



Temporary Assistance Source Book

Employment and Income Support Programs

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CHAPTER 1: FORWARD

A. GENERAL INTRODUCTION

The Temporary Assistance Sourcebook (TASB) is designed to provide Temporary Assistance staff with authoritative information to do their job effectively. The authority for the Source Book "Policy" sections is based upon Social Services Law, Office Regulations, Administrative Directives (ADM), Informational Letters (INF) and Local Commissioner Letters (LCM). Such sources provide the necessary authoritative basis for determining financial eligibility for temporary assistance, the appropriate category of assistance, the correct amount of the grant, application and notice requirements, and budgeting and resource procedures basic to a determination of financial eligibility for temporary assistance.

The Source Book includes sections on the categorical and program requirements for Family Assistance (FA), Safety Net Assistance (SNA), Emergency Assistance to Families (EAF) and Emergency Assistance to Adults (EAA). Also included are sections dealing with alien eligibility, alcoholism and drug abuse and assistance to victims of domestic violence.

An interpretation section is provided for some subjects to explain the Policy in non-regulatory language.

At the end of every subject, the reader will find at the bottom of the page, three possible headings or columns – "References", "Related Items", and "Supplemental Nutrition Assistance Program Source Book (SNAPSB)(formerly known Food Stamp)". References will cite the State Regulations, ADMs, INFs, and LCMs. Related Items will cite other relevant sources; and the SNAPSB will cite the appropriate [SNAPSB](#) Section(s).

Information in the TASB will be revised and updated on a regular basis and published on the OTDA Intranet and Internet. The pace of change within Temporary Assistance programs makes such periodic replacement essential to the continued validity of the TASB. A subscription list is used to notify participating subscribers of published changes to the TASB. To subscribe to the list:

1. go to <http://otda.state.ny.net/dta/resources/subscribe.asp>. This link is also found on the DETS Intranet page h+m under information - Auto-Subscriber System
2. click on "Subscribe" near the TA Source Book
3. Click send on the resulting e-mail

In the period between issuance of TASB replacement sections, Administrative Directives (ADM), Informational Letters (INF), Local Commissioner Letters (LCM), Regulations, General Information System (GIS) and ABEL Transmittals will provide necessary notification of changes affecting Temporary Assistance staff. Wherever a conflict arises between the Source Book and Regulations, Social Services Law, Administrative Directives, GIS or an ABEL Transmittal, local district staff should contact the Center for Employment and Economic Supports for direction.

B. ACRONYM/TERMINOLOGY LISTING

AABD	Aid to Aged, Blind and Disabled
ABE	Adult Basic Education
ABEL	Automated Budgeting and Eligibility Logic
ACE	Active Corps of Executives
ACHIEVE	Another Change Initiative for Education, Vocation or Employment
ACTUAL	Actual Shelter Cost
A/D	Aged/Disabled
ADA	American's with Disabilities Act
ADC	Aid to Dependent Children
ADM	Administrative Directive
AFA	Anticipated Future Action
AIDS	Acquired Immune Deficiency Syndrome
ALE	Adult Literacy Education
AP	Absent Parent
APP-TAD	Application Turnaround Document
A/R	Applicant/Recipient
ASAW	Additional Special Agricultural Worker
AVE	Adolescent Vocational Exploration Program
BASIC	Basic or Personal Allowance
BEDS	Back End Detection System
BDD	Bureau of Disability Determinations (NYC)
BENDEX	Beneficiary Data Exchange
BICS	Benefit Issuance and Control System
BOCES	Boards of Cooperative Educational Services
CA	Number in Case
CAA	Community Action Agency
CAP	Child Assistance Program
CASE	Case Type
CASE NO	Case Number
CBIC	Common Benefit Identification Card
CBO	Community Based Organization
CBVH	Commission for the Blind and Visually Handicapped
CEOSC	Comprehensive Employment Opportunity Support Center
CFR	Code of Federal Regulations
CHEP	Cuban/Haitian Entrant Program
CIN	Client Identification Number
CNS	Client Notices System
COB	Close of Business
COLA	Cost of Living Adjustment
CSEU	Child Support Enforcement Unit
CSMS	Child Support Management System
C/THP	Child/Teen Health Plan
CWEP	Community Work Experience Program
D/A	Drug/Alcohol
DAAA	Division of Alcoholism and Alcohol Abuse
DAR	Dormant Account Review
DCA	Disqualification Consent Agreement
DDD	Division of Disability Determinations

DEF	Deficit
DEFRA	Deficit Reduction Act the Department New York State Department of Social Services
DPA	Deferred Payment Agreement
DSS	Department of Social Services
DV	Domestic Violence
DVL	Domestic Violence Liaison
EAA	Emergency Assistance for Adults
EAF	Emergency Assistance to Families
EAPP	Employment Alternatives Partnership Program
EBT	Electronic Benefit Transfer
EHP	Enriched Housing Program
EHR	Emergency Home Relief
EITC	Earned Income Tax Credit
EID	Earned Income Disregard
EP	Essential Person
ERT	Employment Readiness Training
ES	Employment Search
ESL	English-as-a-Second Language
ESNA	Emergency Safety Net Assistance
EW	Eligibility Worker
FA	Family Assistance
FDC	Family Day Care
FEDS	Front End Detection System
FEPS	Family Eviction Preventive Supplement
FFR	Face-to-Face Recertification
FFY	Federal Fiscal Year
FICA	Insurance Contributions Act (Social Security) Indicator
FNP	Federal Non-Participation
FP	Federal Participation
FVO	Family Violence Option
GA	General Assistance
GAGD	Grants of Assistance for Guide Dogs
GED	General Educational Development
GFDC	Group Family Day Care
GIS	General Information System
GIT	Gross Income Test
HAP	Housing Assistance Payment
HEA	Home Energy Allowance
HEAP	Home Energy Assistance Program
HEFPA	Home Energy Fair Practices Act
HH	Household
HIV	Human Immunodeficiency Virus
HMO	Health Maintenance Organization
HR	Home Relief
HRA	NYC Human Resources Administration
HSP	Housing Supplement Program
HUD	Housing and Urban Development
IAR	Interim Assistance Reimbursement
IDA	Individual Development Account
I/EDR	Imaging/Enterprise Document Repository

INF	Informational Letter
INS	Immigration and Naturalization Service
IPV	Intentional Program Violation
IRAP	Indochinese Refugee Assistance Program
IRCA	Immigration Reform and Control Act of 1986
IRS	Internal Revenue Service
J/O	Job Opportunity Program
JOBS	Job Opportunities and Basic Skills Training Program
JTPA	Job Training Partnership Act
JTPC	Job Training Partnership Council
LCM	Local Commissioners Memorandum
LDSS	Local Department of Social Services
LEP	Limited English Proficiency
Local District	Local Department of Social Services
LRR	Legally Responsible Relative
LTR	Lawful Temporary Resident
MA	Medical Assistance
MARG	Medical Assistance Reference Guide
MOE	Maintenance of Effort
MRB/A	Mass Rebudgeting/Reauthorization
MSS	Mandatory State Supplement
NCSTA	National and Community Services and Trust Act of 1993
NTA	Non Temporary Assistance
NYC	New York City
NYS	New York State
OASDI	Old-Age, Survivors and Disability Insurance
OBRA	Omnibus Budget Reconciliation Act
OCFS	Office of Children and Family Services
OHIP	Office of Health Insurance Programs
OJT	On the Job Training
OMH	Office of Mental Health
OMR/DD	Office of Mental Retardation/Developmental Disabilities
OOE	Order of Exclusion
OSS	On-Site Scanning
OTDA	Office of Temporary and Disability Assistance
OVESID	Office of Vocational and Educational Services for Individuals with Disabilities
PACE	Public Assistance Comprehensive Employment
PAVE	Progressive Adolescent Vocational Exploration Program
PCAP	Prenatal Care Assistance Program
PHA	Public Housing Authority
PIC	Private Industry Council
PIO	Public Information Office
PNA	Personal Needs Allowance
PROWRA	Personal Responsibility Work Opportunity Reconciliation Act
PRUCOL	Permanently Residing in the United States Under Color of Law
PSC	Public Service Commission
PWA	Public Works Administration
PWP	Public Work Project
RAP	Refugee Assistance Program
RAW	Replenishment Agricultural Worker
RFI	Resource File Integration

RIN	Recipient Identification Number (NYC)
RSDI	Retirement Survivors Disability Insurance
SAVE	Systematic Alien Verification for Entitlements
SAW	Special Agricultural Worker
SCU	Support Collection Unit
SDX	State Data Exchange
SCORE	Services Corps of Retired Executives
SED	State Education Department
SEMI	TA Semi-Monthly Cash Grant Amounts
SFY	State Fiscal Year
SHEA	Supplemental Home Energy Allowance
SHELT	Shelter
SLIAG	State Legalization Impact Assistance Grants
SNAP	Supplemental Nutrition Assistance Program
SNAPSB	Supplemental Nutrition Assistance Program Source Book
SNA	Safety Net Assistance
SOLQ	State On-Line Query
SSA	Social Security Administration
SSDB	Social Security Disability Benefits
SSI	Supplemental Security Income
SSL	Social Services Law
SSN	Social Security Number
SSPNA	State Supplemental Personal Needs Allowance
SUA	Standard Utility Allowance
SUR	Surplus
TA	Temporary Assistance
TANF	Temporary Assistance for Needy Families
TASA	Teenage Services Act
TASB	Temporary Assistance Source Book
TEAP	Training and Employment Assistance Program
TPHI	Third Party Health Insurance
TPR	Third Party Resource
TRO	Temporary Restraining Order
UIB	Unemployment Insurance Benefits
USCIS	United States Citizenship and Immigration Services
USDA	United States Department of Agriculture
VA	Veterans' Administration
VISTA	Volunteers In Service To America
WIC	Women, Infants and Children
WMS	Welfare Management System
WRM	Worker's Reference Manual
WSP	Work Supplementation Program
WTW	Welfare to Work
YIP	Youth Internship Program
YOP	Youth Opportunity Program
YWS	Youth Work Skills Program

CHAPTER 2: OVERVIEW OF TEMPORARY ASSISTANCE PROGRAMS

A. INTRODUCTION

According to Article XVII(1)(a) of the New York State Constitution:

" . . . The aid, care and support of the needy are public concerns and shall be provided by the State and by such of its subdivisions and in such manner and by such means, as the Legislature may from time to time determine. . . "

The Legislature enacts the Social Services Law, and the Office, through the Codes, Rules and Regulations administers the basic temporary assistance and emergency support programs for the State. These programs are Family Assistance, Safety Net Assistance, Emergency Assistance to Needy Families with Children, Emergency Assistance for Adults, including the Interim Assistance Program and certain parts of the Supplemental Security Income Program.

B. FAMILY ASSISTANCE

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), provides the block grant funding to states for "Temporary Assistance to Needy Families" (TANF). This federal law requires states to operate a temporary assistance program to "provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.". Family Assistance is reimbursed entirely from the federal TANF Block Grant (100% federal funds). The program provides continuing assistance to needy families with children under the age 18, or under the age 19 and regularly attending a secondary school or the equivalent level of vocational or technical training, who meet the following criteria:

1. The child is living with caretaker relatives as set forth in Section 369.1(b) of Office Regulations,
2. The family meets the categorical eligibility requirements as set forth in Part 369.2 of Office Regulations,
3. The family meets the financial eligibility requirements as set forth in Part 352 of Office Regulations.

The FA allowance consists of a basic grant allowance, a home energy allowance, a supplemental home energy allowance, a shelter allowance and a fuel allowance, if heat is not included in the rent. Each allowance category has a maximum and varies according to family size. Additional allowances may be provided if certain special needs are to be met. FA parents are required to seek employment. For the employed FA parent, there are income disregards applied in calculating eligibility and the amount of assistance.

FA heads of household and their spouses are subject to a sixty month limit on the receipt of TANF-funded assistance. Once a family has reached their sixty month limit on TANF-funded assistance, they can no longer receive assistance in the FA category, unless they are granted an exemption to the time limit. They may receive assistance in the Safety Net Assistance program, if otherwise eligible. TANF-funded assistance received as a minor child does not count toward the time limit, unless received as a minor head of household or a minor spouse of the head of household.

LEGAL BASIS - Responsibility for establishing standards of need and eligibility; therefore, and providing adequate assistance and care to indigent persons is specifically provided for in relation to the several distinct assistance programs - FA and SNA. Eligibility requirements mandate application of the means test and utilization of resources in accordance with the Social Services Law and the Regulations of the Office.

C. EMERGENCY ASSISTANCE TO FAMILIES (EAF)

Emergency Assistance to Needy Families with Children (EAF) was originally established by Congress in 1967 under Title IV-A of the Social Security Act. Today, EAF is an emergency assistance program administered at New York's option and is reimbursed entirely from the federal TANF Block Grant (100% federal funds). Emergency assistance means all aid, care and services granted to families with children, including migrant families, to deal with crisis situations threatening the family and to meet urgent needs that were sudden, could not have been foreseen, and were beyond the individual's control.

1. The EAF program is intended to meet the temporary emergency needs of pregnant women and families with children under 18, or under the age of 19 and regularly attend full time secondary school or the equivalent level of vocational or technical training who meet the following criteria:
 - a. The children are living with an eligible relative.
 - b. The children, parents or other eligible relatives are without resources immediately available to meet the need and the households available income on the date of application is at or below 200% of the federal poverty level for that household size or the household is financially eligible to receive temporary assistance.
 - c. The emergency must be the result of a sudden occurrence or situation, unforeseen and beyond the applicant's control.
 - d. The assistance is necessary to avoid destitution of the children or to provide living arrangements for them in a home.
 - e. Such destitution did not arise because an employable member of the family refused, without good cause, to accept employment or training for employment.
 - f. Such destitution did not arise from the mismanagement of a temporary assistance grant, or the emergency grant being applied for will not replace or duplicate a temporary assistance grant already made. This does not prohibit the issuing of emergency assistance to replace a lost or stolen temporary assistance grant.
2. Kinds of assistance provided to meet emergency situations:

Cash grants, vendor payments and supplies necessary to meet the identified emergent need.
3. Kinds of service provided to meet the emergency situation:

Information referral, counseling, securing family shelter and any other services which meet needs attributable to the emergency situation.

LEGAL BASIS - The EAF program is administered in conformance with Social Services Law Section 350-j and Office Regulation Section 372.

D. SAFETY NET ASSISTANCE (SNA)

Safety Net Assistance is the New York State category of temporary assistance provided to needy individuals who are not eligible for Family Assistance (FA). Safety Net Assistance is funded with 29% state funds and 71% local funds. Safety Net Assistance may be provided only when the standard of need may not be met by FA, EAF, SSI, EAA, support from legally responsible relatives, or other sources. Emergency Safety Net Assistance (ESNA) is also provided under the Safety Net Assistance program.

Safety Net Assistance eligibility requirements are set forth in Part 370 of Office Regulations. Financial eligibility requirements are set forth in Part 352 and 370 of Office Regulations. The Safety Net Assistance allowance consists of a basic grant, a shelter allowance, a home energy allowance (HEA), a supplemental home energy allowance (SHEA), and a fuel allowance if heat is not included in rent. Each allowance category has a maximum and varies according to family size. Additional allowances may be provided if certain special needs are to be met.

Safety Net Assistance is comprised of a cash and non-cash component. An individual or family may only receive cash SNA (case type 16) assistance for a lifetime limit of 24 months. After an individual has received cash SNA for 24 months, they may be categorized as non-cash SNA (case type 17), if otherwise eligible. There is no time limit on how long an individual may receive non-cash SNA. Persons who are exempt from work requirements or are HIV positive, and are not determined unable to work due to the abuse of drugs/alcohol, are exempt from the twenty-four month lifetime limit on cash Safety Net Assistance (case type 16).

Under the non-cash Safety Net Assistance component, the shelter allowance and utilities (including heat) must be restricted. The recipient may receive the remaining grant as cash. There is a federally funded non-cash Safety Net Assistance component (case type 12). This case type is reserved for those Family Assistance cases which are required to receive non-cash assistance because of drug/alcohol abuse. These cases are required to have their shelter allowance and utilities (including heat) restricted. The recipient may receive the remaining grant as cash. This category of SNA is funded from the federal TANF block grant (100% federal funds).

LEGAL BASIS - Responsibility for establishing standards of need and eligibility; therefore, and providing adequate assistance and care to indigent persons is specifically provided for in relation to the several distinct assistance programs - FA and SNA. Eligibility requirements mandate application of the means tests and utilization of resources in accordance with the Social Services Law and the Regulations of the Office.

E. SUPPLEMENTAL SECURITY INCOME (SSI)

The Supplemental Security Income (SSI) program was established by Congress in 1974 under Title XVI of the Social Security Act. The Social Security Administration (SSA) administers the program which provides a federal flat grant to individuals and couples who are aged, blind and disabled. The flat grant is different for individuals and for couples and also varies according to living arrangement.

The federal benefit increases at a rate equal to yearly increases in the Consumer Price Index. In New York State, the federal flat grant is supplemented by State funds which are also administered under contract by SSA. There are no local funds in the SSI benefit. If the standard of need is not met by the SSI benefit and other resources, Safety Net Assistance may be provided to meet any remaining deficit.

F. EMERGENCY ASSISTANCE FOR ADULTS (EAA)

Emergency Assistance for Adults (EAA) is authorized by Section 300 et. seq. of the State Social Services Law. EAA was created to assist SSI recipients with emergency needs which cannot be met by the basic SSI monthly benefit. Expenditures for EAA are shared equally between the State and local districts.

EAA provides assistance under a range of circumstances, including but not limited to:

1. Catastrophic loss of clothing, furniture, food, fuel and shelter,
2. Stolen or mismanaged cash,
3. Moving expenses,
4. Maintenance of home while person is temporarily hospitalized,
5. Threatened eviction or utility shut-off,
6. Lost, stolen or unreceived SSI check.

LEGAL BASIS - The EAA program is administered in conformance with Social Services Law Sections 300 - 309 and Department Regulations Section 397.

