

## 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:

Amendments to 18 NYCRR §§ 351.2(i)(1)(i)-(iv), 351.2(l)(7)(i), 352.8(a), 352.8(b)(4)(i)-(iii), 352.8(c)(1)(i), 352.8(e), 385.8(c)(12), and 651.2(a)(8)(i) and (iii)

☒ "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:

Social Services Law §§ 20(3)(d), 34(3)(f), 95(1)(b), 131, 132(4), and 337; and § 122 of Part B of Chapter 436 of the Laws of 1997

### 4. Subject of the rule:

Technical amendments to State regulations updating the names of State agencies and replacing obsolete and stigmatizing terms.

### 5. Purpose of the rule:

To update State regulations by replacing obsolete and stigmatizing terms.

## 6. Terms and identification of rule :

- A. I.D. No. of original notice of **proposed** or **emergency/proposed** rule making: TDA-38-24-00001 - 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, 16-C

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 3<sup>rd</sup> 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 4<sup>th</sup> or 5<sup>th</sup> 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 5<sup>th</sup> 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, 16-C, Albany, NY 12243-0001

Telephone (518) 486-7503

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

Date 12/23/2024

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**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.

**Part 351 of Title 18 NYCRR is amended as follows:**

**Subparagraphs (i)–(iv) of paragraph (1) of subdivision (i) of § 351.2 are amended to read as follows:**

(i) *Requirements for [alcoholism and] substance [abuse] use disorder screening, assessment and rehabilitation services.*

(l) Screening and assessment. (i) Investigation of eligibility for public assistance must include a screening for [alcohol and/or] substance [abuse] *use disorder* of all heads of households and of all adult household members, using a standardized screening instrument developed by the Office of [Alcoholism and Substance Abuse] *Addiction Services and Supports* in consultation with the office. Such screening will be performed at the time of application and periodically thereafter, unless the recipient is actively participating in [alcoholism and/or] substance [abuse] *use disorder* treatment in accordance with the provisions of this subdivision, but no more frequently than every six months, unless the district has reason to believe that an applicant or recipient is [abusing] *misusing* or dependent on alcohol and/or drugs.

(ii) When the screening process indicates that there is reason to believe that an applicant or recipient is [abusing] *misusing* or dependent on alcohol or drugs, or there is other evidence that an applicant or recipient is [abusing] *misusing* or dependent on alcohol or drugs, the local district must require the applicant or recipient to undergo a formal [alcohol or] substance [abuse] *use disorder* assessment, which may include drug testing, to be performed by [an alcohol and/or] substance [abuse] *use disorder* professional credentialed by the Office of [Alcoholism and Substance Abuse] *Addiction Services and Supports*. The assessment may be performed directly by the district or pursuant to contract with the district.

(iii) If the formal assessment determines that the applicant or recipient is unable to work by reason of his or her need for treatment for [alcohol or] substance [abuse] *use disorder*, or the applicant or recipient has been ordered to participate in [alcoholism or] substance [abuse] *use disorder* treatment by a court of competent jurisdiction, the social services official must refer the individual to an appropriate [alcoholism and/or] substance [abuse] *use disorder* treatment program.

(iv) To be considered an appropriate treatment program, the treatment program must:

(a) be licensed or certified by the Office of [Alcoholism and Substance Abuse] *Addiction Services and Supports* or operated by the United States Department of Veterans Affairs and be determined by the social services official to meet the rehabilitation needs of the individual, in accordance with standards developed by the Office of [Alcoholism and Substance Abuse] *Addiction Services and Supports*;

**Subparagraph (i) of paragraph (7) of subdivision (I) of § 351.2 is amended to read as follows:**

(7) Waivers. (i) Waivers are a temporary suspension of public assistance program requirements including, but not limited to, residency rules, child support and paternity cooperation requirements, [alcohol and] substance [abuse] *use disorder* screening and referral requirements, and employment and training requirements. Any such waivers must be consistent with federal law.

