

Notice of Adoption

Temporary and Disability Assistance, Office of
(SUBMITTING AGENCY)

- ☒ This adoption will amend the NYCRR.
☐ This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice. change in text

1. Action taken:

Amendment of Title 18 NYCRR § 358-5.3(a) and (e)

☒ "X" box if the rule was originally proposed as a consensus rule making.

2. Effective date of rule:

☒ Date this notice is published in the *State Register*.

☐ This is a "rate making" as defined in SAPA §102(2)(a)(ii), and, is effective as follows:

☐ Date of filing.

☐ Other date (*specify*):

☐ Other date (*specify*):

☐ _____ days after filing.

3. Statutory authority under which the rule was adopted:

7 Code of Federal Regulations (CFR) § 273.15(c)(4); Social Services Law §§ 20(3)(d), 22(8), and 34(3)(f); Chapter 41 of the Laws of 2012

4. Subject of the rule:

Good cause adjournment of fair hearings concerning the Supplemental Nutrition Assistance Program (SNAP)

5. Purpose of the rule:

See attached Addendum

6. Terms and identification of rule :

- A. I.D. No. of original notice of **proposed** or **emergency/proposed** rule making: TDA-45-24-00002 - P
- B. Comparison of the proposed rule to the adopted rule (CHECK ALL THAT APPLY):

☒ No changes were made to the proposed rule.

● Text/Summary does not need to be republished in the State Register. If the last previously published RIS, RFA, RAFA or JIS remain adequate and do not require correction, SKIP ITEMS 9-12 and do NOT attach any such statements. If any of the most recently published statements were deemed inadequate or required correction, complete Item 9, 10, 11, or 12 as applicable, do NOT attach previously published statements. Be sure to complete C (if applicable), and D, as well as remaining Items 7-8 and 13-14.

☐ Nonsubstantive changes were made in [Parts, sections, subdivisions or paragraphs]:

● Text/Summary is required to be republished in the State Register. Attach the original of the text as adopted (if proposed as full text, submit full text; if proposed as a summary, submit a summary) typed in scannable format. Do not skip Items 9-12; revised statements or explanatory statements are required.

☐ Text attached.

☐ Summary attached.

☐ This is a "rate making" as defined in SAPA §102(2)(a)(ii) and, pursuant to SAPA §202(7)(b), the agency elected to submit an original copy of a description of the substance. Substantial revisions were made in the following Parts, sections, subdivisions or paragraphs:

- C. List the publication date and I.D. No. of any previously published notice(s) of **revised** rule making:

Publication date: _____, I.D. No. _____ -

Publication date: _____, I.D. No. _____ -

- D. Signed certification of adoption and full text of the rule are attached:

☒ Signed certification of adoption (scanned pdf).

☒ Full text of the rule (MS Word).

7. The text of the final rule and any required statements and analyses may be obtained from:

Agency contact Richard P. Rhodes, Jr.

Agency name New York State Office of Temporary and Disability Assistance

Office address 40 North Pearl Street, 16C

Albany, NY 12243-0001

Telephone (518) 486-7503 E-mail: richard.rhodesjr@otda.ny.gov

8. Additional matter required by statute:

☐ Yes (include below material required by statute).

☒ No additional material required by statute.

9. Revised Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised RIS contains:

☐ The full text of the Revised RIS.

☐ A summary of the Revised RIS.

- B. A **statement is attached** explaining why a revised RIS is not required (check one box):

☐ Changes made to the last published rule do not necessitate revision to the previously published RIS.

☐ This is a technical amendment exempt from SAPA §202-a.

C. ☐ A revised RIS is **not** attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

☐ A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

10. Revised Regulatory Flexibility Analysis (RFA) for small businesses and local governments

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RFA contains:

☐ The full text of the Revised RFA.

☐ A summary of the Revised RFA.

B. A **statement is attached** explaining why a revised RFA is not required (check one box):

☐ Changes made to the last published rule do not necessitate revision to the previously published RFA.

☐ The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency’s findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C. ☐ A revised RFA is **not** attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

☐ A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

11. Revised Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RAFA contains:

☐ The full text of the Revised RAFA.

☐ A summary of the Revised RAFA.

B. A **statement is attached** explaining why a revised RAFA is not required (check one box):

☐ Changes made to the last published rule do not necessitate revision to the previously published RAFA.