REFERENCES

[97 ADM-20](#)

[97 ADM-21](#)

[Errata 1](#)

[Errata 2](#)

[Errata 3](#)

SSL 157 & 158

352

372 (a)(4)

CHAPTER 3: APPLICATION PROCESSING

A. DEFINITIONS

APPLICANT: An applicant is a person who has expressed in writing, directly or by a representative, on the state-prescribed form to a social services official a desire to receive assistance and/or care or to have his eligibility considered. In FA, the relative with whom a child is living is the applicant in the child's behalf.

APPLICATION: An application is an action by which a person indicates in writing on the state-prescribed form his/her desire either to receive assistance and/or care or to have his/her eligibility considered by a social services official. Such action shall be considered an application even though the applicant subsequently withdraws the application or proves, upon investigation, to be ineligible.

B. RIGHT TO APPLY

1. **RIGHT TO APPLY** – Any person has the right to make application for that form of temporary assistance or care which he believes will meet his needs and file the application with the social services district at any time including the same day. The request may be made by:
 - a. The applicant himself,
 - b. Any adult member of his family,
 - c. An authorized representative acting in the applicant's behalf, including relative, friend or other agency or institution if:
 - (1) The applicant establishes a good reason such as, a physical or mental condition, or other extenuating circumstance beyond the control of the applicant exists which prevents the applicant from being reasonably expected to comply with applying for TA on his/her own behalf,
 - (2) The applicant must designate in writing the person who will act on their behalf including proving information to the local district to determine the applicant's initial and continued eligibility for TA.
 - (3) The designation of an authorized representative does not relieve the applicant of the obligation to:
 - Cooperate with all aspects of initial and continued eligibility determination for TA such as cooperation with child support.
 - To provide timely and accurate information to the local district
2. **ACCESS FOR NON-CITIZENS**
 - a. A household's right to apply and be interviewed for temporary assistance must not be denied, limited or discouraged because of the national origin or citizenship status of a person or persons who reside in that household.
 - b. Title VI of the Civil Rights Act of 1964, and its implementing regulation, prohibit entities receiving federal funds, such as states or counties, from discriminating against any person on the basis of that person's race, color or national origin.
 - c. Title VI covers both intentional acts and facially neutral policies and actions that have an adverse impact based on race, color or national origin.
 - d. Households with members born in another country who may not be citizens must be permitted to provide documentation of citizenship or alien status. Receptionists and screeners must be directed not to prevent or discourage such households from filing applications.

- e. Eligibility workers must be sufficiently trained regarding what documentation must be provided by non-citizens, how to advise the non-citizen about obtaining such documentation, and how to make a correct assessment of alien documentation.
- f. In addition to following procedures that ensure foreign-born applicants the right to prove citizenship or eligible alien status, workers must ensure that the eligibility of household members who are citizens is determined even if there are ineligible aliens in the household. This situation occurs frequently when an ineligible alien parent has a child who is a citizen.

C. DATE OF APPLICATION

All applications shall be processed promptly. The date of application shall be the date of receipt by the social services official of a signed, completed application on the State prescribed form. While documentation is required for the determination of eligibility, it shall not be a prerequisite to filing an application.

D. APPLICANT INTERVIEW

1. **REQUIRED ELIGIBILITY INTERVIEW** - A personal interview with the applicant or a designated representative is required in all cases to establish eligibility for TA. Ordinarily, interviews shall be scheduled within seven working days except **when there is indication of emergency need**, in which case the interview shall be held at once.
2. **RESPONSIBILITY OF THE LOCAL DISTRICT** - At the time of the application interview, the local district shall inform the applicant of:
 - a. The eligibility requirements of the program under which they are applying for assistance or care,
 - b. Their responsibility for reporting all facts material to a proper determination of eligibility,
 - c. The joint responsibility of the local district and the applicant for exploring all facts concerning eligibility, needs and resources, and the applicant's responsibility for securing, wherever possible, records or documents to support his statements,
 - d. The kinds of verification needed,
 - e. The fact that any investigation essential to the determination of eligibility will be undertaken,
 - f. Their responsibility for immediately notifying the local districts of all changes in circumstances,
 - g. The availability of assistance and/or service under some other program, either public or private, if the applicant appears eligible,
 - h. Information about the importance of age appropriate immunizations to clients with children age 5 or less.

Note: The information listed in paragraphs a through h (above) is contained in:

[DSS-4148A "What You Should Know About Your Rights and Responsibilities"](#),
[DSS-4148B "What You Should Know About Social Services Programs"](#), and
[DSS-4148C "What You Should Know If You Have An Emergency"](#)

- i. The opportunity to apply to register to vote upon initial application for benefits and at recertification. No judgment is to be made concerning an applicant's qualifications to register to vote, although local districts may point out the "Qualifications for Registration" listed on the "NYS Agency-Based Voter Registration Form". The final determination on registering an individual to vote and responsibility for adding their name to the Voter Registration List rests with the County and/or City Board of Elections. The client will receive a written verification from the board of elections:

- (1) Applying to register to vote is not an eligibility requirement and there can be no negative effect on applicants or recipients who refuse to apply or who refuse to sign a declination.
- (2) Homeless applicants and recipients are included in the State and Federal legislation. Homeless persons can apply to register to vote if they can indicate where they live. They must provide an address where they can receive mail. This includes any and all non-traditional dwellings and habitations.
- (3) In any case in which a representative applies for an applicant, no judgment is to be made concerning that applicant's qualifications to register to vote. It will be up to the representative of the applicant to decide if the voter registration form should be completed by him (the representative) or the applicant being represented and this decision should be noted in the case record just as is the case with an applicant applying personally.
- (4) The same level of assistance must be provided for completing the voter registration application as is given in completing LDSS forms. The applicant who must be given the opportunity to apply to register to vote is the adult in the case who actually applies for assistance.
- (5) Others in the household should be offered a registration application to the extent that such an offer is not disruptive of the application process and if the forms are requested. Mail-in voter registration applications will be available for such other household members.
- (6) Assign a site coordinator for each local district site at which applications for temporary assistance benefits are taken.
- (7) The law requires that all applications to register to vote be forwarded to the appropriate County or City Board of Elections within 10 days of receipt. The law also requires that forms received by the local district between the 30th and 25th day prior to an election be transmitted so they are received by the County Board by the 20th day before an election.
- (8) Obtain a signed declination at the time of application and at each recertification when an applicant/client does not wish to apply to register to vote. These signed declination forms must be retained by the local district for 22 months. Since local districts may be required to retrieve the forms for a specific period, declinations should be kept in chronological order rather than in case files. This will also assist in the purging of files.
- (9) If the client does not sign the declination form, that fact should be noted and tallied for the Agency Based Registration Transmittal Form (Attachment II of [95 ADM-1](#)). There are no requirements that copies or records of affirmative responses be retained.
- (10) Be aware of the following prohibitions:

- (a) No statement shall be made nor any action taken to discourage a local district applicant from applying to register to vote;
- (b) Local districts must not seek to influence an applicant's political preference or party designation;
- (c) Local districts must not display any political preference or party allegiance; and,
- (d) No statement shall be made or action taken to lead a local district applicant to believe that a decision to apply to register or not to apply to register has any bearing on the availability of local district services or benefits.

3. CLIENT RIGHTS

- a. Any investigation or reinvestigation of eligibility shall be conducted in a manner that will not result in practices that violate an applicant's or recipient's constitutional rights.
- b. An applicant or recipient shall be permitted to appear with an attorney or other representative at any interview or conference with a representative of the local district, whenever such interview relates to questions of eligibility for TA and care, or the amount to which the person interviewed is or was entitled.

E. REQUIRED USE OF STATE-PRESCRIBED APPLICATION FORMS

The state-prescribed form must be completed:

1. For each individual adult case and for each family case by category,
2. When a child is transferred from foster care to SNA or FA, unless the SNA or FA grantee is already in receipt of assistance in the program under which the child's needs are to be met,
3. When there is a permanent change in grantee in an FA case,
4. When the assistance or care is to be provided by a different district,
5. In the event of a reapplication more than 30 days following a case closing.

Note: Local districts have the option of activating a case that has been closed less than 30 days, without requiring a new application. ("All Commissioner" Letter - 12/24/82)

6. For a new FA-foster care case, in the event responsibility for care and placement of a child in foster care shall have been explicitly imposed on the social services official by a court order.

F. WHEN STATE-PRESCRIBED APPLICATION IS NOT REQUIRED

The state-prescribed form is not required to be completed under the following circumstances:

1. For a person continuously in receipt of some form of assistance or care from the same district, the application form completed at the time of original application will suffice,
2. Transfers or reclassifications except when the use of the prescribed form is required, need not be confirmed by completion of a new state-prescribed form, and
3. When a case has been denied, reapplication within 30 days does not require a new state-prescribed form.

G. REQUIRED APPLICATION SIGNATURES

Signatures on the state-prescribed form are required as follows:

1. In family applications, both spouses shall sign. In situations where a parent in the family is not married to the other parent, both parents, if they are to be included in the grant, shall sign the application form.
2. Where the case involves a single parent family, the head of the household shall sign.
3. Where the case involves a single individual, such individual shall sign.
4. In any case where the applicant whose signature is required is incapable of signing the application because of physical incapacities or mental incompetency, the application shall be signed on behalf of such person by his authorized representative.

H. ELIGIBILITY DOCUMENTS FOR TA-MA-SNAP

Local districts are required to use the eligibility documents listed below:

1. [Statewide Common Application \(LDSS-2921\)](#) TA, MA, SNAP, Services
2. [How to Complete Application \(Pub. 1301\)](#) TA,MA, SNAP, Services
3. [Recertification Application \(LDSS-3174\)](#) TA, MA, SNAP
4. [How to Complete Recertification \(Pub. 1313\)](#) TA, MA, SNAP
5. [Mail-in Recertification/Eligibility Questionnaire \(LDSS 4887\)](#)

WMS INSTRUCTIONS:

An Application Turnaround Document (APP-TAD) LDSS-3636 will automatically be generated for each non- services application at the time of Application Registry reflecting data input from the client completed Application. Additionally, data entered at Application Registry will automatically be "carried over" to the full data entry screens.

The APP-TAD is used for Application Maintenance transactions as well as full data entry for non-services case processing. Application Withdrawals and Application Denials will continue to be performed via the Common Application.

The APP-TAD is unique in that only fields generated from application information are shaded and it is printed in blue to distinguish it from the authorization document.

I. NON-PARENT CAREGIVER CASES

A non-parent caregiver is a non-legally responsible relative or non-relative caregiver caring for a child(ren) for whom they are applying for or receiving TA.

1. Non-parent caregivers who seek TA do not need to have court-ordered custody or informal custody of the child(ren) in their care, nor do they need to pursue guardianship to be eligible for a TA grant for the child(ren).
2. Non-parent caregivers are not mandated to employment activities. Drug/Alcohol screenings are also not mandated for these caregivers, however, if a D/A problem is apparent, workers may offer the services of a CASAC who could provide treatment options. If the non-parent caregiver refuses the services of a CASAC, no action can be taken against the child(ren)'s TA eligibility, but a referral should be made to children's services to evaluate the child's living situation.
3. The current policy ([99 ADM-5](#)) for cooperation with child support would apply to the non-parent caregiver as it does for a parent when applying for TA on behalf of a child in their care. That is, they would need to cooperate with Child Support Enforcement in establishing paternity or establishing, modifying or enforcing child support obligations from both parents. However non-parent caregivers can only be expected to cooperate to the extent that they can. They may attest to no knowledge or claim good cause or a domestic violence (DV) waiver from cooperation where there are safety concerns. Additionally, the child support program may also provide services without the involvement of the non-parent caregiver in certain circumstances.

If the non-parent caregiver fails to cooperate with Child Support requirements and a DV waiver or good cause claim is not approved, a IVD sanction must be imposed ([01 INF-12](#)) which results in a 25% reduction in the needs of the child(ren).

4. Federal Reporting requirements mandate that relative non-parent caregivers provide their income and resources as a condition of eligibility for the child(ren). However, they are not required to verify their income and resources. If the relative non-parent caregiver refuses to provide information on their income and resources the application must be denied. Relative non-parent caregivers do not have to provide their SSN, date of birth, citizenship/alien status, education level or veterans status. [01 ADM-04](#) provides clarification on federal reporting requirement mandates and also instructions for WMS and ABEL entries. The need to provide information on income and resources does not apply if the non-parent caregiver is a non-relative.
5. In order to correctly determine case type, proof of relationship is required. [00 INF-6](#) addresses the documentation that is acceptable to establish relationship for non-parent caregiver cases.
6. When the non-parent caregiver is not related to the child(ren), the case must be a Safety Net Assistance case. Normally Safety Net Assistance applicants have a 45-day waiting period. However it is reasonable for districts to view preventing the need for foster care as an emergency need and make payments within the 45-day period.

7. Districts should explore the need for child care with the non-parent caregiver and if needed, make the appropriate referral for child care services. If a non-parent caregiver paid someone to care for a child or dependent so they could work, they may be able to reduce their tax by claiming the credit for child and dependent care expenses on their federal income tax return. This credit is available to people who, in order to work or to look for work, have to pay for child care services for dependents under age 13.
8. The Earned Income Tax Credit (EITC) is available to families with children, single individuals and childless families who have earned income. Non-parent caregivers should be referred to a VITA site if one is available.
9. Eligibility for TA is based solely on the child(ren)'s income and resources. Non-parent caregiver cases can be budgeted either as a regular grant or as a room and board allowance, depending upon whether the non-parent caregiver charges the child(ren) room and board or rent. With the new shelter schedules that were effective November 1, 2003, the regular grant in most counties will provide more money for the child (ren) than a room and board rate with the personal needs allowance. If the non-parent caregiver is charging rent, a fuel allowance must also be provided if the non-parent caregiver provides documentation that they or their spouse (living in the household or was living in the household but now is deceased) are the tenant and customer of record for their residence. ([91 ADM-3](#))
10. Camp fees can be utilized to provide respite for non-parent caregivers. When funds cannot be obtained from another source, camp fees can be paid for children who are in receipt of federally funded FA and SNA-FP. The amount that may be authorized is established at \$400.00 per year, not to exceed \$200.00 per week ([GIS 02 TA/DC 010](#) dated 4/10/02).

Local districts have the option to request a waiver from the Center for Employment and Economic Supports (CEES) that would allow one face-to-face TA recertification every 24 months for non-parent caregiver cases. This waiver would require a recertification mailer to be sent in the 11th month of the certification period to be returned and processed in the 12th month. Also, districts will not be able to assign a 24 month TA certification period on WMS as Medicaid requires that certification periods be limited to 12 months in these specific circumstances. Rather, districts will need to assign a new 12 month TA certification period waiver following the return and processing of the mail-in recertification. Districts can submit their waiver request to:

Deputy Commissioner
Employment and Income Support Programs
40 North Pearl St., 11th Floor
Albany, NY 12243

REFERENCES

[09 ADM-24](#)

[06 ADM-10](#)

[Attachment](#)

[Attachment \(Spanish\)](#)

[04 ADM-02](#)

[Attachment – LDSS 3151 – Supplemental Nutrition Assistance Program \(SNAP\) Change Report Form](#)

[Attachment – LDSS 3151- Supplemental Nutrition Assistance Program \(SNAP\) Change Report Form \(Spanish\)](#)

[Attachment – “Important Information About New Supplemental Nutrition Assistance Program \(SNAP\) Reporting Rules”](#)

[Attachment – “Important Information About New Supplemental Nutrition Assistance Program \(SNAP\) Reporting Rules” \(Spanish\)](#)

[Attachment – Blank Date/Manual Notification of “Imp Info About New FS Reporting Rules”](#)

[Attachment – Blank Date/Manual Notification of “Imp Info About New FS Reporting Rules” \(Spanish\)](#)

[01 ADM-17](#)

[Attachment – Call-in Letter](#)

[01 ADM-03](#)

[Attachment- Errata](#)

[98 ADM-9](#)

[97 ADM-6](#)

[95 ADM-1](#)

[90 ADM-41](#)

[85 ADM-38](#)

[10 INF-22](#)

[05 INF 24](#)

[02 INF-20](#)

[Attachment-LDSS-2921 Statewide \(Rev. 5/02\)](#)

[Attachment Pub. 1301 Statewide \(Rev. 5/02\)](#)

[01 INF-9](#)

[95 INF-8](#)

[92 INF-49](#)

[92 INF-7](#)

[91 INF-60](#)

[351.21](#)

[351.1](#)

[350.7](#)

[350.4](#)

[350.3](#)

[350.1](#)

Related Items

[86 ADM-07](#)

[90 INF-65](#)

Non-Parent Caregiver Cases

351.1(b)(2)
351.2a
352.5
352.29(e)
352.31(d)(e)(f)
352.7(i)
370.3
372
385
[GIS 01TA/DC 043](#)

CHAPTER 4: RECIPIENT/APPLICANT RIGHTS

A. INQUIRIES AND COMPLAINTS: DEFINITIONS

1. Inquiry - An inquiry is any request for information that does not constitute an application for TA or care and that does not come within the definition of a complaint as defined below.
2. Complaint - A complaint is any written or oral communication made to a local district or the Office by or on behalf of an applicant for or recipient of TA or care, other than a complaint for which there is a right to a fair hearing, or a communication from any other source directed or referred to the local district or the Office alleging directly or indirectly dissatisfaction with:
 - a. The action or failure to act in a particular case,
 - b. The manner in which a local district generally handles its cases,
 - c. The local district's facilities and services or the manner in which it generally conducts its business,
 - d. Other facilities or services (public or private) employed by a local district for providing care and services for its clients, and
 - e. Any other aspect of social services administration not mentioned above.

