X	
21	Yes	Yes	Yes			X (note 14)			X
22	Yes	Yes	Yes	X	X	X		X	
23	Yes	Yes	Yes	X		X		X	
24	Yes	Yes	Yes		X	X		X	

Table 26-4. BAQ Entitlement at Permanent Stations for Spouses In Uniformed Service - Family-Type Quarters Not Assigned

NOTES:

1. When family-type quarters are jointly occupied by the members, neither member is entitled to BAQ, even though the dependents do not reside in the quarters, unless dependents are prevented by military orders from occupying quarters.
2. When husband-wife members are stationed at the same or adjacent military installations, both members are normally authorized BAQ at the appropriate rate when family-type quarters are not assigned, notwithstanding the availability of adequate single quarters for either or both members.
3. Members may be considered to be stationed at the same or adjacent bases or shore installations when they are not precluded by distance from living together, or they actually commute on a regular basis, regardless of distance.
4. When husband-wife members have no other dependents and are precluded by distance from living together, they will normally be treated as members without dependents for purposes of entitlement to BAQ (see Table 26-3).
5. When husband-wife members, who are both entitled to BAQ at the same or adjacent military installation, are separated geographically by competent orders and one member remains assigned to the old duty station, that member normally will be authorized continuance of BAQ notwithstanding the availability of adequate single quarters for assignment to either member.
6. BAQ at the rate payable to members without dependents is authorized during travel status after departure from the old permanent station, or during a period of leave, delay en route, or proceed time between permanent duty stations, provided the members are in pay grade E-4 (4 years' or more service), and above, are not in receipt of BAQ for other dependents, and are not assigned to government quarters en route or temporarily occupy government quarters for more than 30 days at any one location.
7. When not assigned to government quarters at the permanent station, BAQ accrues for up to 30 consecutive days at one location where government quarters are temporarily occupied while in a duty or authorized leave status not incident to PCS. BAQ for a 30-day period is not forfeited if occupancy exceeds 30 days.
8. Refer to paragraph 260402.
9. If either column in column D is blank, that member is not assigned to single-type government quarters.
10. For purposes of this table, the members have agreed that member A is to receive BAQ at the with-dependent rate (subparagraph 260402.A).
11. See Table 26-3 for BAQ entitlement when a member is on field or sea duty.
12. When the dependents in column A, rules 9 through 12, are children from a prior marriage or illegitimate children residing with member A, the members may elect for member B to receive BAQ for stepchildren, in accordance with subparagraph 260413.B, and member A to receive without-dependent rate BAQ when not occupying single quarters.
13. When one member enters a non-pay status, the other member may claim the member not entitled to pay and allowances as a dependent and be authorized to draw BAQ at the with-dependent rate for the duration of the non-pay status if otherwise entitled (for exception, see paragraph 260415).
14. Members must elect which one is to receive the with-dependent rate BAQ. If they cannot agree as to the election, the entitlement will rest with the senior member. Elections cannot be retroactive.
15. When one or both of the dependents in columns A and B are dependent parents of the members, both members may receive with-dependent rate BAQ, if otherwise entitled. Also, when married members no longer share a common residence due to competent military orders, their entitlement to increased allowances or to government-furnished quarters should be determined separately, without regard to the general rule that all dependents of members are members of the same class for the purpose of determining allowance entitlements. Refer to paragraphs 260406 and 260407 for BAQ entitlement of divorced or legally separated members.
16. Members may temporarily occupy government quarters assigned to another member for 90 days or less at any one duty station without loss of BAQ. Occupancy for more than 90 days is considered to be of a permanent nature and BAQ entitlement does not accrue for any portion of the period of occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.

Table 26-4. BAQ Entitlement at Permanent Stations for Spouses In Uniformed Service- Family-Type Quarters Not Assigned (Continued)

BAQ ENTITLEMENT, MEMBERS WITH DEPENDENTS					
R U L E	A	B	C	D	E
	If member is	and is entitled to BAQ at the permanent station	and the member and dependents temporarily occupy government quarters (note 1)	and if the member is an	then BAQ entitlement
1	In a duty or authorized leave status not incident to PCS (includes accrued, advanced, or convalescent leave) (note 6).	Yes	No		continues.
2			Yes		continues, but not more than 30 consecutive days at one location where government quarters are temporarily occupied. BAQ for the 30-day period is not forfeited even if occupancy exceeds 30 days (notes 2 and 3).
3		No	does not exist. However, if quarters assignment at the permanent station is terminated while on duty at the beginning of or during leave, rules 1 and 2 apply on and after date of termination.		
4	On excess leave	Yes		officer or enlisted member in pay grade E-4 (over 4 years' service), or higher	does not exist except as provided in subparagraph 260501.C for members in pay grade E-4 (4 years' or less), and below (note 4).
5	In a duty, travel or leave status incident to PCS (includes TDY en route) (notes 6 and 8)		No		exists unless permanent government quarters are assigned or occupied.
6			Yes (note 5)		exists, but not more than 30 days at any location where government quarters are temporarily occupied. Entitlement does not exist if permanent government quarters are also assigned or occupied (notes 2, 3, and 7).
7	On TDY or TAD, not incident to PCS (notes 6 and 8)	Yes	No		continues as long as the permanent station remains unchanged, except as restricted by subparagraph 260301.C.
8			Yes		continues, but not more than 30 consecutive days at one location where government quarters are temporarily occupied. BAQ for the 30-day period is not forfeited even if occupancy exceeds 30 days (notes 2 and 3).
9		No			does not exist.