☐ The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency’s findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C. ☐ A revised RAFA is not attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

☐ A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

12. Revised Job Impact Statement (JIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised JIS contains:

☐ The full text of the Revised JIS.

☐ A summary of the Revised JIS.

B. A **statement is attached** explaining why a revised JIS is not required (check one box):

☐ Changes made to the last published rule do not necessitate revision to the previously published JIS.

☐ The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency’s findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

C. A revised JIS is **not** attached because:

☐ This rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

☐ This rule was proposed by the State Comptroller or Attorney General.

13. Assessment of Public Comment (includes legislative comments)

(COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

- ☐ Attached is an assessment of public comment.
 No particular form is required, and it need **only** include comments not addressed in any previously published assessment for this rule. However, the assessment must be based on any written comments received by the agency or any comments presented at any public hearing held by the agency about this rule (include legislative comment). It must contain a summary and an analysis of the issues raised and significant alternatives suggested, a statement of the reason(s) why any significant alternatives were not incorporated, and a description of any changes made as a result of such comments.
- ☒ An assessment is not attached because no comments were received.
- ☐ An assessment is not required because this action is for a "rate making" as defined in SAPA §102(2)(a)(ii).

14. Referenced material (check one box):

- ☒ No information is being incorporated by reference in this rule.
- ☐ This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

15. Initial Review of Rule (SAPA §207)

(SELECT AND COMPLETE ONE)

- A. ☐ As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____, which is no later than the 3rd year after the year in which this rule is being adopted.
- B. ☐ As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:
- ☐ Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period;
 or
- ☐ An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.
- C. ☐ As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____, which is no later than the 5th year after the year in which this rule is being adopted.
- D. ☒ Not Applicable. This is a "rate making" or a "consensus rule," or a repeal of a rule.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Richard P. Rhodes, Jr. Signature /s/ Richard P. Rhodes, Jr.

Address N.Y.S.O.T.D.A., 40 North Pearl Street, 16C, Albany, NY 12243-0001

Telephone (518) 486-7503

E-mail richard.rhodesjr@otda.ny.gov

Date 01/30/2025

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.

4. Purpose of the rule:

(1) To amend 18 NYCRR § 358-5.3(a) to conform with the corresponding federal regulation at 7 *CFR* § 273.15(c)(4) relative to good cause adjournments of fair hearings concerning the SNAP and to reflect current OTDA policy and procedure regarding such adjournments; and (2) to replace obsolete regulatory references to “food stamps” with updated “SNAP” references at 18 NYCRR § 358-5.3(e).

Subdivisions (a) and (e) of § 358-5.3 of Part 358 of Title 18 NYCRR are amended to read as follows:

(a) Upon request of either the appellant or a social services agency, the fair hearing may be rescheduled, upon a showing of good cause for requesting the delay. Provided, however, for a fair hearing concerning SNAP benefits or services, the appellant may request, and is entitled to receive, an adjournment not exceeding 30 days from the date of the scheduled hearing without a showing of good cause.

(e) If public assistance, medical assistance, [food stamp] and SNAP benefits or services are continued in accordance with section 358-3.6 of this Part and the fair hearing is rescheduled for the reasons set forth in subdivision (a) or (b) of this section, an appellant has the right to have public assistance, medical assistance, [food stamp] and SNAP benefits or services continued until the fair hearing decision is issued.



Office of Temporary and Disability Assistance

KATHY HOCHUL
Governor

BARBARA C. GUINN
Commissioner

RAJNI CHAWLA
Executive Deputy Commissioner

CERTIFICATION

I hereby certify that the attached amendments to § 358-5.3(a) and (e) of Title 18 of the *Official Compilation of Codes, Rules, and Regulations of the State of New York* are duly adopted by me, Commissioner Barbara C. Guinn, on this date pursuant to authority vested in the New York State Office of Temporary and Disability Assistance (OTDA) by 7 Code of Federal Regulations (CFR) § 273.15(c)(4); Social Services Law §§ 20(3)(d), 22(8), and 34(3)(f); and Chapter 41 of the Laws of 2012. These amendments shall be effective upon the date this notice is published in the *New York State Register*.

The Notice of Proposed Rule Making relative to the regulatory amendments was published in the *New York State Register* on November 6, 2024, under I.D. No. TDA-45-24-00002-P. OTDA accepted public comments through January 6, 2025.

No other publication of prior notice is required by statute.

/s/ Barbara C. Guinn

Barbara C. Guinn
Commissioner

January 27, 2025

Date