B. INQUIRIES AND COMPLAINTS: HANDLING

1. Handling of Inquiries

- a. Every inquiry received by a local district or the Office shall be answered promptly. If the information requested is not available, the inquiry shall be acknowledged and referred to the appropriate source for reply. Whenever appropriate, informational pamphlets shall be utilized.
- b. Local districts are prohibited from discriminating against anyone making the inquiry based on race, color, religion, national origin, age, sex, handicap (physical or mental impairment) or marital status.
- c. Local districts are required to provide information in a manner that is accessible to visually impaired or blind and hearing impaired or deaf applicants and recipients.
- d. Local districts are required to promptly give a copy of the appropriate information pamphlet to each person who inquires or applies. An example of an informational pamphlet that must be provided is: [LDSS 4148A "What You Should Know About Your Rights and Responsibilities"](#).
- e. Requests from other agencies, within or outside of the State, for information requiring field investigation shall receive an immediate acknowledgement followed by a reasonably timed report of findings.

2. Handling of complaints

- a. Every complaint received shall be promptly acknowledged. If received by mail, acknowledgement may be by either letter, e-mail, or a home visit by a staff member. In acknowledging a complaint, the writer shall be informed that the letter or interview is in response to the communication.
- b. The substance of the complaint shall be reviewed and analyzed in relation to the case history or other office records in order to relate the local district's knowledge of the past situation to the present problem as the complainant sees it and to determine the validity of the complaint.
- c. The social services district shall be responsible for reviewing its own activity and for making such additional investigation as may be necessary in order to determine what action is required.
- d. When a complaint has been referred by another agency and a report requested, the local district shall render such report with due regard to the confidential nature of social services records.
- e. When a complaint has been referred by the Office to a local district, a report shall be submitted within 20 days of the date of such request and shall cover fully all matters pertaining to the complaint. If the time limit cannot be met, an interim report shall be sent. The final report shall include all of the following:

- (1) A statement that the complainant was informed that the contact resulted from the complaint.
 - (2) Facts in possession of the local district and any additional information requested by the Office or essential to its understanding of the case.
 - (3) Any action taken by the local district and whether the complainant is satisfied with the explanation provided them.
3. Handling of Federal Americans with Disabilities Act (ADA) Complaints
 - a. A complaint is complete for purposes of the federal ADA if it contains a written statement that must include all of the following:
 - (1) The complainant's name
 - (2) Complainant's address
 - (3) Describes the district's alleged discriminatory actions in sufficient detail to inform the Office of the nature and date of the alleged violations of Title II of the ADA.
 - (4) Signed by the complainant or by someone authorized to do so on his or her behalf.
 - b. Districts must comply with the requirements of 18 NYCRR Part 356 Outlining a district's responsibility to respond to complaints by or on behalf of an applicant for or recipient of TA. This requirement does not include complaints arising from issues where there is a scheduled fair hearing.
 - c. Local Districts must investigate complaints of discrimination or improper case administration.
 - d. Local Districts should make reasonable efforts to inform applicants/recipients with a disability of such complaint procedures.
 - e. Local Districts also are responsible for ensuring that staff understands such agency procedures.
 - f. Local districts must post procedures for filing discrimination complaints in a conspicuous manner and must list those agencies or persons that will handle complaints, e.g., local commissioner, New York State Division of Human Rights.
 - g. When the Office refers a complaint to a local district, the district must submit a report to the Office within 20 days of the date of such referral and shall cover fully all matters pertaining to the complaint, as required by 18 NYCRR Part 356.3(3). If the time limit cannot be met, an interim report should be sent. The Office may provide feedback to the district concerning any matters covered in the report pertaining to the complaint, and may undertake further review of the complaint, in consultation with the district, if determined necessary.

- h. Regarding complaints of denial of access by persons with disabilities, districts must publish their procedures that provide for prompt and equitable resolution at the local level of complaints alleging any violation of Title II of the ADA.
- i. For disability-related complaints concerning the Office's programs, district must submit a copy of such complaints, and the district's determination thereon, to the Office's Bureau of Equal Opportunity Development (BEOD), 40 North Pearl Street-16 D, Albany, New York 12243; telephone (518) 473-8555.
- j. Complainants are not required to exhaust the district's internal complaint procedures before filing a complaint with a federal agency.
- k. Districts must document and record investigations of discrimination complaints and their findings. Where such complaints are founded, districts must take appropriate remedial action both to resolve the complaint and to retrain staff regarding their responsibilities.
- l. Districts must take appropriate corrective actions when staff discriminates against applicants/recipients of TA.
- m. Complaints that are not ADA Related is any written or oral communication made to a social services district or this Office by or on behalf of an applicant for or a recipient of public assistance or care, other than a complaint for which there is a right to a fair hearing, or a communication from any other source directed or referred to the social services district of this Office alleging, directly or indirectly, dissatisfaction with the following:
 - (1) The action or failure to act in a particular case,
 - (2) The manner in which a social services district generally handles its cases,
 - (3) The social services districts' facilities and services, or the manner in which it generally conducts its business, or
 - (4) Other facilities or services (public or private) employed by a social services district for providing care and services for its clients.

C. FAIR HEARING DEFINITIONS

- **AID CONTINUING** - Aid continuing means the right to have TA continued unchanged until the fair hearing decision is issued.
- **APPELLANT** - Appellant means the party for whom the fair hearing is requested.
- **APPLICANT** - Applicant means a person who has applied for TA.
- **COMMISSIONER** - Commissioner means the Commissioner of New York State Office of Temporary and Disability Assistance or the Commissioner's designee.
- **OFFICE** - Office of Temporary and Disability Assistance
- **DEPARTMENT** - Department means the New York State Department of Family Assistance.
- **FAIR HEARING** - Fair Hearing means a formal procedure provided by the Office upon a request made for an applicant or recipient to determine whether an action taken or failure to act by a local district was correct.
- **HEARING OFFICER** - Hearing Officer means an attorney who is employed by the Office and designated and authorized by the Commissioner to preside at hearings.
- **LOCAL DISTRICT** - Local district means the county Department of Social Services or the New York City Human Resources Administration (HRA).
- **PARTIES TO A FAIR HEARING** - Parties to a fair hearing means the person for whom a fair hearing is requested and the local district or agencies whose decision, action or failure to act is subject to review at the fair hearing.
- **TEMPORARY ASSISTANCE** - TA includes Family Assistance (FA), Safety Net Assistance (SNA), Emergency Assistance to Families (EAF), Emergency Safety Net Assistance (ESNA) and Emergency Assistance for Adults (EAA), including special grants and benefits.
- **RECIPIENT** - Recipient means a person who is, or has been, receiving TA. Recipient includes a former recipient seeking to review a determination of a local district and who would have a right to a hearing, if such person were a current recipient.
- **RESTRICTED PAYMENT** - Restricted payment means one of the methods of payment described in.
- [TASB Chapter 20, Section C](#) including restricted money payment, indirect or vendor payment and protective payment.

- **WITNESS** - Witness means a person, other than the applicant, recipient, or the representative thereof, who presents testimony and/or documentary evidence at a fair hearing.
- **RESIDENT OF A TIER II FACILITY** - Resident of a tier II facility means an individual, family or family member residing in a tier II facility as defined in Office Regulation 900 and [TASB Chapter 27, Section E](#).

D. RIGHT TO A FAIR HEARING

1. **REASONABLE PROMPTNESS** - An applicant or recipient has the right to challenge certain determinations or actions of a local district or a local district's failure to act with reasonable promptness or within the time periods required by requesting that the Office provide a fair hearing. The right to request a fair hearing cannot be limited or interfered with in any way.
2. **FAIR HEARING ISSUES** - An applicant or a recipient of TA has a right to a fair hearing in the following situations:
 - a. An application has been denied by the local district or the applicant has agreed in writing that the application should be withdrawn but the applicant feels that he/she was given incorrect or incomplete information about their eligibility.
 - b. A local district has failed to:
 - (1) Determine eligibility for TA with reasonable promptness or within the time periods required,
 - (2) Issue or adjust the cash grant, or
 - (3) TA has been discontinued, suspended, reduces or increased.
 - c. The method or manner or form of payment of all or part of the TA grant has been changed, a restricted payment is being made or is being continued.
 - d. There is an objection to the payee selected for a restricted payment.
 - e. The TA or HEAP is inadequate.
 - f. Although there has been no change in the amount of the TA grant, the applicant/recipient wishes to challenge the local district's determination that the amount of one of the items used in the calculation of the TA grant has changed.
 - g. There is an objection to a local district determination that the applicant or recipient is employable or to the extent of employability.
 - h. There is an objection to the amount deducted from the initial payment of SSI as reimbursement of TA.
 - i. As a relative or friend of a deceased person, he/she pays for the burial arrangements of such deceased person and the claim for reimbursement is denied by the local district.
 - j. There is a disagreement with the amount of a claim for the overpayment of TA, except if the amount of such claim has already been decided by a fair hearing.

- k. While participating in a work-related program or activity or under a program authorized by section 1115 of the Social Security Act and there is a complaint regarding on-the-job working conditions or workers' compensation coverage or a complaint regarding wage rates used in calculating the hours of participation in the Community Work Experience Program (CWEP).
3. **ISSUES WITHOUT FAIR HEARING RIGHTS** - An applicant or recipient does not have the right to a fair hearing in the following situations:
- a. There is a complaint about the amount of any lien taken by a local district.
 - b. A local district has demanded restitution in accordance with the provisions of section 104 or 106-b of the Social Services Law, of TA paid, other than by a reduction of the TA grant.
 - c. There is a complaint about the amount of a child support payment which is passed-through.
 - d. As a member of a class of TA recipients for whom either State or federal law requires an automatic grant adjustment, unless the reason for the appeal is the incorrect computation of the TA grant.
4. **RESIDENTS OF TIER II FACILITIES** - Residents of tier II facilities have a right to a fair hearing if they have been involuntarily discharged from a tier II facility after having requested and participated in a hearing, held by the facility or by the local district in which the facility is located, to determine whether they should be involuntarily discharged. If the resident does not request and participate in such a hearing, they do not have a right to a fair hearing.

E. PRIORITY HEARINGS

1. Priority in scheduling a hearing and determination will be provided when:
 - a. An applicant has been denied EAF, EAA or ESNA and the applicant is appealing the denial of such benefits
 - b. An applicant's/recipients circumstances warrant priority in scheduling and the hearing is being scheduled because of:
 - (1) No food
 - (2) No shelter, or shelter is imminently about to be lost or terminated
 - (3) An inadequate or inappropriate emergency shelter placement
 - (4) An eviction/dispossess notice
 - (5) No fuel for heat during the cold weather period
 - (6) A utility disconnect scheduled for a specific date
 - (7) A utility shut-off
 - (8) A need for rental security deposit, broker's fee and/or first month's rent, if necessary to obtain permanent housing, and failure to expedite processing will lead to loss of such housing.
 - (9) Any other problem which is determined, in the Office's discretion, to be an appropriate subject for priority processing and which presents a crisis situation or a threat to the applicant's/recipient's health and safety or that of his/her family.
 - (10) Having been involuntarily discharged from a tier II facility as defined in [TASB Chapter 17, Section D](#) and having requested and participated in a hearing, held by the facility or by the local district in which the facility is located, to determine whether the involuntary discharge was correct.

F. APPELLANT RIGHTS

1. Appellants have the right to:
 - a. The continuation or reinstatement of TA until the issuance of a decision in their fair hearing, to the extent authorized by [this Chapter, Section H](#).
 - b. Recipients have the right to request that their TA not be continued or reinstated until the fair hearing decision is issued.
 - c. Examine the case record and to receive copies of documents in the case record which are needed to prepare for the fair hearing, to the extent authorized by and within the time periods set forth in [this Chapter, Section I](#).
 - d. Examine and receive copies of all documents and records which will be submitted into evidence at the fair hearing by the local district, to the extent authorized by and within the time periods set forth in [this Chapter, Section I](#).
 - e. The rescheduling (adjournment) of the hearing, to the extent authorized by [this Chapter, Section L](#).
 - f. Be represented by an attorney or other representative at any conference and hearing, or to represent themselves.
 - g. Have an interpreter at any fair hearing, at no charge if the applicant/recipient does not speak English or if they are deaf. Applicants/Recipients should advise the Office prior to the date of the fair hearing if they will need an interpreter.
 - h. Appear and participate at the conference and fair hearing, to explain their situation, to offer documents, to ask questions of witnesses, to offer evidence in opposition to the evidence presented by the local district and to examine any documents offered by the local district.
 - i. Bring witnesses to present written and oral evidence at any conference or fair hearing.
 - j. Make a request to the local district to receive necessary transportation or transportation expenses to and from the fair hearing for the applicant/recipient and their representatives and witnesses and to receive payment for their necessary child care costs and for any other necessary costs and expenditures related to their fair hearing.
 - k. Have the fair hearing held at a time and place convenient to the applicant/recipient as far as practicable, taking into account circumstances such as their physical inability to travel to the regular hearing location.
 - l. Have the decision review by a court if the decision is not in the appellant's favor.

- m. Request the removal of the hearing officer in accordance with [this Chapter, Section L](#).

G. REQUESTS FOR A FAIR HEARING

1. A fair hearing may be requested in writing, by telephone, email, or in person.
2. **60 DAY LIMIT** - A request for a fair hearing to complain about any action by the local district affecting TA, must be made within 60 days after the determination, action or failure to act about which the applicant/recipient is complaining. Where the local district's action is based on a change in State or federal law requiring automatic TA grant adjustments for classes of recipients, a request for a fair hearing must be made within 60 days after the changed grant becomes available to the recipients.
3. **HOLIDAY OR WEEKEND EXTENSION** - If the last day for requesting a fair hearing falls on a weekend or holiday, a hearing request postmarked or received by the Office on the day after the weekend or holiday will be considered as timely received.
4. **TIER II FACILITY** - A request for a fair hearing to review the involuntary discharge of a resident from a tier II facility after the resident has requested and participated in a hearing, held by the facility or local district in which the facility is located, must be made no later than 30 days after the decision of the facility or local district is rendered.

H. AID CONTINUING

1. **RIGHT TO AID CONTINUING** - For TA, the right to aid continuing exists as follows:

- a. Except as provided in paragraph 2 below, where the local district is required to give timely notice before it can take any action in a case, the recipient has the right to aid continuing until the fair hearing decision is issued if the request for a fair hearing is made before the effective date of a proposed action as contained in the notice of action.
- b. If a recipient's TA has been reduced, discontinued or restricted by the local district and they have made a timely hearing request by the effective date contained in the notice, their TA must be restored by the local district as soon as possible but no later than five business days after notification from the Office that they are entitled to have their benefits continue unchanged.
- c. In cases where the action is an automatic TA grant adjustment based on a change in State or federal law, the effective date for determining the right to continued TA will be deemed to be 10 days after the date the changed grant becomes available to the recipient.
- d. If the effective date of the proposed action falls on a weekend or holiday, a hearing request postmarked or received by the Office on the day after the weekend or holiday will be considered timely.

2. **NO RIGHT TO AID CONTINUING** - There is no right to aid continuing of:

- a. TA where the Office has determined that the sole issue is one of state or federal law or policy, or change in State or federal law and not one of incorrect grant computation, or
- b. Employment related child day care and supportive services to enable clients to participate in required work activities pursuant to 18 NYCRR 385.

3. **REINSTATEMENT OF BENEFITS**

- a. Where the local district is required only to give adequate notice but not timely notice and has discontinued, reduced or restricted TA, the recipient has the right to have the TA reinstated and continued until a fair hearing decision is issued only if the request for a fair hearing is made within 10 days of the mailing of the local district's notice of the action and if the Office determines that the action on the TA did not result from the application of or change in State or federal Law or policy.
- b. If the Office determines that the recipient is entitled to have the TA reinstated and continued in accordance with this paragraph, the local district must restore the TA as soon as possible but no later than five business days after being advised by the Office of such determination.

- c. There is no right to reinstatement for supportive child day care provided to enable clients to participate in required work activities pursuant to 18 NYCRR 385.
- d. If the tenth day of the mailing of the local district's notice of the action falls on a weekend or holiday, a hearing request postmarked or received by the Office on the day after the weekend or holiday will be considered timely for the purposes of reinstatement.

4. TO CONTEST EMPLOYABILITY

- a. When an applicant for or a recipient of TA is determined employable and a hearing is requested to contest employability within 10 days of the effective date of the local district's notice of employability, any failure to comply with employment requirements within the 10 day period or thereafter until a fair hearing decision is issued will not be considered willful non-compliance regardless of the outcome of the fair hearing.
- b. If the 10th day after the effective date of the local district's notice of the action falls on a weekend or holiday, a hearing request postmarked or received by the Office on the day after the weekend or holiday will be considered to be received within 10 days of the effective date of the local district notice for purposes of paragraph 4. a. above.

5. TA NOT CONTINUED - TA will not be continued pending the issuance of a fair hearing decision when:

- a. The recipient has voluntarily waived the right to the continuation of such assistance in writing.
- b. The recipient does not appear at the fair hearing and does not have a good reason for not appearing.
- c. Prior to the issuance of the fair hearing decision, a local district proposes to take or takes an action which affects entitlement to TA, and the recipient does not make a request for a fair hearing regarding the subsequent notice.

6. RECOVERY OF AID CONTINUING - If a TA grant is continued until a fair hearing decision is issued and the recipient loses the fair hearing, the local district may recover the benefits which the recipient should not have received. This does not apply to fair hearings to review the imposition of an employment sanction.

7. TIER II FACILITY - If a resident is involuntarily discharged from a tier II facility after requesting and participating in a hearing, held by the facility or the local district in which the facility is located, and the resident requests a fair hearing to review this determination, the resident does not have the right to remain at the facility pending the outcome of the fair hearing.