Table 26-5. BAQ Entitlement, Members With Dependents

R U L E	A	B	C	D	E
	If member is	and is entitled to BAQ at the permanent station	and the member and dependents temporarily occupy Government quarters (note 1)	and if the member is an	then BAQ entitlement
10	AWOL, not excused as unavoidable			officer or enlisted member	does not exist.
11	Absent due to disease (as distinguished from injury) from alcohol or drugs, causing loss of pay	Yes			continues.
12		No			does not exist. However, if quarters assignment at the permanent station is terminated during an absence, BAQ accrues on and after date of termination.
13	home on PCS awaiting further orders in connection with physical evaluation board proceedings		No		continues until member's retirement or discharge.
14			Yes		does not exist.

NOTES:

- Does not apply to temporary occupancy of government quarters assigned to another member by a member and dependents, or dependents alone for a period of 90 days or less at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAQ entitlement does not accrue for any portion of the period of such occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.
- BAQ credit continues if member has additional dependents who are precluded by competent authority from occupying government quarters or facilities furnished member and spouse, or spouse alone.
- The intent of these entitlements (rules 2, 6, and 8) is that BAQ continue for a maximum of 30 days at any one location. Movement from one unit of government quarters to another, or in and out of the same unit, at the same location, with or without a break in occupancy, does not break the consecutiveness and does not create new periods or extend the authorized 30 days without loss of BAQ. Occupancy of government quarters at different locations creates a new 30-day period at each location. However, if government quarters at one location are considered to be occupied by a member at the same time the member occupies government quarters at a second location, a new 30 day period does not begin at the second location.
- BAQ does not accrue during excess leave if member is not to continue in service after leave expires. Example: A member released from the disciplinary barracks on commandant's parole, and placed in excess leave status until sentence is ordered to be executed.
- Applies whether temporary occupancy of government quarters is at old station, while en route, or at new station. However, occupancy is limited to guest houses or other transient facilities. Family housing is excluded from such use.
- The phrase, "incident to PCS," refers to whether or not the member is en route to a new permanent station under PCS orders.
- Installation commanders may, for reasons of military necessity or relief from hardship, authorize non-TDY members affected by PCS orders to temporarily occupy government quarters beyond 30 days without loss of BAQ.
- Includes such status under permissive orders.

Table 26-5. BAQ Entitlement, Members With Dependents (Continued)

DATE TO START BAQ-MEMBERS WITH DEPENDENTS		
R U L E	A	B
	If member	then BAQ begins on
1	enlists, or is called to EAD	date of enlistment or entry on active duty, if member is not assigned government quarters for member and dependents on that date.
2	is appointed to commissioned or warrant officer status	date active duty pay begins, if member is not assigned government quarters for member and dependents on that date.
3	occupies government quarters with dependents and quarters assignment is terminated or member and dependents physically depart permanent station pursuant to PCS orders	date of termination of quarters assignment or date of PCS departure, unless dependents continue to occupy the quarters. If definite assignment of quarters was not required, then BAQ begins the date quarters are vacated.
4	occupies government quarters with dependents and the quarters are declared inadequate	date on which designation of inadequacy of quarters is effective, if member and dependents continue to occupy such quarters.
5	acquires a dependent (marriage, birth, adoption, etc.) (note 1)	date dependent is acquired, if member is not assigned government quarters for member and dependent(s) on that date (note 2).
6	acquires a dependent while in an unauthorized absence status	date member is returned to a pay status after apprehension or surrender, if member is not assigned government quarters for member and dependents on that date (note 3).
7	claims dependent parent	date determined or approved by authority shown in Table 26-1 or 26-2.
8	claims doubtful dependent	

NOTES:

1. Includes dependent acquired while member is on authorized leave.
2.
 - a. Applies to sole dependent of officer or enlisted member.
 - b. Applies to any dependent on whose behalf a member is entitled to increased BAQ.
 - c. BAQ starts with date of member's marriage even though the marriage occurs on same day as divorce from another member.
 - d. When blood parents of an illegitimate child marry, the child becomes a legitimate dependent for BAQ purposes.
 - e. In the case of Navy members, BAQ will not be started more than 6 months before submission of the application without prior approval by the authority shown in Table 26-2.
3. If there has been any change in the status of dependents on whose behalf BAQ existed on the date an unauthorized absence commenced, a member must reestablish the right to BAQ.