**Subdivision (a) of § 352.8 is amended to read as follows:**

(a) The standard of need includes an allowance to be provided by each social services district for persons residing in the following living situations: room and board; approved residential programs for victims of domestic violence; maternity homes; family homes or boarding homes; *certified* family care or certified residential care facilities; [drug-abuse-control] *certified substance use disorder treatment* facilities and residential facilities for the mentally disabled. With respect to residential programs for victims of domestic violence operated in accordance with the provisions of Parts 452 and 453 or 454 or 455 of this Title, the allowance is established in accordance with the provisions of Part 408 of this Title.

**Subparagraphs (i)–(iii) of paragraph (4) of subdivision (b) of § 352.8 is amended to read as follows:**

(i) Level 1. Family-type homes certified by the Office of Children and Family Services and family care homes certified by the Office of Mental Health or the Office [of Mental Retardation and] *for People With* Developmental Disabilities.

(ii) Level 2. Residences for adults certified by the Department of Health; programs providing intensive residential rehabilitation services, community residential services or supportive living services certified by the Office of [Alcoholism and Substance Abuse] *Addiction Services and Supports*; supportive community residences, supervised community residences and individualized residential alternatives certified by the Office [of Mental Retardation and] *for People With* Developmental Disabilities; and apartment treatment, congregate treatment and congregate support facilities certified by the Office of Mental Health. For purposes of this subparagraph, congregate care Level 2 facilities do not include intermediate care facilities or respite care facilities.

(iii) Level 3. Adult homes and enriched housing programs certified by the Department of Health and schools for [the mentally retarded] *persons with intellectual/developmental disabilities* certified by the Office [of Mental Retardation and] *for People With* Developmental Disabilities.

**Subparagraph (i) of paragraph (1) of subdivision (c) of § 352.8 is amended to read as follows:**

(i) Boarding homes or under room and board arrangements or approved residential programs for victims of domestic violence in which three meals per day are provided, or facilities certified by the Office of [Alcoholism and Substance Abuse] *Addiction Services and Supports* other than community residences, in the amount of \$45; infirmaries, nursing homes, intermediate care facilities, or similar medical facilities, in the amount of \$40.

**Subdivision (e) of § 352.8 is amended to read as follows:**

(e) An allowance to meet the cost of board and room or care in a maternity home, family-type home, adult home, residence for adults, enriched housing program, intermediate care facility, hostel for [the mentally retarded] *persons with intellectual/developmental disabilities* or residential facility for [the mentally retarded] *persons with intellectual/developmental disabilities* shall be made for the entire month in which the case is accepted if essential to retain the use of the facility. An allowance may be made to pay for the cost of such care for a period prior to the month in which the case was opened, but not prior to the date of application under the following specified conditions:

**Part 385 of Title 18 NYCRR is amended as follows:**

**Paragraph (12) of subdivision (c) of § 385.8 is amended to read as follows:**

(12) For the purposes of this subdivision, an individual who is work limited due to an impairment related to [alcohol or] substance [abuse] *use disorder* shall not be deemed engaged in work solely by participating in [an alcohol or] a substance [abuse] *use disorder* treatment program unless such individual is engaged in a work activity as a part of such treatment program.

**Part 651 of Title 18 NYCRR is amended as follows:**

**Subparagraphs (i) and (iii) of paragraph (8) of subdivision (a) of § 651.2 are amended to read as follows:**

(8) Substance [abuse] *use disorder* treatment programs including but not limited to:

(i) number of recipients receiving substance [abuse] *use disorder* treatment services for which the cost of such services is paid for by the social services district using public assistance monies;

(iii) types of substance [abuse] *use disorder* treatment programs receiving reimbursement from social services districts.





## 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 §§ 351.2(i)(1)(i)-(iv), 351.2(l)(7)(i), 352.8(a), 352.8(b)(4)(i)-(iii), 352.8(c)(1)(i), 352.8(e), 385.8(c)(12), and 651.2(a)(8)(i) and (iii), all 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 by Social Services Law §§ 20(3)(d), 34(3)(f), 95(1)(b), 131, 132(4), and 337; and § 122 of Part B of Chapter 436 of the Laws of 1997. These amendments shall be effective upon publication of the Notice of Adoption 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 September 18, 2024 under I.D. No. TDA-38-24-00001-P.

No other publication of prior notice is required by statute.

**/s/ Barbara C. Guinn**

**12-19-2024**

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Barbara C. Guinn  
Commissioner

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Date