I. EXAMINATION OF CASE RECORD

1. **RIGHT TO EXAMINE CASE RECORD** - At any reasonable time before the date of the fair hearing and also at the fair hearing, the applicant/recipient or their authorized representative has the right to examine the contents of their case record and all documents and records to be used by the local district at the fair hearing.
2. **EXCEPTIONS** - Except as provided in paragraph 3 below, the only exceptions to access to the case record are:
 - a. Those materials to which access is governed by separate statutes, such as records regarding child welfare, foster care, adoption or child abuse or neglect or any records maintained for the purposes of the Child Care Review Service; and,
 - b. Those materials being maintained separately from TA files for the purposes of criminal prosecution and referral to the district attorney's office. This exception applies only to records which are part of an active and ongoing investigatory action; and,
 - c. The county attorney or county welfare attorney's files.
3. **COMMISSION FOR THE VISUALLY HANDICAPPED RECORDS** - Case records secured by the Commission for the Visually Handicapped or by a local rehabilitation agency acting on behalf of such Commission will not ordinarily be made available for examination since they contain information secured from outside sources. However, particular extracts will be furnished to the applicant/recipient or his/her authorized representative when provision of such information will be beneficial. The case record, or any part thereof, admitted as evidence in a fair hearing shall be available for review by the applicant/recipient or his/her authorized representative.
4. **COPIES OF DOCUMENTS** - Upon request, the applicant/recipient has the right to be provided within a reasonable time of their request, at no charge, with copies of all documents which the local district will present at the fair hearing in support of its determination. If the request for copies of documents which the local district will present at the hearing is made less than five business days before the hearing, the local district must provide such copies within three business days of the request or at the time of the hearing, whichever is earlier.
5. **COPIES OF ADDITIONAL DOCUMENTS** - Upon request, the applicant/recipient (a/r) has the right to be provided within a reasonable time of their request, at no charge, with copies of any additional documents which they request for purposes of preparing for their fair hearing. If the a/r requests that such documents be mailed, such documents must be mailed within a reasonable time from the date of the request. If there is insufficient time for such documents to be mailed and received before the scheduled date of the hearing, such documents may be presented at the hearing instead of being mailed. If the request for copies of documents is made less than five business days before the hearing, the local district must provide such copies no later than at the time of the hearing.

J. AUTHORIZATION OF REPRESENTATIVE

1. **WRITTEN AUTHORIZATION** - Except where impracticable to execute a written authorization, an individual or organization seeking to represent the applicant/recipient, other than an attorney or an employee of an attorney, must have a written authorization to represent the applicant/recipient at any conference or fair hearing and to review the applicant/recipient's case record. An employee of an attorney will be considered an authorized representative if such employee presents written authorization from the applicant/recipient's attorney or if such attorney advises the local district by telephone of such employee's authorization.
2. **COPIES OF ALL CORRESPONDENCE** - Once a local district and the Office have been notified that a person or organization has been authorized to represent the applicant/ recipient at the fair hearing, such representative will receive copies of all correspondence to the applicant/recipient from the local district and the Office relating to the conference and fair hearing.

K. LOCAL DISTRICT RESPONSIBILITIES

1. PROPOSED ACTIONS

- a. **APPROVE, DENY, DISCONTINUE, REDUCE OR INCREASE** - A local district proposing to approve, deny, discontinue, or reduce a TA grant, or to increase a TA grant, or to change the amount of one of the items used in the calculation of a TA grant, or to discharge a resident of a tier II facility involuntarily as defined in Office Regulation 900 and [TASB Chapter 17, Section E](#), must review or cause to be reviewed the intended action to determine whether the intended action is correct on the basis of the available evidence included in the applicant's or recipient's case record.
- b. **NOTICE** - Where it is determined that the intended action is correct after review, the local district must send to the applicant/recipient a notice which meets the requirements of [TASB Chapter 8, Section B](#).

2. PRE-HEARING RESPONSIBILITIES

- a. **PROVIDE ASSISTANCE** - When requested, the local district must provide assistance to applicants and recipients in making a request for a fair hearing.
- b. **AID CONTINUING**
 - (1) Upon notification by the Office that a fair hearing has been requested and that the appellant's TA must be continued or reinstated until the fair hearing decision is issued, the local district must take immediate action to assure that the appellant's TA continues unchanged until the fair hearing decision is issued.
 - (2) Upon receipt of such notification, if TA already has been discontinued, reduced or restricted, the local district must take whatever action is necessary to restore the appellant's TA to their previous level. Such action must be taken as soon as possible but no later than five business days from notification that the appellant's TA must continue or be reinstated.
- c. **COPIES OF DOCUMENTS TO BE PRESENTED** - Upon oral or written request, including request by telephone, the local district must provide to the appellant or appellant's representative copies of the documents to be presented at the fair hearing. Such copies must be provided within the time-frames set forth in this Chapter, Section H. Such documents must be provided without charge and must be provided to the appellant or the appellant's representative by mail, if so requested.
- d. **COPIES FROM CASE RECORD** - Upon oral or written request, including request by telephone, the local district must provide to the appellant or appellant's authorized representative copies of any documents from appellant's case file which the appellant requests for purposes of hearing preparation. Such copies must be provided within the time-frames set forth in this Chapter, Section I. Such documents must be provided without charge and must be provided to the appellant or the appellant's representative by mail, if so requested.

- e. **ENCOURAGE AGENCY CONFERENCES** - Encourage the use of agency conferences as specified in [this Chapter, Section N](#).
- f. **TELEPHONE CONFERENCES** - Local districts may provide telephone conferences upon prior approval of the Office of Administrative Hearings of the Office. The Office of Administrative Hearings may approve such requests in its discretion, where holding an in-person conference is not feasible.
- g. **COPIES OF ALL CORRESPONDENCE TO AUTHORIZED REPRESENTATIVE** - The local district must send copies of all correspondence relating to the conference and fair hearing to the authorized representative of the appellant.

3. RESPONSIBILITIES AND RIGHTS IN THE FAIR HEARING PROCESS

- a. **PROVIDE DOCUMENTARY EVIDENCE** - The local district must provide complete copies of its documentary evidence to the hearing officer at the fair hearing and also to the appellant or appellant's authorized representative, where such documents were not provided previously to the appellant or appellant's authorized representative in accordance with [this Chapter, Section I](#). Such documents must be provided without charge.
- b. **ATTENDANCE AND DOCUMENTATION AT THE HEARING** - Except as provided in this Chapter, a representative of the local district must appear at the hearing along with the relevant case record and a written summary of the case. Such representative must:
 - (1) Have reviewed the case; and
 - (2) Be prepared to present evidence in support of the action, including:
 - (a) The case number
 - (b) The applicable category or categories or type of TA involved
 - (c) The names, addresses, relationships and ages of persons affected
 - (d) The determination regarding which the hearing request was made
 - (e) A brief description of the facts, evidence and reasons supporting such determination, including identification of the specific provisions of law, Office regulations and approved local policies which support the action
 - (f) The relevant budget or budgets prepared by the local district for the appellant or the household of such appellant, including printouts of relevant budgets produced on the Welfare Management System (WMS)
 - (g) A copy of the applicable action taken notice, adverse action notice, expiration notice or notice of action, including any notices produced on the Client Notices System.

- (h) When a client claims that he or she did not receive a Client Notices System (CNS) notice, the Fair Hearing officer will request proof of mailing of the notice. As evidence to establish the mailing of the CNS notice in general, an affidavit is available to certify the procedures followed for these notices. The affidavit can be obtained by contacting:

Mr. Michael Taber (DOH & CNS System Supports)
Office of Temporary and Disability Assistance (OTDA)
Division of Information Technology
(518) 402-3805
<mailto:Mike.Taber@otda.ny.gov>

In addition to the affidavit, the local district / NYC Center should provide the hearing officer specific evidence from the CNS case record, i.e. a screen print, that shows that the notice was processed by CNS.

- (3) Have the authority to make binding decisions at the hearing on behalf of the local district, including the authority to withdraw the action or otherwise settle the case.
- c. **APPEAR ON PAPER ONLY** - No later than five calendar days before the hearing date, the local district may make application to the Office of Administrative Hearings of the Office to appear at a hearing on paper only.
- (1) The Office of Administrative Hearings may approve such application in its discretion where the rights of the appellant can be protected and the personal appearance of the local district is neither feasible nor necessary.
- (2) A hearing officer may require the appearance of a representative of the local district where such appearance is necessary to protect the due process rights of the appellant.
- d. **EXPENSES** - Upon request of the appellant, the local district must provide necessary transportation and transportation expenses to and from the fair hearing for the appellant and appellant's representatives and witnesses and payment for appellant's necessary child care costs and for any other necessary costs and expenditures related to the fair hearing.
- e. **LOCAL DISTRICT RIGHTS** - Local districts have those hearing rights which appellants have as found in [this Chapter, Section F](#).

L. OFFICE RESPONSIBILITIES

1. NOTICE OF FAIR HEARING

- a. **NOTICE** - Except for hearings which are given priority in scheduling in accordance with [this Chapter, Section E](#), at least 10 calendar days prior to the date of the fair hearing, a written notice of the fair hearing will be sent by the Office to the appellant, appellant's authorized representative and to the local district.
- b. **INCLUDED IN THE NOTICE** - The fair hearing notice will state the following:
 - (1) The date, time, and place of the fair hearing and an explanation of how and when a change in the date and place of the fair hearing may be requested, and under what circumstances a hearing will be rescheduled if neither the appellant nor the appellant's representative appears at the hearing.
 - (2) Whether TA must be continued unchanged.
 - (3) The appellant's right upon request to necessary transportation or to transportation expenses to and from the fair hearing for the appellant and the appellant's authorized representatives and witnesses and for payment of the appellant's necessary child care costs and for any other necessary costs and expenditures related to the fair hearing.
 - (4) The appellant's right to be represented at the fair hearing by legal counsel, a relative, friend or other person or to represent oneself, and the right to bring witnesses to the fair hearing and to question witnesses at the hearing.
 - (5) The right to present written and oral evidence at the hearing.
 - (6) That the appellant should bring the notice of fair hearing to the hearing as well as all evidence that has a bearing on the case such as books, records and other forms of written evidence, and witnesses, if any.
 - (7) The appellant's right to review appellant's case record prior to and at the fair hearing.
 - (8) The appellant's right upon request to obtain copies of documents which the local district will present at the fair hearing and copies of other additional documents for the purpose of preparing for the fair hearing.
 - (9) The right of a deaf or non-English speaking appellant to interpreter services at the fair hearing at no charge.

2. SCHEDULING

- a. **CONVENIENT TIME AND LOCATION** - The fair hearing will be held at a time and place convenient to the appellant as far as practicable. In scheduling the hearing,

- the Office will consider such things as the physical inability of the appellant to travel to the regular hearing location.
- b. **PRIORITY** - Except as set forth in paragraph e below, a fair hearing which is subject to priority processing must be scheduled as soon as practicable after the request is made. In determining the date for which the hearing will be scheduled, consideration must be given to the nature and urgency of the appellant's situation, including any date before which the decision must be issued to allow for meaningful resolution of the issue under review.
 - c. **PRIORITY DETERMINATION** - Except as set forth in paragraph e below, after a hearing which was scheduled on a priority basis, the decision must be issued as soon as practicable. In determining the date by which the decision will be issued, consideration must be given to the nature and urgency of the appellant's situation, including any date before which the decision must be issued to allow for meaningful resolution of the issue under review.
 - d. **ENDING PRIORITY PROCESSING** - If, at the conclusion of a hearing which was scheduled on a priority basis, the hearing officer determines that the issues do not warrant continued priority processing, the hearing officer will inform the parties that the issuance of the decision will not receive priority processing.
 - e. When a fair hearing is requested concerning the involuntary discharge of a resident of a tier II facility after such resident requests and participates in a hearing, held by the facility or the local district in which the facility is located, such fair hearing must be scheduled within seven working days of the request. The decision after the fair hearing must be issued within seven working days of the date of the fair hearing.
 - f. When a hearing is requested pursuant to [this Chapter, Section G](#), the hearing will be held within 30 days of the request, unless delayed by, or adjourned at the request of, the appellant.

3. ADJOURNING THE FAIR HEARING

- a. **REQUEST TO DELAY** - Upon request of either the appellant or a local district, the fair hearing may be rescheduled, upon a showing of good cause for requesting the delay.
- b. **ADJOURNING OR RESCHEDULING THE FAIR HEARING** - When in the judgment of the Office or the hearing officer the parties' due process rights would best be served by adjourning the fair hearing, or if there are special circumstances which make proceeding with the case fundamentally unfair, the Office or the hearing officer may reschedule the fair hearing.
- c. **REQUEST TO ADJOURN** - Requests to adjourn a fair hearing must be made in accordance with the instructions in the notice of fair hearing.

- d. **ADJOURNED PER APPELLANT'S REQUEST** - If a fair hearing is adjourned based upon a request by the appellant, the time limit set forth in this Chapter, Section G will be extended by the number of days the fair hearing has been postponed.
- e. **BENEFITS CONTINUED FOR RESCHEDULED HEARING** - If TA is continued and the fair hearing is rescheduled for the reasons set forth above, an appellant has the right to have TA continued until the fair hearing decision is issued.

4. **WITHDRAWAL OF A REQUEST FOR A FAIR HEARING**

- a. **WITHDRAWAL REQUIREMENT** - The Office will consider a hearing request to be withdrawn under the following circumstances:
 - (1) The Office has received a written statement from the appellant or appellant's authorized representative stating that the request for a fair hearing is withdrawn; or
 - (2) The appellant or appellant's authorized representative has made a statement withdrawing the request to the hearing officer on the record at the hearing.
- b. **INSUFFICIENT REQUEST** - An oral statement by telephone or in person to a local district employee that an appellant is withdrawing a request for a fair hearing is insufficient to withdraw a fair hearing request.

5. **ABANDONMENT OF A REQUEST FOR A FAIR HEARING**

- a. **REQUEST ABANDONED** - The Office will consider a fair hearing request abandoned if neither the appellant nor appellant's authorized representative appears at the fair hearing unless either the appellant or appellant's authorized representative has:
 - (1) Contacted the Office within 15 days of the scheduled date of the fair hearing to request that the fair hearing be rescheduled; and
 - (2) Provided the Office with a good cause reason for failing to appear at the fair hearing on the scheduled date; or
 - (3) Contacted the Office within 45 days of the scheduled date of the hearing and establishes that the appellant did not receive the notice of fair hearing prior to the scheduled hearing date.
- b. **CASE RESTORED TO CALENDAR** - The Office will restore a case to the calendar if the appellant or appellant's authorized representative has met the requirements above.

6. HEARING OFFICER

- a. **IMPARTIAL HEARING OFFICER** - The hearing shall be conducted by an impartial hearing officer employed by the Office, who has not been involved in any way with the action in question.
- b. **RESPONSIBILITIES OF THE HEARING OFFICER** - To ensure a complete record at the hearing, the hearing officer must complete each of the following:
 - (1) Preside over the fair hearing and regulate the conduct and course of the fair hearing, including at the hearing officer's discretion, requiring sworn testimony, and administering the necessary oaths.
 - (2) Make an opening statement explaining the nature of the proceeding, the issues to be heard and the manner in which the fair hearing will be conducted.
 - (3) Elicit documents and testimony, including questioning the parties and witnesses, if necessary, particularly where the appellant demonstrates difficulty or inability to question a witness; however, the hearing officer will not act as a party's representative.
 - (4) Where the hearing officer considers independent medical assessment necessary, require that an independent medical assessment be made part of the record when the fair hearing involves medical issues such as a diagnosis, an examining physician's report, or a medical review team's decision.
 - (5) Adjourn the fair hearing to another time on the hearing officer's own motion or on the request of either party, to the extent allowable.
 - (6) Adjourn the fair hearing when in the judgment of the hearing officer it would be prejudicial to the due process rights of the parties to go forward with the hearing on the scheduled hearing date.
 - (7) Review and evaluate the evidence, rule on the admissibility of evidence, determine the credibility of witnesses, make findings of fact relevant to the issues of the hearing which will be binding upon the Commissioner unless such person has read a complete transcript of the hearing or has listened to the electronic recording of the fair hearing.
 - (8) At the hearing officer's discretion, where necessary to develop a complete evidentiary record, issue subpoenas, and/or require the attendance of witnesses and the production of books and records.
 - (9) Prepare an official report containing the substance of what transpired at the fair hearing and including a recommended decision to the Commissioner.
- c. **REMOVAL OF A HEARING OFFICER** - A party to a hearing may make a request to a hearing officer that the hearing officer remove himself or herself from presiding at the hearing.

- (1) The grounds for removing a hearing officer are that such hearing officer has:
 - (a) Previously dealt in any way with the substance of the matter which is the subject of the hearing except in the capacity of hearing officer; or
 - (b) Any interest in the matter, financial or otherwise, direct or indirect, which will impair the independent judgment of the hearing officer; or
 - (c) Displayed bias or partiality to any party to the hearing.
 - (2) The hearing officer may independently determine to remove himself or herself from presiding at a hearing on the grounds set forth in paragraph (1) above.
 - (3) The request for removal made by a party must include all of the following:
 - (a) Be made in good faith.
 - (b) Be made at the hearing in writing or orally on the record.
 - (c) Describe in detail the grounds for requesting that the hearing officer be removed.
 - (4) Upon receipt of a request for removal, the hearing officer must determine on the record whether to remove himself or herself from the hearing.
 - (5) If the hearing officer determines not to remove himself or herself from presiding at the hearing, the hearing officer must advise the party requesting removal that the hearing will continue but the request for removal will automatically be reviewed by the general counsel or the general counsel's designee.
 - (6) The determination of the hearing officer not to remove himself or herself will be reviewed by the general counsel or the general counsel's designee. Such review will include review of written documents submitted by the parties and the transcript of the hearing.
 - (7) The general counsel or the general counsel's designee must issue a written determination of whether the hearing officer should be removed from presiding at the hearing within 15 business days of the close of the hearing.
 - (8) The written determination of the general counsel or the general counsel's designee will be made part of the record.
7. **WHO MAY BE PRESENT AT THE FAIR HEARING** - The following persons may be present at a fair hearing:
- a. The appellant who has requested the fair hearing.
 - b. The appellant's representative.

- c. Counsel or other representatives of the local district.
- d. Witnesses of either party and any who may be called by the hearing officer.
- e. An interpreter.
- f. Any other person admitted at the hearing officer's discretion, with the consent of the appellant.