Table 26-6. Date To Start BAQ-Members With Dependents

DATE TO STOP BAQ-CHANGES IN DEPENDENCY STATUS		
R U L E	A	B
		If the sole dependent
1	dies	of death.
2	is divorced (note 1)	of the final decree of divorce (note 1).
3	is a spouse in a voidable (not void) marriage which is dissolved by final annulment decree	before date of the decree. (No payment of BAQ may be made on or after date of the decree, regardless of credits accrued and not paid; BAQ paid before the date of decree may be retained (note 2).)
4	is a spouse in an invalid (void) marriage	before discovery of invalidity of the marriage. (No payment of BAQ may be made on or after date of discovery, regardless of credits accrued and not paid. Retention of BAQ paid before that time depends on validation under Chapter 50, section 5005.)
5	becomes of age (except a child who is incapable of self-support because of mental or physical incapacity)	before the child's 21st birthday.
6	marries (regardless of age, or mental or physical incapacity)	of the child's marriage. (Applies even though child's marriage is to a Service member who is also entitled to BAQ on child's behalf for that date.)
7	is adopted by a third party by interlocutory order or decree which has effected a changed legal relationship	before date of adoption (note 3).
8	is adopted by a third party and a final order or decree has been entered	before date of adoption.
9	enters military service	before day of entry into service.
10	is one who must be "in fact" dependent on member, and such dependency ceases	before date dependency ceases.

NOTES:

1. Applies also when an affinitive relationship between a member and step-child ceases because of divorce from the child's parent.
2. Applies also when affinitive relationship between a member and step-child ceases because of annulment of marriage.
3. Case involving Army or Air Force member must be sent to DFAS-IN or DFAS-DE respectively, for determination as to whether order of decree effected a changed legal relationship. Cases involving Navy or Marine Corps members shall be forwarded to the Navy Family Allowance Activity or the Commandant of the Marine Corps, respectively.

Table 26-7. Date To Stop BAQ-Changes In Dependency Status

DATE TO STOP BAQ-OTHER THAN CHANGES IN DEPENDENCY STATUS		
R U L E	A	B
		If member
1	is furnished government quarters at the permanent station, adequate for the member and dependents	before the day quarters are assigned (or before day occupancy begins, if definite assignment not made) (note 1).
2	is furnished quarters (cash or in kind) on behalf of the United States, adequate for the member and dependents	before day quarters are furnished.
3	and dependents occupy inadequate quarters which are rehabilitated and designated as adequate quarters	before effective date of redesignation as adequate quarters.
4	and dependents occupy government quarters at the permanent station during family's visit, not incident to PCS (note 2)	before commencing the eighth consecutive day of occupancy (note 3).
5	and dependents temporarily occupy government quarters while on leave (not incident to PCS), or while in a travel status incident to PCS, including delay en route chargeable as leave	see Table 26-5.
6	is absent without leave	
7	is discharged or released from active duty	of discharge or release.
8	is retired	before effective date of retirement.
9	dies	of death.

NOTES:

1. When dependents are prevented from occupying the assigned quarters because of orders of competent authority, BAQ continues until transportation is arranged for household goods and is available for the dependents (if prompt application is made), plus the normal travel time for dependents to the member's station.
2. Does not apply to temporary occupancy of government quarters assigned to another member by a member and dependents, or dependents alone, for a period of 90 days or less at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAQ entitlement does not accrue for any portion of the period of such occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.
3. BAQ credit continues if the member has additional dependents who are precluded by competent orders from residing with the member.

Table 26-8. Date To Stop BAQ-Other Than Changes In Dependency Status

★MONTHLY RATES OF BAQ EFFECTIVE 1 JAN 1997				
Pay Grade	BAQ-P	BAQ-Diff	BAQ-WO	BAQ-W
O-10	50.70	190.50	824.70	1015.20
O-9	50.70	190.50	824.70	1015.20
O-8	50.70	190.50	824.70	1015.20
O-7	50.70	190.50	824.70	1015.20
O-6	39.60	157.50	756.60	914.10
O-5	33.00	152.40	728.70	881.10
O-4	26.70	101.40	675.30	776.70
O-3	22.20	101.40	541.20	642.60
O-2	17.70	119.40	429.30	548.70
O-1	13.20	129.00	361.50	490.50
O-3E	22.20	106.20	584.40	690.60
O-2E	17.70	126.30	496.80	623.10
O-1E	13.20	148.50	427.20	575.70
W-5	25.20	63.60	686.10	749.70
W-4	25.20	78.00	609.30	687.30
W-3	20.70	117.60	512.10	629.70
W-2	15.90	124.50	454.80	579.30
W-1	13.80	120.30	380.70	501.00
E-9	18.60	159.30	500.40	659.70
E-8	15.30	148.80	459.30	608.10
E-7	12.00	172.20	392.40	564.60
E-6	9.90	166.50	355.20	521.70
E-5	8.70	141.60	327.60	469.20
E-4	8.10	123.00	285.00	408.00
E-3	7.80	100.20	279.60	379.80
E-2	7.20	134.40	277.10	361.50
E-1	6.90	159.00	202.50	361.50

★Table 26-9. Monthly Rates of BAQ Effective 1 Jan 1997