8. MEDIA ADMISSION TO FAIR HEARING

- a. **WAIVER OF APPELLANT'S RIGHT TO CONFIDENTIALITY** - The media may be admitted to a fair hearing where the appellant has made a specific waiver of appellant's right to confidentiality both in writing and on the record and has clearly and unequivocally confirmed on the record that the appellant desires and consents to the presence of the media. The waiver must be unqualified, complete, and made with full knowledge of the ramifications of the waiver, including that the waiver is irrevocable.
- b. **EXTENT OF ACCESS** - Where a waiver has been secured, the extent of any access to be granted to the media is to be determined at the discretion of the hearing officer. In determining the extent of such access, the hearing officer will consider all of the following:
 - (1) Maintenance of proper hearing decorum.
 - (2) Potential disruption to the proceedings.
 - (3) Adverse effect on witnesses.
 - (4) Impediments to the making of a proper and accurate record.
 - (5) The physical space and conditions of the hearing room.
 - (6) Potential disruption to the hearing officer, including impediments to the hearing officer's ability to discharge responsibilities.
 - (7) Any other factor which, in the discretion of the hearing officer, is necessary to ensure the orderly and proper conduct of the hearing and the creation of a complete and accurate hearing record or which is necessary in order to protect confidential information where confidentiality cannot be waived by the appellant.

9. FAIR HEARING PROCEDURES

a. PROCEDURES

- (1) At a fair hearing concerning the denial of an application for or the adequacy of TA, the appellant must establish that the local district's denial of assistance or benefits was not correct or that the appellant is eligible for a greater amount of assistance.

- (2) Except where otherwise established by law or regulation, in fair hearings concerning the discontinuance, reduction or suspension of TA, the local district must establish that its actions were correct.
- b. **DECISION** - The fair hearing decision must be supported by and in accordance with substantial evidence.
- c. **RULES OF EVIDENCE** - Technical rules of evidence followed by a court of law need not be applied. Irrelevant or unduly repetitious evidence and/or cross-examination may be excluded at the discretion of the hearing officer. Privileges recognized by law will be given effect.
- d. **REPRODUCTION OR COPY OF ORIGINAL MATERIAL** - Any written record or document or part thereof to be offered as evidence may be offered in the form of a reproduction or copy where such reproduction or copy is identified satisfactorily as a complete and accurate reproduction or copy of the original material.

10. CONSOLIDATED FAIR HEARINGS

- a. **BASIS** - The Office may consolidate fair hearings where two or more persons request fair hearings in which the individual issues of fact are not disputed and the sole issue in each request is an objection to:
 - (1) Federal or State law or regulation, or local policy; or
 - (2) A change in federal or State law.
- b. **PRESENTING THE CASE** - Each person whose case has been consolidated with another person's case has the right to:
 - (1) Present one's own case or have one's case presented by a representative; and
 - (2) Withdraw from the consolidated fair hearing and have an individual fair hearing.

11. THE HEARING RECORD

- a. **CONTENTS OF THE RECORD** - A written transcript or recording of the fair hearing testimony, the fair hearing exhibits, the hearing officer's official report including the recommended decision of the hearing officer, all papers and requests filed in the proceeding prior to the close of the fair hearing, and the fair hearing decision constitute the complete and exclusive record of the fair hearing. Where a decision without hearing is issued, the documents submitted by the appellant and the local district constitute the complete and exclusive record of the fair hearing.
- b. **REVIEW OF RECORD** - The exclusive record of the fair hearing is confidential; however, the exclusive record may be examined by either party or their authorized representative at the Office of Administrative Hearings, or upon request at some other location subject to the approval of the Office of Administrative Hearings.

M. DECISION AND COMPLIANCE

1. ALL DECISIONS

a. **DECISION CONTENT** - The fair hearing decision issued by the Commissioner:

- (1) Must be based exclusively on the fair hearing record, or in the case of a decision without hearing, on the documents submitted by the appellant and the local district.
- (2) Must be in writing and must set forth the fair hearing issues, the relevant facts, and the applicable law, regulations, and approved policy, if any, upon which the decision is based.
- (3) Must make findings of fact, determine the issues and state reasons for the determinations and when appropriate, direct specific action to be taken by the local district.
- (4) May address the violation of any provision of this Chapter by the local district, including but not limited to, violations of regulations concerning notice, aid continuing and provision of documents and records and set forth appropriate relief for such violations.

b. **FINAL AND BINDING** - Upon issuance, the decision is final and binding upon local districts and must be complied with in accordance with this Section.

c. **NOTIFICATION** - A copy of the decision, accompanied by written notice to the appellant of the right to judicial review, will be sent to each of the parties and to their representatives, if any. In addition, such notice will advise the appellant that the appellant or the appellant's authorized representative may request the Office's assistance in obtaining compliance with the decision.

2. DECISION WITHOUT HEARING

a. **BASIS** - Upon the Commissioner's own motion or upon request of an appellant in cases in which there is no material issue of fact to be resolved, a decision may be issued without a hearing. The determination to issue a decision without a hearing rests solely within the discretion of the Commissioner.

b. **REQUEST FOR DECISION WITHOUT A HEARING** - A request for a decision without a hearing must be accompanied by sufficient information to enable the Commissioner to ascertain whether any unresolved material issue of fact exists, and should contain a full and clear statement of the issues and of the appellant's position on these issues.

c. **LOCAL DISTRICT RESPONSIBILITIES** - When the Commissioner determines that a decision without hearing is appropriate, the Commissioner will send the request for a decision without hearing, or the request for a hearing, along with any supporting documents to the local district involved. Within 10 business days of receipt of these

documents, the local district must forward to the Commissioner, the appellant, and the appellant's representative, a response containing sufficient information to ensure resolution of the dispute.

- d. **COMMENTS OR REBUTTAL BY APPELLANT** - Within 10 business days of the receipt of the documents submitted by the local district, the appellant or authorized representative may submit comments or rebuttal to the Commissioner with copies to the other parties.
 - e. **RESCHEDULE FAIR HEARING** - At any point after a request for a decision without a hearing has been made, if it appears that there is a material and unresolved issue of fact relating to the issue or issues upon which the hearing was requested, the appellant and the local district will be informed that a fair hearing will be scheduled upon notice to all parties.
 - f. **DECISION** - A decision without a hearing will be issued by the Commissioner based upon the papers submitted in accordance with this Section.
3. **DIRECTION RELATIVE TO SIMILAR CASES** - When a fair hearing decision indicates that a local district has misapplied provisions of law, Office regulations, or such local district's own State-approved policy, the Commissioner's letter transmitting such decision to such local district may contain a direction to the local district to review other cases with similar facts for conformity with the principles and findings in the decision.
4. **COMPLIANCE**
- a. **90 DAYS OR LESS** - For all decisions, except those involving SNAP issues only, definitive and final administrative action must be taken promptly, but in no event more than 90 days from the date of the request for a fair hearing.
 - b. **COMPLAINT** - Upon receipt of a complaint that a local district has not complied with the fair hearing decision, the Office will secure compliance by whatever means is deemed necessary and appropriate under the circumstances of the case.
5. **COMPLIANCE WITH DIRECTION RELATIVE TO SIMILAR CASES** - When a direction has been given to a local district to correct a misapplication of law, Office regulations or such district's own State-approved policy in all cases similar to the one in which a decision has been issued, such local district must report the actions it has taken to comply with such direction to the Office within 30 days after receipt of the direction. The local district must make such additional reports as the Office may require.
6. **CORRECTED DECISIONS AND REOPENED HEARINGS**
- a. **CORRECTED DECISIONS** - The Commissioner may review an issued fair hearing decision for purposes of correcting any error found in such decision.
 - (1) After review, the Commissioner may correct any error occurring in the production of an issued fair hearing decision including, but not limited to, typographical and spelling errors.

- (2) After review, on notice to the parties, the Commissioner may correct any error of law or fact which is substantiated by the fair hearing record.
- (3) During the pendency of any review of an issued fair hearing decision, the original decision is binding and must be complied with by the local district in accordance with the provisions of this Section.
- b. **REOPENED HEARINGS** - On notice to all parties, the Commissioner may reopen a previously closed fair hearing record for purposes of completing such record. If such reopening occurs subsequent to the issuance of a fair hearing decision, the provisions of paragraph (3)above apply.

N. AGENCY CONFERENCES

1. **DEFINITION** - Agency conference means an informal meeting at which an applicant or recipient may have any decision of a local district concerning the applicant's or recipient's TA, reviewed or may have any other aspect of the applicant's or recipient's case reviewed by an employee of the local district who has the authority to change the decision with which the applicant or recipient disagrees.
2. **CONFERENCE BEFORE THE FAIR HEARING** - At any reasonable time before the date of the fair hearing, the applicant/recipient may request that the local district schedule an agency conference before the appellant's fair hearing to review the local district's decision for which the appellant has requested the fair hearing except as provided for in paragraph 4 below.
3. **CONFERENCE WITHOUT A FAIR HEARING REQUEST** - Even though the applicant/recipient has not requested a fair hearing, the applicant/recipient may request an agency conference to review any action on their case.
4. **TIER II FACILITY** - No agency conference is required for actions involving the involuntary discharge of residents of tier II facilities.
5. **ENCOURAGE AGENCY CONFERENCES** - The local district must encourage the use of agency conferences to settle disputes and complaints concerning actions regarding an applicant's or recipient's TA, in order to eliminate the need to hold fair hearings wherever the dispute can be resolved by scrutiny of documents and/or thorough investigation.
6. **HOLDING AGENCY CONFERENCE** - The local district must hold agency conferences when such conference is requested as provided for in this Section. The conference may not be used to inhibit the appellant's right to a fair hearing. Agency conferences must be scheduled before the date of the fair hearing.
7. **NECESSARY INFORMATION AND DOCUMENTATION** - The local district must bring the necessary information and documentation to any agency conference, including a telephone conference, to explain the reason for the agency determination and to provide a meaningful opportunity to resolve the problem.
8. **REPRESENTATIVE MUST ATTEND** - Except for telephone agency conferences approved according to paragraph (9) below, a representative of the local district must appear with the case record at the agency conference. Such representative must have reviewed the case and must have the authority to make binding decisions on behalf of the local district, including the authority to withdraw the intended action.
9. **TELEPHONE CONFERENCES** - Local districts may provide telephone conferences upon prior approval of the Office of Administrative Hearings of the Office. The Office of Administrative Hearings may approve such requests in its discretion, where holding an in-person conference is not feasible.

Note: This approval is not intended to require a local district to request Office permission in order to have day to day discussions of a case with a client by telephone. Nor is it intended to cover the situation where a client formally requests an agency conference and for reasons such as disability, the client requests that the conference be conducted by telephone.

Prior approval of telephone conferences is meant to apply to situations where a local district has found that it would not be feasible to offer in-person conferences to a particular group of clients or for a particular class of actions it intends to take. In such situations application for approval of telephone conferences should be sent to the Office of Administrative Hearings.

10. **COPIES OF CORRESPONDENCE** - The local district must send copies of all correspondence relating to the conference and fair hearing to the authorized representative of the appellant.

O. CIVIL RIGHTS

No local district or official shall establish or apply any policy or practice which would have the effect of discriminating against an individual because of race, color, national origin, age, sex, religion, sexual orientation, or handicap (physical or mental impairment). This prohibition shall apply to all aid, care, services, benefits, or privileges provided directly or indirectly by other agencies, organizations or institutions participating under contractual or other arrangements.

1. In the provision of TA, child welfare services, other care and services, no local district or any member of his/her staff shall, on the basis of race, color, national origin, age, sex, religion, sexual orientation, or handicap physical or mental impairment):

- a. Deny any individual any aid, care, services, other benefits or privileges provided by the local district.

Provide any aid, care, services, other benefits or privileges to an individual which are different, or are provided in a different manner, from that provided to others.

- b. Subject an individual to segregation or separate treatment in any manner related to his receipt of any aid, care, services, other benefits or privileges.
- c. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, other benefits or privileges.
- d. Treat an individual differently from others in determining whether he satisfies any eligibility or other requirement or condition which individuals must meet in order to receive any aid, care, services, other benefits or privileges.
- e. Deny any individual an opportunity to participate in a program through the provision of services or otherwise afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee where the primary objective of the program is to provide employment, including a program under which the employment is provided to reduce unemployment).
- f. Make distinction in relation to use of physical facilities, intake and application procedures, caseload assignments, determination of the amount and type of aid, care, services and other benefits under the program and use thereof.
- g. No local district or official shall establish any employment policy or practice which would have the effect of discriminating against an individual because of race, color, national origin, age, sex, religion, sexual orientation, or handicap (physical or mental impairment).

Note: If an individual believes that he/she is being discriminated against because of religion, race, color, sex, handicaps, religious creed, national origin, sexual orientation, or political beliefs, he/she should complain to his/her local Department of Social Services, or to the State Office of Temporary

and Disability Assistance, or to the Office of Civil Rights in the U.S. Department of Health and Human Services, 26 Federal Plaza, New York, New York 10007. If necessary, a hearing will be held.

P. AMERICANS WITH DISABILITIES ACT (ADA) ACCESS BY PERSONS WITH PHYSICAL AND/OR MENTAL DISABILITIES ([06 ADM-05](#))

1. Background

The Federal Americans with Disabilities Act (ADA), enacted July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

The Personal Responsibility and Work Opportunity reconciliation Act (PRWORA), the federal Welfare Reform law, specifically provides that section 504 and the ADA apply to any program or activity receiving federal TANF funds, 42 U.S.C.A. sections 608(d)(2) and (3), respectively.

In addition, Office regulations (Part 303 of 18 NYCRR) prohibit districts from discriminating against a person because of race, color, national origin, age, sex, religion or handicap (physical or mental impairment). Part 3303.7 of 18 NYCRR extends the definition of the term handicap to include those persons having Acquired Immune Deficiency Syndrome (AIDS), testing positive for human immunodeficiency virus (HIV) infection or being perceived as susceptible to AIDS or HIV infection.

For further information and instruction see: [06 ADM-05 "Providing Access to Temporary Assistance Programs for Persons with Disabilities and/or Limited English Proficiency"](#).

Note: Additional information can be found in informational pamphlet: [LDSS 4148A "What You Should Know About Your Rights and Responsibilities"](#).

Q. Access by Persons with Limited English Proficiency (LEP) (06 ADM-05)

1. The TA applicant/recipient population encompasses people with many different native languages and varying abilities to communicate in English. Persons with LEP must be able to apply for benefits, programs and services without undue hardship. To assist applicants and recipients with Limited English proficiency, application and certification materials have been translated into Spanish, Russian, Chinese, Haitian-Creole and Arabic. Certain client informational materials also have been translated into those languages as well as French, Korean Vietnamese and Yiddish.
2. Districts should assign a staff person to serve as an LEP contact, who will be responsible for monitoring investigation and resolution of complaints and for overseeing procedures that ensure access to benefits, programs and services.
3. No person shall be denied access to an application for benefits, programs or services based on a district's inability to provide adequate interpretation services. Persons with LEP must be able to apply without undue hardship.
4. If an applicant/recipient is a person with LEP, the district is responsible for obtaining a qualified interpreter. District staff should be reminded that an applicant/recipient has the choice to use a relative or friend as an interpreter. If the applicant/recipient does not choose this option or no bilingual staff interpreter is available, the district must set up an appointment for the applicant/recipient to return and must arrange for an interpreter or other interpretive services; e.g., Language Line Services, to be available at the appointment. However, applicants/recipients are not required to bring their own interpreter, and no person may be denied access to benefits, programs or services because of a district's inability to provide adequate interpreters.
5. Districts must protect the filing or application date and adhere to required application interview time frames.
6. Districts must document all of the following in the case record:
 - a. If an interpreter was requested by the applicant/recipient and if so, the date the interpreter was requested.
 - b. If the district offered to provide an interpreter without the applicant/recipient having made a request for such services.
 - c. Whether the applicant/recipient agreed to use the interpreter provided by the district and if the applicant/recipient agreed to use such an interpreter, how the services were or will be provided.
 - d. If the applicant/recipient declines/refuses to use the district's interpreter or interpreter services and brings his or her own interpreter.
7. When an applicant/recipient with LEP calls or visits the district office in person the district must complete the following:

- a. Ask the person what language he/she speaks (many persons know english well enough to answer the question).
 - b. If the person is unable to answer the question, attempt to identify the applicant's/ recipient's language by having him/her point to the language on a [poster](#) or [Interpreter Services Desk Guide](#).
 - c. Once the language is identified, solicit (if available) the aid of an on-site bilingual staff person to assist as an interpreter. The district should not seek the aid of a bilingual applicant or recipient. Relatives or friends of the applicant/recipient may be used if the applicant/recipient requests and the district determines that the relative of friend is capable of interpreting.
 - d. Refer to the district's specific procedure for providing access to LEP persons if no qualified interpreter is available on-site.
 - e. Be sure that the applicant/recipient understands the date, time and location of the new appointment if a return appointment is required.
 - f. Address any emergency/immediate needs prior to scheduling a return appointment.
 - g. Document in the case record the language of the LEP person, whether the LEP person chose to use his/her own interpreter, and/or whether a request for an interpreter was made, so that an interpreter can be scheduled, if necessary, for any future appointments.
 - h. Document each attempt to contact an interpreter and if the interpreter appeared in person or by telephone.
 - i. Districts must ensure that persons acting as interpreters for persons with LEP understand their obligation to maintain client confidentiality.
8. Districts should make interpreter services desk guides available to workers.
 9. Districts must post the ["Interpreter Services Poster" \(PUB-4842\)](#) in all TA benefits client areas.

R. CONSTITUTIONAL RIGHTS

CONSTITUTIONAL AND STATUTORY RIGHTS OF APPLICANTS AND RECIPIENTS -

Any investigation or reinvestigation of eligibility shall be conducted in a manner that will not result in practices that violate an applicant's or recipient's constitutional rights. An applicant or recipient shall be permitted to appear with an attorney or other representative at any interview or conference with a representative of a local district, whenever such interview or conference relates to questions of eligibility for TA and care, or the amount to which the person interviewed is or was entitled.

S. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

1. PROHIBITION AGAINST DISCLOSURE OF INFORMATION

- a. Except in limited circumstances, Section 136 of the Social Services Law specifically prohibits the disclosure of whether a person has applied for, is receiving or has received temporary assistance, or from disclosing personal information provided to social services officials by TA applicants or recipients.
- b. The Social Services Law permits the disclosure of information only when such information will be used for purposes directly related to the administration of these programs. These purposes include determining whether someone is eligible for benefits, and the type and amount of benefits to be provided.
- c. Officers and employees of local districts shall not reveal information obtained in the course of administering TA for purposes other than those directly connected with the administration of TA, except for the name, address and the amount received by or expended for a recipient of TA when the appropriating body or local district has authorized their disclosure to an agency or person deemed entitled to it pursuant to section 136 of the Social Services Law.
- d. Any release of information which would reveal that a person has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, is subject to the provisions of section 2782 of the Public Health Law. In accordance with such section, confidential HIV-related information relating to a recipient of a health or social service as defined in section 2780 of the Public Health Law, may be disclosed to authorized employees to supervise, monitor, administer or provide such service and such employees would, in the ordinary course of business, have access to records relating to the care of, treatment of or provision of a health or social service to such recipient.
- e. Each local district shall designate the person, or persons, within the local district with authority to disclose information.

2. NATURE OF INFORMATION TO BE SAFEGUARDED - 18 NYCRR Part 357

addresses the nature of information that is to be safeguarded, the prohibition against disclosure of information, the basis for disclosure of information, the prohibition against improper use of lists of applicants/recipients and the procedures for safeguarding information maintained by NYS OTDA, SSDs and authorized agencies.

- a. SSDs must disseminate to staff a policy and procedures manual addressing the confidentiality or records, as detailed in this Part, including the disciplinary actions for violations of confidentiality statutes, regulations and policies.

3. BASIS FOR DISCLOSURE OF INFORMATION

- a. Safeguards in Disclosing Information - Information shall be released to another agency or person only when the local district providing such data is assured of all of the following:

- (1) The confidential character of the information will be maintained.
 - (2) The information will be used for the purposes for which it is made available, such purposes to be reasonably related to the purposes of the social services programs and the function of the inquiring agency.
 - (3) The information will not be used for commercial or political purposes.
- b. Disclosure of Medical Information - The medical information supplied directly by a physician, dentist or nurse, as well as by hospital or clinic reports, shall be considered a confidential communication and shall be released to another agency only with the specific consent of the patient, if competent.
- c. Disclosure to Applicant, Recipient, or Person Acting on His/Her Behalf
- (1) The case record shall be available for examination at any reasonable time by the applicant or recipient or his authorized representative upon reasonable notice to the local district. The only exceptions to access are:
 - (a) Those materials to which access is governed by separate statutes, such as child welfare, foster care, adoption of child abuse or neglect or any records maintained for the purposes of the Child Care Review Service.
 - (b) Those materials being maintained separate from TA files for purposes of criminal prosecution and referral to the district attorney's office.
 - (c) The county attorney or welfare attorney's files.
 - (2) Information may be released to a person, a public official, or another social agency from whom the applicant or recipient has requested a particular service when it may properly be assumed that the client has requested the inquirer to act in his behalf and when such information is related to the particular service requested.
- d. Disclosure to Relatives - The duty of the local district to investigate the ability and willingness of relatives to contribute support imposed by Section 132 of the Social Services Law and the liability of legally responsible relatives for support imports that the agency may inform them of the basic circumstances of the applicant's needs insofar as may be necessary and in a discussion looking to a contribution of support of the amount of the applicant's needs and income. Such a relative is a "person . . . considered entitled to such information." (See Social Services Law, 136, subdivision 2).
- e. Disclosure to Federal, State or Local Official
- (1) Information may be disclosed to any properly constituted authority. This includes a legislative body or committee upon proper legislative order, an administrative board charged with investigating or appraising the operation of social services, law enforcement officer, grand juries, probation and parole officers, government

auditors, and members of social services boards, as well as the administrative staff of social services agencies.

- (2) Information may be released to a selective service board when such information is necessary in order that the board may arrive at a valid and consistent decision regarding dependency.

f. Disclosure Upon Subpoena by Court

- (1) When a TA record is subpoenaed by court, the local district shall immediately consult its legal counsel before producing any record or revealing any information or giving any testimony.
- (2) When the subpoena is for a purpose directly related to the administration of TA or protection of the child, the local district, before complying with the subpoena, shall endeavor to get in touch with the client whose record is involved or his/her attorney and secure permission to reveal the contents of the record which relate to the administration of TA.
- (3) In the event that the subpoena is for a purpose not directly related to the administration of TA or the protection of a child, the local district shall plead, in support of its request to withhold information, that the Social Security Act, Social Services Law and the regulations of the Office of Temporary and Disability Assistance prohibit disclosure of confidential information contained in records and files, including names of clients. The local district will be governed by the final order of the court after this plea is made.

- g. Disclosure to Bona Fide News Disseminating Firm - The written assurance required by Section 136 (of Social Services Law) that the names and addresses of applicants and recipients of assistance shall not be published shall be obtained by the local district before allowing examination of records of disbursements by that bona fide news disseminating firm.

4. **ACCESS OF CASE RECORDS IN CONNECTION WITH A FAIR HEARING REQUEST OR ACCESS OF RECORDS IN CONNECTION WITH HOUSEHOLD, ELIGIBILITY AND TEMPORARY ASSISTANCE PAYMENTS**

- a. The "case file" or "case record" for access purposes includes all paper records and machine readable data that can readily be converted to a comprehensible paper record relating to an individual's receipt of Safety Net Assistance, Family Assistance, Medical Assistance, Emergency Assistance, Child Support Enforcement or Title XX services. A simple test for whether a particular file is covered is whether it is filed under the name of the requesting individual. Access to these records shall be granted only to the person to whom they pertain or his or her authorized representative.
- b. In the case of records which relate generally to a household, eligibility and temporary assistance payment records shall be made available to any member authorized to act on behalf of that household.

- c. Any records which are in fact maintained by the local district with respect to an individual are subject to access by that individual whether or not the records are required to be maintained.
- d. Medical records, whether or not they are marked "confidential", must be made available for review. The only exceptions to access are:
 - (1) Those materials to which access is governed by separate statute, such as child welfare, foster care, adoption or child abuse or neglect or any records maintained for the purpose of the Child Care Review Service.
 - (2) Those materials which are being maintained separate from TA files for purposes of a criminal prosecution and referral to the District Attorney's office
 - (3) The County Attorney or Welfare Attorney's files.
- e. If the case file review is in connection with a fair hearing and documents from a particular file not ordinarily open to the client will be used at the fair hearing by the local district, then the entire file from which those documents are taken must be open to inspection. This provision will enable the client to inspect the file for possible exculpatory evidence.
- f. Fraud files being maintained separate from the TA files for possible referral to the DA's office shall not ordinarily be available for inspection. However, if the local district intends to use information from the fraud file in the fair hearing context, the entire file shall be open to review.
- g. Procedures
 - (1) If the local district receives a request for a review of a particular file, only that file need be produced. If, however, a general request for review is made with no specificity, every file pertaining to the requesting individual should be identified and gathered for that individual's review.
 - (2) An appointment schedule may be set up for the purpose of case file review. If there are difficulties in locating the file, the client or his representative must be called.

Note: No more than five working days should elapse between the date of receipt of request for review and notification that either the file is not yet located or the file is available at a specific date, time and place for review.

- (3) At the time of review, proper identification from a person requesting the file must be obtained; an applicant must present a fair hearing notice or some other form of identification; a recipient must present an ID card or notice of fair hearing and an attorney, paralegal or representative must present authorization signed by the applicant or recipient and,

- (4) The option of allowing the client to make copies of documents from the file will rest with the local district. It is suggested that copying be allowed if the request is reasonable and copying facilities are available. The local districts may charge a fee up to \$.25 per page for copying.

h. Personal Privacy Protection Law

The State's Personal Privacy Protection Law, which took effect September 1, 1984, requires the Office to inform every person, from whom the Office receives information collected by the local district, why it was requested and how it will be used. This information will be relevant and necessary to accomplish a purpose of the Office that is required by statute or executive order, or to implement a program specifically authorized by law.

(1) Access and/or Amendment to Records - The law provides that:

- (a) Persons about whom information is obtained are generally entitled to access to that information.
- (b) State agencies give persons the opportunity to correct misinformation that is maintained in their files.
- (c) The Office answer all requests for access to records within five business days after receipt either by providing access, denying access or acknowledging receipt of the request.
- (d) Requests for amendments to records be acted upon within thirty days of receipt of the request.

i. Client Requests For Access or Information - Information contained in the WMS computer system is considered a State record. Therefore, requests for access and/or amendment to records or information regarding the Law must be made by writing to:

Office of Public Information (PIO)
NYS Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, New York 12243

j. Statement of Disagreement - Paper records maintained by local districts are generally not directly subject to the law. However, if a person wishes to amend his/her records, and that request is denied, in whole or in part, the individual has the right to file a statement of disagreement.

This statement of disagreement is then placed in the paper record of the local district, in the files of the PIO and in the appropriate division, becoming a permanent part of the data subject's file. Since the nature of the WMS system precludes the placing of such a statement into the computerized records, a paper file must be maintained at the local district level and a copy of the Statement of Disagreement placed in it.

- k. Client Notification - [DSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) advises applicants and recipients of the Personal Privacy Protection Law.

T. PROFESSIONAL STANDARDS FOR DEALING WITH APPLICANTS/ RECIPIENTS

1. Each local district is legally bound to insure that programs are administered in a fair and humane manner.
2. Client Interviews - Client interviews should be conducted in areas in which reasonable privacy is afforded and in an atmosphere that is as non-threatening to the client as possible. Every effort to maintain client confidentiality must be undertaken. Also, to the extent practicable, client interviews should be scheduled in a way which will minimize waiting and which will result in a minimum number of return visits. Waiting rooms should be as comfortable as possible, with convenient access to rest rooms, water fountains, etc.
3. During an initial client contact it is particularly important that the individual be treated courteously and be provided with a maximum amount of information regarding benefits available, required documentation, and that individual's responsibilities with regard to ongoing eligibility. Initial contact is the beginning of a formal process. Appropriate and required documentation of all such contacts and their disposition should be maintained. Written notice of denials must be provided to applicants.
4. Non-English Speaking Clients - It is the responsibility of local districts to make arrangements to provide translators for individuals who are not fluent in English. No person shall be denied access to services based on a local district's inability to provide adequate translation.
5. Timeliness - Client eligibility determinations should be made as expeditiously as possible and in every case in conformity with applicable requirements.
6. Responsiveness to Client Inquiries - Local district employees should be responsive to requests from clients regarding their case or their situation. With regards to adverse case actions, local district employees should be able to explain to the individual why that action occurred and what remedies are available to that individual.

REFERENCES

303.1
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Section 8 - Recipient/Applicant Rights
Section 7 - Adverse Action Notice

CHAPTER 5: INITIAL ELIGIBILITY

A. INVESTIGATION

Investigation is a continuous process which is concerned with all aspects of eligibility for TA or care from the period of initial application to case closing. Investigation means the collection, verification, recording and evaluation of factual information on which basis a determination is made of eligibility and degree of need or of ineligibility for any form of TA or care.

B. FRONT END DETECTION SYSTEM (FEDS)

FEDS is a procedure designed to identify intentionally fraudulent or inadvertently erroneous information supplied by an applicant for assistance before that applicant is found eligible for benefits. FEDS provides cost avoidance savings, reduces the number of instances of erroneous eligibility determinations, and saves time for districts.

The appropriate eligibility worker must refer applicants for assistance to the investigative unit in accordance with criteria set forth in the local district's approved Front End Detection System (FEDS) plan. Each district must have on file with the OTDA/Program Integrity, an approved FEDS plan identifying the FEDS indicators that will be investigated and explaining how FEDS referrals are made, investigated, and resolved. Referrals to the investigative unit must not delay the eligibility determination process beyond the timeframes established by Social Services Law.

1. **BACKGROUND** – Chapter 41 of the Laws of 1992 mandated that each local district establish a Front End Detection System (FEDS) for TA. Each local district must establish a FEDS plan for TA cases. Although not specifically required in State law, the Office recommends inclusion of NTA/SNAP cases, MA only cases and childcare cases in the FEDS process.

The FEDS process requires that local districts investigate applicant statements and documents, over and above what is the usual verification practice in the application interview.

2. **ROLE OF ELIGIBILITY WORKER** – During the interview process, the worker must review the application and its accompanying documents and notes from the interview for the presence of FEDS indicators.
 - a. Eligibility workers detect the presence of FEDS indicators by reviewing various documents related to the application such as the:
 - (1) Application
 - (2) Clearance report
 - (3) Verification documents submitted by the applicant
 - (4) Past case record
 - b. If indicators are present, the worker must make a timely and appropriate referral to the investigative unit by accurately completing a FEDS referral form. Applications with indicators must be referred even if the eligibility worker suspects that the applicant may fail to comply with a part of the application process in the future, such as failure to comply with employment job search and or drug/alcohol assessment.
 - c. Workers must ensure that FEDS referrals are clear, concise, and easily readable. They must also provide any information that could add to the safety or efficiency of the investigator's communication with the applicant. For example: an eligibility worker is referring an applicant to the investigative unit for FEDS because the applicant does not have a utility bill in his/her own name and the residency appears questionable. During the application interview, the applicant states he/she has a bad credit history with the utility provider. The eligibility worker should indicate this on the

referral.

- d. Eligibility workers must notify FEDS investigators immediately of:
 - (1) The action taken on an application, so that monthly FEDS reports can be completed timely and proper cost avoidance savings can be applied.
 - (2) Any important changes to the application, such as address change, withdrawal of the application, or denial.
 - (3) Any action taken by the worker on the application that differs from the investigator's recommendation on the report investigation, and the reason the eligibility worker did not follow the investigator's recommendations. Investigators make recommendations regarding application action; however, eligibility workers make the final eligibility determination.
 - e. Once a FEDS investigator returns the report of investigation to an eligibility worker, the eligibility worker determines whether the application should be approved, denied or if the case is already opened, the budget reduced, and sends proper notice to the applicant
 - f. While FEDS is not required for NTA/SNAP households, the process does apply to the SNAP part of a TA application. The worker must take the appropriate SNAP action for any information discovered during the FEDS investigation of the TA case.
 - g. FEDS referrals must be handled expeditiously so that the worker can know the results of the investigation before the case is opened.
 - h. Receipt of benefits cannot be delayed because of this process. Benefits must be issued by the 30th day for FA and by the 45th day for SNA.
 - i. Receipt of expedited supplemental nutrition assistance program (SNAP) cannot be delayed because of this process.
 - j. Receipt of emergency benefits cannot be delayed because of this process. When an applicant has an emergency situation and the worker has identified FEDS indicators that must be investigated, the local district must not delay meeting the applicant's emergency need(s) or application approval because a FEDS investigation is not complete. Districts should complete and resolve the FEDS investigation before recurring benefits begin.
3. **DEVELOPMENT OF FEDS PLANS** – Each local district must establish a FEDS plan for TA cases. Should local districts wish to develop plans for NTA/SNAP cases, they may be included in the TA FEDS plan, or may be submitted separately.

Whenever major changes are made in an operational plan, an addendum must be submitted for approval. A major change would be any item which impacts on the actual operation of the FEDS program, such as a modification in the targeted investigative turnaround time frames or the addition or deletion of indicators requiring FEDS referral. The plan must be submitted according to the format in [05-ADM-08](#). The optional referral

indicators relating to the income/resources, residence and identity of the applicant are found in Office Reg. 348.7.

Plans must be submitted at least 60 days prior to the anticipated implementation date. Once a local district has an approved plan, amendments to the approved plan must also be submitted 60 days in advance of its implementation date for review and approval. All plans and plan amendments must be submitted to:

New York State Office of Temporary and Disability Assistance
Audit and Quality Control - Program Integrity
40 North Pearl Street
Albany, New York 12243

The plans will be reviewed to assure that minimum standards for processing referrals are met. If assistance is needed in developing a FEDS plan, contact the Office's Program Integrity Unit at 518-402-0127.

4. **CLIENT RIGHTS/FEDS**

- a. The FEDS program is geared towards reducing inappropriate TA costs at application. It is important that these reductions not occur at the expense of applicants who are properly eligible for benefits. A FEDS referral in no way constitutes evidence that an applicant is committing fraud; it is a tool that prompts local districts to look further into questionable information received at application.

There will be many applicants whose circumstances will require a FEDS referral based on meeting one or more FEDS indicators. Applicants must always be afforded an opportunity to explain their circumstances when one or more indicators are present. If eligibility workers are not confident that the circumstances of the indicator have been explained or supported adequately, the application must be referred for a FEDS investigation.

If eligibility workers are confident of the explanation and the circumstances are supported adequately, then a FEDS referral is not necessary. But it should be documented in the case record why the indicator was not referred for a FEDS investigation. For example, a local district may include as referrals those persons who have a post office box and self-employed individuals. For example:

- (1) The client who has a post office box may live in a high crime area or on a rural delivery route. The reason for the post office box is legitimate, and the circumstances are supported, therefore, no FEDS referral is necessary. The worker must document in the case record why the application was not referred for a FEDS investigation.
- (2) The self-employed individual does not have precise or adequate tax and /or business records. Since the self employment income cannot be identified or verified, the application must be referred for a FEDS investigation.

5. **HOME VISITS AND OFFICE VISITS** – A home visit or office visit may be conducted by the FEDS investigator for TA applications.

The home visit by an investigator is one of the tools available for obtaining a total picture of an applicant's situation. Normally, home visits are made after other tools, such as computer checks and collateral contacts have been used. Aside from possible fraud, the investigator can observe the need for services to develop parenting skills, or whether the residence has obvious health and safety defects that should be reported to the appropriate staff.

- a. A home visit to an applicant by an investigator must ordinarily be conducted only during normal business hours, unless the applicant's circumstances make such scheduling impractical.
 - b. The investigator must properly identify him or herself.
 - c. A home visit may be conducted without advance notice to the applicant.
 - d. Consent by the applicant to an unannounced visit must not be considered permission to search the premises. However, the investigator may question the applicant about people or objects in plain view.
 - e. If the applicant declines to cooperate in an unannounced visit, that cannot provide the basis for denying the application for assistance. The investigator must not lead the client to believe that failure to cooperate in a home visit will result in a denial.
 - f. If the applicant does not cooperate in an unannounced home visit, the FEDS investigator may schedule an appointment with the applicant to continue the FEDS investigation.
 - g. If an office interview is scheduled rather than a home visit, every effort must be made to prevent client hardship. The scheduled time must be reasonable and defensible at a fair hearing. If the applicant would find it difficult to make the scheduled office appointment, alternate arrangements should be made, such as providing for transportation.
6. **SYSTEM IMPLICATIONS** – Action on an application for failure to comply with the FEDS process should utilize one of the notices below. This would include a denial as well as a closing (for those cases when a FEDS investigation was not concluded timely and the case was opened).
- a. Upstate
 - (1) **Upstate – TA Action**
CNS Code N15 Failure to Keep Appointment EVR/FEDS [*Scheduled*] Home Visit
CNS Code W10 Failure to Keep Investigatory Appointment [Office Interview]
CNS Code V21 Failure to Provide Verification
 - (2) **Upstate – SNAP Action** (If the district has approved SNAP-FEDS plan)
CNS Code V21 Failure to Provide Verification

Note: When using V21, districts are providing proper notice to the applicant by specifying what has not been verified. The V21 code offers the eligibility worker a list of selections of what has not been

verified, as well as an “other” box that allows the eligibility worker to explain an item that is not available from the selections. It is imperative that the applicant is informed specifically in the denial notice of what has not been verified.

b. NYC (Note: New York City does not do FEDS for SNAP application)

(1) **NYC – TA Action – Denial**

There are no case level denials in CNS for TA, so a manual denial notice would be sent with one of the following reasons written in:

245 – Fail to Keep EVR Appointments

246 – Ineligible Based upon EVR Evaluation

285 & 286 – Other (for Failure to Verify situation)

(2) **NYC – TA Action – Closing**

CNS Code N15 Failure to Keep Appointment EVR/FEDS [*Scheduled*] Home Visit

CNS Code E18 Failure to Keep EVR Office Appointment

(Failure to Verify codes can be found in the “Worker’s Guide to Codes”)

C. RESPONSIBILITY FOR FURNISHING INFORMATION

1. LOCAL DISTRICT – The local district shall

- a. Provide applicants, recipients, and others who may inquire, with clear and detailed information concerning TA programs, eligibility requirements, methods of investigation, and benefits available under such programs.

Note: In order to fully comply with the provisions of 45CFR Part 84, which was issued to effectuate Section 504 of the Rehabilitation Act of 1973, each district must provide information in a manner that is accessible to blind or deaf applicants or recipients.

- b. Inform each applicant and recipient, at the time of application and subsequently, of such person's initial and continuing responsibilities to provide accurate, complete and current information on his/her needs income and resources as well as the whereabouts and circumstances of responsible relatives.
- c. [DSS-4148A "What You Should Know About Your Rights and Responsibilities"](#), [DSS-4148B "What You Should Know About Social Services Programs"](#), and [DSS-4148C "What You Should Know If You Have An Emergency"](#) contain the required information outlined in paragraphs a and b above.
- d. General Requirements: The Client Information Books **must** be distributed at the same time that the Application ([LDSS-2921](#)) is distributed. Specifically:

ACTION

The Application ([LDSS-2921](#)) is mailed or given in person; the face-to-face certification eligibility interview is scheduled to follow

The Application ([LDSS-2921](#)) or the SNAP Application Statement for SSI Recipients and Group Living Residents ([DSS-4826](#)) is mailed. No face-to-face certification interview is required.

REQUIREMENTS

Client Books **must** be mailed or given with the application.

Client Books **must** be mailed with the application form.

2. APPLICANT/RECIPIENT – The applicant/recipient shall

Furnish evidence to provide verification (see [TASB Chapter 5, Section E](#)) of those factors which affect eligibility and the amount of benefit, including:

- a. Identity
- b. Residence
- c. Family composition - For each member of the household for whom an application for assistance is made the following information must be furnished:

- (1) Name
- (2) Date of birth
- (3) Sex
- (4) Relationship to other members of the household
- (5) Veteran status
- (6) Marital status if 16 years of age or over
- (7) If any person is pregnant, the anticipated date of delivery
- (8) If the applicant is employed, the expenses incident to such employment.
- (9) For each member of the household not applying for assistance, the name and relationship of such individual to those applying for assistance must be furnished.
- (10) Rent payment or cost of shelter
- (11) Income from any source (351.1)
- (12) Savings or other resources and
- (13) Lawful residence in the U.S., if the recipient is an alien.
- (14) Apply for and utilize any benefits or resources that will reduce or eliminate the need for TA or care

Note: This includes Veterans Benefits as specified in [TASB Chapter 19, Section O](#)

- d. Make a timely report to the local district of any changes in his or her needs and resources. A report will be considered timely if made within 10 days of the changes. A report to the local district concerning changes in income will be considered timely if made within the timeframes specified in [TASB Chapter 13, Section A-9](#)
- e. Assure that for each member of the household for whom an application for assistance is made or any other individual whose needs are considered in determining the amount of assistance, apply for and provide a social security number as a condition of the household's eligibility for TA.

3. DISCLOSURE OF INFORMATION TO LAW ENFORCEMENT

- a. The Welfare Reform Act of 1997 amended Section 136 of the Social Services Law to require local districts to disclose certain information to law enforcement officials.
 - (1) Office Regulation 357.3(e) requires local districts to provide addresses of recipients of FA, SNA or CAP to a federal, state or local law enforcement officer under the conditions listed.
 - (2) In addition, a local district official must report known or suspected instances of physical or mental injury, sexual abuse or exploitation, sexual contact with a minor or negligent treatment or maltreatment of a child to a law enforcement agency or other appropriate agency or official.
 - (3) A local district official may also communicate with the United States Citizenship and Immigration Service (USCIS) regarding the immigration status of any individual.
- b. The conditions under which the local district would be required to disclose information include:

- (1) The officer furnishes the local district with the recipient's name and,
- (2) The officer's duties include the location or apprehension of the recipient and,
 - (a) The officer notifies the local district the recipient is fleeing to avoid prosecution, custody or confinement after conviction of a crime or an attempt to commit a crime which is a felony under the laws of the place from which the recipient is fleeing. In the case of New Jersey the crime is a high misdemeanor under the laws of New Jersey; or,
 - (b) The officer notifies the local districts that the recipient is violating a condition of probation or parole imposed under a federal or state law; or,
 - (c) The officer notifies the local district that the recipient has information that is necessary for the officer to conduct his official duties.

4. CRIMINAL MATCHES

a. Sharing Information

This Office and the Division of Criminal Justice Services (DCJS) have entered into an agreement to cooperate in the sharing of information in order to implement federal requirements for the ineligibility for TA and SNAP benefits of criminals who are fleeing to avoid prosecution, custody or confinement after conviction.

The New York State legislation extends the penalties mandated for FA to all TA programs in the State. The following categories of individuals are now ineligible for TA (FA and SNA) in New York State:

- (1) Fugitive felons.
- (2) Probation and parole violators.
- (3) Persons convicted for misrepresenting their identity or place of residence in order to receive TA, SSI, MA or SNAP simultaneously in two or more states. Such persons are ineligible for ten years, beginning with the date of the conviction.

b. Local District Responsibility

- (1) Section 136 of the Social Services Law authorizes local districts to provide to law enforcement officials the addresses of fugitive felons, parole and probation violators. It also authorizes the provision of addresses of persons that have information that is necessary for a law enforcement officer to conduct his or her duties.
- (2) Under the agreement between OTDA and DCJS, when a positive match is made between a WMS individual and a DCJS individual, the local districts will report the individual's address to law enforcement officials. In addition, the local district must also take action to deny the applicant or close the recipient's case if the individual's criminal status makes him or her ineligible. Local districts should therefore plan for controlling receipt of the match information and for appropriate

follow-up on the application or TA case.

- (3) It is recommended that the local district designate the local fraud/investigative unit (IU) as the controlling unit for "hits" on the OTDA/DCJS match. The IU should receive the monthly BICS match report and any matches there or through the Recipient Identification and Client History (RICH), (see Systems Implications) should be referred to the IU prior to any action on the application or case.
 - (a) It will be the responsibility of the IU to evaluate the match report and, if appropriate, to contact the local sheriff or State Police with the report of the individual's whereabouts. This report should be made only for individuals who are fleeing felons or probation or parole violators, not for those convicted of fraud.
 - (b) The IU should establish a recommended procedure with the local law enforcement regarding the normal sequence of referral -- for example - sheriff first, then State Police, depending upon the crime and/or local law enforcement arrangements.
 - (c) The investigation unit should obtain a timely follow-up report from the law enforcement agency within 48 hours, or a reasonable equivalent arranged with the law enforcement unit. This report should establish whether the individual had been taken into custody, had fled, or if the referral had been found erroneous.
 - (d) It should also be the basis for notification to the individual of the TA or SNAP action to be taken. After obtaining a report from the law enforcement agency, the investigation unit should evaluate whether a notice can now be sent.
 - (e) Worker safety as well as successful completion of the law enforcement action must be given paramount importance in this decision and carefully coordinated.

c. Systems Implications

System support for tracking the criminal categories outlined above is available through a matching subsystem titled Recipient Identification and Client History (RICH). Under an agreement with the Division of Criminal Justice Services (DCJS), this Office will match files provided by DCJS against the WMS file of recipients for both TA and SNAP programs. The DCJS data includes information on fleeing felons and parole and probation violators. In addition, this Office has contacted local District Attorneys and requested that they supply information concerning individuals who have been convicted of fraud in misrepresenting their identity or residence in order to receive duplicate TA or SNAP, and also on individuals convicted of trafficking in supplemental nutrition assistance program. When a match occurs between a WMS applicant or recipient and the files from DCJS or the District Attorneys, a match report will be made to the local district. The report will be provided monthly through BICS for recipients. For applicants, a weekly hardcopy report will be provided through RICH.

D. SOURCES OF INFORMATION

1. **PRIMARY SOURCES** – The applicant, recipient, members of his/her household and public records must be relied upon as primary sources of information. Information received from applicants, recipients and members of the household must be verified. The applicant or recipient is required, wherever possible, to provide such verification by documentation.
 - a. Primary documents not subjected to change, such as birth certificates, alien documents and marriage certificates, must be originals and not photocopies.
 - b. If the applicant or recipient has previously verified necessary information which is not subject to change and the local district possesses documentation of such verification in its files, the applicant or recipient is not required to resubmit verification of such information; provided, however, that such documentation may be required in connection with any State quality control review of local districts programs.
 - c. When an applicant or recipient establishes that he/she has made reasonable efforts to obtain information or verification from a third party (other than a third party who is required to be in the filing unit, or whose income is used in determining eligibility or an individual living in the household) and the third party fails or refuses to provide the information or verification or seeks to impose a charge or fee for providing the information to the applicant or recipient, the local district must pay such fee or must assist the applicant or recipient in obtaining the information or verification from the third party or by other means as may be necessary.
 - d. In order to assist the applicant or recipient in obtaining verification of birth records, procedural information is being provided for use by local social services district staff. The procedures for obtaining an applicant or recipient's birth certificate vary widely by region/state. Refer to the appropriate birth locality's instructions listed below:

(1) New York State (except New York City)

The NYS Department of Health does not provide verification of vital records by email, phone or fax. Requests for vital records needed by federal, state or county agencies for official purposes must be submitted by mail on agency letterhead and must include a copy of the requestor's identification (agency ID or driver's license). Include on letterhead the reason that the verification is required. Also, complete and include the birth certificate application form to send with the request (Form DOH-4380: <http://www.health.ny.gov/forms/doh-4380.pdf>).

A "Government Use" copy of the relevant record or a no record statement will be mailed to the requesting agency. The "Government Use" copy is stamped and is provided for agency files only, it is not to be given to the client. There is no cost to state agencies or county departments of social services for this service. Requests should be mailed to:

New York State Department of Health
Vital Records Certification Unit
P.O. Box 2602

Albany, NY 12220-2602

(2) New York City

The New York City Department of Health maintains vital records for persons born in one of the five boroughs of New York City. Original vital records documents will be provided only to the individual named on the record. However, social services district staff may obtain a free electronic verification of birth information via email. In order to obtain this electronic verification, the following steps must be taken:

- (a) Email: nycdohvr@health.nyc.gov and enter “NYS Verification” in the subject line
- (b) Include registrant’s name, date of birth, mother’s first & maiden name and father’s first & last name in the body of the email

There is no additional documentation or identification needed by the SSD to obtain the electronic verification. The information provided by the NYC Department of Health verifies the accuracy of the information sent in the initial requestor’s email. The verification will be sent to the requestor’s email address. The information provided to the SSD’s by the NYC Department of Health is considered primary documentation and verified upon receipt.

(3) New Jersey

In order to receive birth certificate records for applicants or recipients born in New Jersey, a request must be submitted via fax to Kathleen Johnson at (609) 341-2007. There is no fee for this service for government agencies. The fax must include the following information:

- (a) Client’s birth info, such as: name at birth, date of birth, place of birth, maiden name of mother and father’s name
- (b) A copy of the requestor’s identification (agency ID or driver’s license)
- (c) An address where the certificate can be mailed (certificates cannot be faxed or scanned due to safety features included on the certificate)

2. SECONDARY AND COLLATERAL SOURCES AND COLLATERAL INVESTIGATION

– Secondary or collateral sources of information are relatives outside the immediate family group and other persons, agencies, or resources. Collateral investigation means the collection of additional information through contacts with secondary sources such as, relatives, employers, banks, insurance companies, school personnel, social agencies, and other appropriate individuals and organizations.

a. The Adult Caretaker and Child Relationship

It is difficult to obtain formal documentation of relationship when the caretaker is related to the child in the paternal line when the child has been born out of wedlock and paternity has not been established. Additionally, because the relationships that

qualify for FA eligibility can be more distant than parent, grandparent, brother or sister, or aunt or uncle, documenting the relationship becomes more difficult as the relationship becomes more distant.

The following is the minimum documentation and verification necessary to establish relationship between the adult caretaker and the child on whose behalf the adult is making application for Temporary Assistance. The relationship requirement is still in place as a condition of categorical eligibility for FA (and non-cash SNA [FP]). Local districts may use two kinds of secondary documentation in the absence of primary documentation to establish relationship.

- (1) The relationship of the adult caretaker to the child is very often commonly known to neighbors and the community. It is reasonable to accept statements from these individuals or community groups who state their knowledge about the relationship.
- (2) In the absence of primary documentation of relationship, the following forms of secondary documentation are acceptable. Secondary documentation can include:
 - (a) School records - A statement from the school which states the relationship of the child to the caretaker as declared in school records.
 - (b) Attestation - The signed application in which the caretaker states the relationship.
 - (c) Signed statements - A signed statement from a leader of a religious community, or a person authorized to act on his or her behalf, attesting to the relationship as presented to the community by the adult caretaker relative. A signed statement from a landlord, neighbor, day care worker, doctor, or scout troop leader are additional examples of verification of relationship.

Note: Although the caretaker's statement (attestation) of relationship may serve as one of the forms of secondary documentation of relationship, that in no way relieves the caretaker of the responsibility to cooperate with Child Support Enforcement requirements. For example, the caretaker may be related through the paternal line. However, without proof that the child was born in wedlock, or that paternity has been legally established, the caretaker must cooperate to the extent possible in establishing the paternity of the child. Additionally, when the parent of a child is absent from the household, the caretaker of the child must cooperate with Child Support Enforcement efforts to locate the absent parent, secure a child support order and enforce the support order.

- (3) Local districts should accept other forms of documentation that they find will establish relationship for the purpose of FA categorical eligibility. It is **not** necessary to place cases into SNA pending receipt of more formal kinds of documentation when the secondary documentation is present.
- (4) If the local district finds the relationship questionable, additional documentation

or verification is necessary.

- (5) This policy also applies to EAF categorical eligibility.

E. VERIFICATION

1. Verification of data which are pertinent to the determination of initial and continuing eligibility or the amount of the assistance grant is an essential element of investigation.
2. Documents, personal observation, personal and collateral interviews and contacts, reports, correspondence and conferences are means of verification.
3. Local districts must use [LDSS-2642 - "Documentation Requirements"](#) to inform applicants/recipients of the specific eligibility factors which need to be verified, to provide a list of documents which are acceptable verification of these factors, and to indicate on the form the date by which any outstanding documents must be received.
4. When information is sought from collateral sources other than public records because the applicant or recipient cannot provide verification, there shall be a clear interpretation to the applicant, recipient or legally responsible relatives of what information is desired, why it is needed and how it will be used.
5. Verification of information with respect to legally responsible relatives from collateral sources shall be made only with the knowledge and consent of such relatives after first giving them the opportunity to provide verification of their income, resources and expenses by other means.
6. In the event that a legally responsible relative residing outside of the applicant's or recipients' household fails or refuses to cooperate in providing necessary information about his financial circumstances, such refusal **shall not** be a ground for denying or discontinuing assistance. Such refusal shall be referred to the Child Support Enforcement Unit (CSEU) in accordance with Department regulations.
7. When the applying household has a child whose parent lives outside the household, a referral must be made to the Child Support Enforcement Unit (CSEU). See [TASB Chapter 9, Section S](#)
8. In the event that a legally responsible relative residing in the applicant's or recipients' household fails or refuses to cooperate in providing necessary information about his financial circumstances, such refusal **shall** be a ground for denying or discontinuing assistance to the person for whom he is legally responsible.
9. ["DSS-3668: "Shelter Verification"](#), ["DSS-3707: "Employment Verification"](#) and ["LDSS-3708: "School Attendance Verification"](#) may be mailed to the landlord, employer and school, respectively, at the time of application, recertification, or when circumstances demand such verification.

F. COMPUTER MATCHES

In the past several years, this Office and individual local districts have increasingly matched data on applicants and recipients with other agencies and institutions. A few of these matches include: State tax, UIB, wage reporting, Social Security, other states, and most recently, the IRS 1099 match. These matches can be a valuable tool in verifying benefit amounts and resources and uncovering hidden income, assets and resources of TA households. However, care must be given to how this information is used.

1. **PROPER PROCEDURES** – Local districts are reminded that when data on an applicant/recipient generates a computer match, no action can be taken against the applicant/recipient until certain steps are taken by the local district. These steps are:
 - a. TA case action can only be initiated directly based on a computer match when the data is current and from a primary source or a secondary source that has been independently verified. If the information is not known to the local district, or if the information appears to be inaccurate, the applicant/recipient must be given the opportunity to explain the case situation. This can be done by telephone, in writing, or in a face-to-face interview.
 - b. Primary source computer matched information is considered verified upon receipt, and there is no need for the district to independently verify the information provided through the match and the district can take action to reduce or discontinue TA benefits and issue appropriate notice, as long as:
 - (1) The data is current (within 60 days of date of case action)
 - (2) The district has reason to believe that the information from the match is valid. The following is a listing of computer matches verified upon receipt:
 - (a) SDX - SSI benefit match
 - (b) BENDEX - RSDI benefit match
 - (c) PARIS - Interstate welfare benefit match
 - (d) Felon Match - Fleeing felons and violators of probation and parole match
 - (e) Prison Match - Match with DOCS for State prisons and DCJS for city and county jails
 - (f) UIB - Match with DOL for UIB benefits
 - (g) Deceased Match - Match with DOH to identify the recently deceased

The WINR 5228, WINR 5225 and WINR5229 are reports that include primary source computer matched information and is considered verified upon receipt. There is no need for the district to independently verify the following information provided through the match:

- (1) WINR5225 – date of birth of newborn, name of newborn, newborn gender, name of mother (if listed), date of death for newborn or mother
- (2) WINR 5228 – date of birth of newborn, name of newborn, newborn gender, name of mother (if listed), date of death for newborn or mother
- (3) WINR5229 – date of birth of newborn, name of newborn, newborn gender, name of mother (if listed)

This must not be used to add a newborn to the case. Additional documentation is needed to add the newborn to the case including; verification of household composition, SSN, and other TA eligibility requirements such as cooperation with child support.

Note: When the appropriate adverse action notice for TA, timely or adequate, depending on circumstances, is sent to the applicant or recipients they may request a fair hearing if the information is believed to be in error.

- c. When a computer match involves a secondary source, the computer matches are not verified upon receipt and the district must verify with the applicant or recipient, or the primary source (for WRS the employer) the accuracy of the information before initiating any case action.

The following is a listing of computer matches that are not verified upon receipt:

- (1) WRS (Wage Reporting System) – Earnings match
 - (2) State New Hires – Match of all NY State new hires (employment)
 - (3) TA/MA FIRM (Financial Institution Recipient Match) – Resources match that targets State financial institutions (typically bank/credit union accounts)
- d. For secondary sources, the case record must be reviewed to ascertain whether or not this information is known to the local district (unless the district has an Office approved alternative methodology). If this information is known, is accurate, and does not result in a grant change or ineligibility, no further action is necessary.
 - e. For secondary sources, if the information is not known to the local district or if the information appears to be inaccurate, the applicant/recipient must be given the opportunity to explain the case situation. This can be done by telephone, in writing, or in a face-to-face interview.
 - (1) If the applicant/recipient does not respond to a written request for information or does not appear for an interview and no request has been made to reschedule, the local district can close the case for failure to cooperate. The local district must issue a timely notice of intent to discontinue benefits. In these situations, continuing eligibility for assistance has not been established. Assistance cannot be opened/reopened until the match information is resolved.
 - (2) When the applicant/recipient replies or comes in and disagrees with findings of the match, the worker must investigate the circumstances and determine whether or not the applicant/recipient's position is valid. If the worker agrees there has been an error, immediate action should be taken to correct, if possible, whatever information caused the error (for example, an incorrect Social Security number).

2. IRS UNEARNED INCOME DATA ([06 ADM-02](#))

a. General Information

The Internal Revenue Service has an agreement with this State to provide unearned income data on temporary assistance recipients whose social security numbers are

matched with their information. The Office of Temporary and Disability Assistance is required by law to use IRS matched data in determining eligibility for federally funded assistance programs.

The 1099 computer match process involves only Temporary Assistance to Needy Families (TANF) cases (Family Assistance - case type 11 and Federally Participating Safety Net Assistance - case type 12) being matched with the IRS 1099 file to identify cases with Federal Tax Information (FTI). The results of this match are forwarded electronically to OTDA personnel staffing an office in Albany, which meets strict IRS security guidelines. This secure room is limited in access to staff involved with processing FTI.

Federal tax return data is highly confidential. All tax return information must be kept secure. Access to IRS information is only allowed to 4 OTDA staff members, a supervisor who is the IEVS coordinator and three IEVS Specialists. They are responsible for the task of processing IRS matches and forwarding federal tax return information (FTI) to districts once it has been verified. Documents that are forwarded to the LDSS for case action will **not** contain FTI.

Individuals have the right to information about their own tax records. Staff may identify the source of the match information only to the applicant or recipient, a spouse (if living in the household), or authorized representative.

In the secure room, filters are applied to the IEVS Tracking System (ITS) to screen out those cases with 1099 income that are unlikely to have an impact on current financial eligibility including:

- (1) Financial Income Recipient Match (FIRM) income
- (2) Total unearned income of less than \$100 annually
- (3) Negative amount(s) of income
- (4) Prior year tax return income
- (5) Unemployment Insurance Benefits (UIB)
- (6) Social Security Benefits
- (7) Lottery Prize and gambling winnings income

b. Procedure

- (1) State 1099 IEVS staff accesses the FTI via the stand-alone ITS system. When an appropriate match passes the filters, State 1099 IEVS staff will be alerted and one of two third party collateral verification forms (Bank/Financial Verification Inquiry Cover Letter and Bank/Verification Response Form and Income/Assets Verification Inquiry Cover Letter and Income/Assets Verification Response Form) will be sent to the source of the 1099 to obtain primary verification of the FTI.
- (2) Once the response form has been completed, it is sent back to OTDA in a self-addressed, return envelope. Information completed by the source of the FTI and provided back to the State on the response form as directed is no longer considered federal tax information. At that point, this information is normal non-FTI primary documentation of income and resources. While great care still must be exercised in safeguarding its confidentiality, the returned documentation no longer falls under the security constraints of FTI.

- (3) Returned documentation will be assessed by State 1099 IEVS staff to determine if it has any potential impact on eligibility and forwarded (normally by e-mail, but also on occasion by fax or mail) to local district contacts for further follow-up. Districts must follow-up on this documentation including reviewing the case record, contacting the recipient or initiating action to reduce or discontinue assistance as appropriate. Districts must take action on non-FTI documentation within 45 days of the date they receive it. Districts must note the reason for resolution of any referred FTI match in the case record and maintain an adequate accounting of the reason for case action or non-action for audit purposes.

Note: Information received through the 1099 process that does not require district case action will not be sent to districts.

- (4) Because of the filters involved in screening, it is anticipated that the documentation forwarded to districts will much more frequently impact TA eligibility than previous 1099 RFI matches that districts processed. However, it is also anticipated that far fewer matches will be processed by the State and subsequently less documentation forwarded to districts for necessary action.

3. LOCAL DISTRICT RESPONSIBILITIES

Local districts have several responsibilities with respect to the newly established 1099 process detailed above.

- a. District staff must have a general awareness of the process by which OTDA will be obtaining verification of 1099 data in order to address recipient inquiries.
- b. Districts must take action on non-FTI documentation from OTDA within 45 days of the date they receive it. Districts must follow-up on this documentation including reviewing the case record, contacting the recipient or initiating action to reduce or discontinue assistance as appropriate. Staff also needs to be aware that there are significant criminal and civil penalties involved with the misuse of federal tax information. This is necessary even though OTDA will be forwarding non-FTI to districts since it is possible that inadvertently third party sources or OTDA itself may mistakenly share FTI with districts. Local district staff should be aware that there are strict statutory penalties for misuse of FTI. Federal law provides the following penalties associated with FTI misuse:

*IRC Section 7213 and 7431 (see also IRS publication 1075)
Unauthorized disclosure of Federal tax information is a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the cost of prosecution. Unauthorized inspection of Federal tax information is a misdemeanor punishable by a fine not to exceed \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution. Those convicted of either unauthorized inspection or disclosure would also be subject to civil penalties, which would be the greater of \$1,000 for each act, or the sum of the actual damages sustained by the plaintiff, plus punitive damages and the cost of the civil action.*

- c. Districts need to maintain a 1099 contact person to whom e-mails or faxes can be sent when federal tax information is confirmed and the district must follow-up to determine if case action is necessary.

Contact name, phone number and e-mail addresses may be mailed, faxed or e-mailed to:

Temporary Assistance Bureau
40 North Pearl Street
Albany, NY 12243
Or

otda.sm.cees.securerom@otda.ny.gov

- d. Additional Information for State OTDA Staff regarding FTI:
 - (1) Staff that do not have access to tax information but come into contact with it during the copying process must be aware that any intentional access to the data will subject them to the civil and criminal penalties for unauthorized inspection.
 - (2) The Office of Temporary and Disability Assistance may disclose IRA interface information only to our federal oversight agency and the Administration for Children and Families. Such disclosures may be made only in the course of the administration of the federally funded TANF program.

G. SUPERVISORY REVIEW AND APPROVAL

1. Options

- a. Local districts have the option of implementing local district specific supervisory review on all, targeted or a random sampling of TA and SNAP cases. Local districts which elect not to require their supervisors to review 100% of the TA or SNAP cases, have the option (with an approved plan) of implementing a local district specific method of review to ensure that cases are processed properly and that corrective action measures are instituted.
- b. Local districts which elect to perform a targeted or random sample review should emphasize increased staff training, when appropriate, to address those areas which are identified through the supervisory review approval process as needing worker improvement.
- c. Supervisory Review Approval Plan

Local districts must submit a plan to perform supervisory review approval on a targeted number or random sample of cases. These reviews should be a thorough case review in an effort to assure accuracy standards. In addition, local districts may feel that certain areas or types of cases should be targeted for review. For example:

- (1) Error prone areas (i.e., earned income cases)
 - (2) New applications
 - (3) New worker's cases
 - (4) Recertifications
 - (5) Case adjustments as a result of policy changes
 - (6) Emergency applications
- d. The supervisory review approval which is completed must continue to be indicated by a dated signature in the case record. The case review must be based upon all current information pertaining to eligibility and benefit levels.

2. Plan Requirements

- a. Local districts which elect to perform supervisory review approval on a targeted number or random sample of TA and/or SNAP cases must set forth their process and procedures in a Case Supervisory Review (CSR) Approval Plan.
- b. Local districts which are currently using the CSR process do not need to re-submit a plan unless revisions are made to their supervisory review approval process.
- c. Plans must be submitted and approved by the Office of Temporary and Disability Assistance. The Plan must include:
 - (1) A description of which cases will be subject to supervisory review approval
 - (2) The minimum number of TA and SNAP cases each supervisor will be required to review per worker, per week/month, and,

- (3) A description of how case processing errors will be addressed to assure accuracy.

3. Plans must be submitted to:

Deputy Commissioner
Employment and Income Support Programs
Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, New York 12243

- 4. Upon the submission of a supervisory review approval plan, the Office of Temporary and Disability Assistance will review each district's plan and approve the plan in whole or in part within 60 days of the date of submission by the local district. This time frame may be extended with the agreement of both parties.
- 5. If any or all of the plan is not approved, the Office will specify the reason(s) for the disapproval and will specify the steps, if any, the local district must take to rectify the plan.

H. ACCEPTANCE/DENIAL OR TERMINATION OF INITIAL ELIGIBILITY

1. Decision on initial eligibility is the conclusion or determination reached at any point in the application process. Such decision, as approved on supervisory review, shall constitute the decision of the local district. The decision shall be one of the following:
 - a. **ACCEPTED FOR ASSISTANCE** – This means that eligibility has been fully established through investigation or that emergency need and presumptive eligibility have been established and authorization for assistance has been made and approved by the local district.
 - b. **NOT ACCEPTED FOR ASSISTANCE** – Applications are denied and not accepted for assistance when:
 - (1) In the course of the application interview, the information given by the applicant establishes without the need for further investigation that he is ineligible.
 - (2) Ineligibility is determined in the course of or upon completion of the investigation or if the applicant refuses to comply with any requirement essential to the determination of eligibility.
 - c. **TERMINATIONS WITHOUT DECISION** – No decision is required when:
 - (1) An application is withdrawn by the applicant, or
 - (2) The local district documents that the applicant has died, cannot be located, or has left the district prior to the completion of the investigation.

I. RESPONSIBILITY FOR PROMPT DETERMINATIONS

1. Determining Initial Eligibility/Ineligibility

Upon receipt of an application for assistance, the local district shall conduct an investigation and secure, record and evaluate the findings thereof in order to:

- a. Promptly determine eligibility or ineligibility for TA,
 - b. Determine the type of TA or care (including SNAP and/or services) required and authorize such assistance [351.1(c)].
2. A personal interview with the applicant or designated representative is required to establish **TA eligibility**. Interviews shall ordinarily be scheduled within seven working days, except when there is an emergency need, in which case the interview shall be held at once (350.3).
 3. The decision to accept or deny the application must be made as soon as the facts to support it have been established by investigation but not later than 30 days from the date of application for FA and 45 days from the date of application for SNA, except where the applicant requests additional time or where difficulties in verification lead to unusual delay, or for other reasons beyond the local district's control.
 4. The applicant must be notified in writing of the decision in accordance with Department Regulations. The reason for delay must be recorded in the case record and communicated to the applicant.
 5. The applicant must be notified of the availability of assistance to meet emergency circumstances or to prevent eviction. [DSS-4148C - "What You Should Know If You Have An Emergency"](#) fulfills this requirement.
 6. Local districts must compute the amount of the initial grant of regularly recurring financial assistance for SNA applicants using the 45th day after the filing of an application. The countdown to the 45th day is made using the date of application as day one. State reimbursement will not be paid for recurring grant payments paid prior to the 45th day. Local districts are not required to make SNA recurring grant payments before the 45th day at local expense.
 7. If shelter has not been paid for the month in which the 45th day occurs, the budget will include shelter up to the maximum shelter allowance for that month. This is true regardless of what day of the month the 45th day falls. The payment is reimbursable as Safety Net Assistance.
 8. The 45 day period also applies to:
 - a. Sanctioned individuals (other than members of multi-person active cases who are under employment or D/A pro-rata reduction sanctions).
 - b. Individuals discharged from state mental institutions, hospitals, or prisons into the community unless payment is necessary to meet an emergency need such as

homelessness. (Proper discharge planning with pre-release application filings could alleviate the 45 day wait in these situations.)

- c. Persons entering a congregate care facility. However, the payment to the facility would be considered necessary to meet an emergency. In these cases, whether all or part of the personal needs allowance is needed to meet emergency circumstances would be determined on a case by case basis.
9. This 45 day waiting period does not apply to payments required to meet emergency circumstances which include:
 - a. No food and not in receipt of SNAP
 - b. No shelter
 - c. Threat of eviction
 - d. No fuel for heating during the cold weather period;
 - e. A utility disconnect notice and scheduled for shut-off within 72 hours or utilities have already been disconnected, and
 - f. Lack of items necessary for health and safety when there are no resources, including family and community resources, available to meet the emergency circumstance. Lack of items necessary for health and safety includes residential drug treatment and items needed to remove barriers to self-sufficiency.
10. Payments to SNA applicants to meet these emergency circumstances are eligible for State reimbursement as long as all other requirements in Office regulations are met. Such emergency grants must be justified in the case record.
11. Local districts must notify applicants about the availability of assistance to meet emergency circumstances. As with all applications, they must be given a copy of the booklet [What You Should Know If You Have An Emergency" \(DSS-4148C\)](#).
12. SNA applicants required to participate in applicant job search activities must be provided with transportation monies when needed to make the required job contacts. These funds are to be distributed prior to the 45th day.
13. When eligibility has been established, the application shall be accepted for assistance pending the development of potential resources, i.e., support from relatives, adjustment of insurance, or eligibility for benefits. It shall be the responsibility of the local district to fully explore and develop all such resources.

J. IMMEDIATE NEEDS

Local districts are required to respond to an applicant's declaration of an emergency situation at the time of application for TA and to provide notification of local agency determinations regarding the meeting of immediate needs. The handling of emergency situations requires the use of discretion and judgment on the part of local districts.

When an applicant has immediate needs the following programs are available to local districts to meet those needs:

- The Emergency Assistance to Families with Children (EAF) Program
- The Emergency Assistance to Adults (EAA) Program
- The Emergency Safety Net Assistance Program
- The Home Energy Assistance Program (HEAP)
- Expedited SNAP (see SNAPSB Section 4)
- Pre-investigation grants

1. DEFINITIONS

- a. An **emergency situation** is a set of circumstances that often will require some action before the determination of eligibility for ongoing TA is complete. An emergency situation is considered to exist when applicants state they are in one or more of the specific situations listed below:

- (1) They have no food
- (2) They have no shelter
- (3) They have an eviction or a dispossession notice
- (4) They have no fuel for heating during the cold weather period
- (5) They have a utility disconnect notice and are scheduled for shut-off within 72 hours or their utilities have already been disconnected
- (6) They are without items necessary for the health and safety of individuals (this would be determined on a case-by-case basis, for example, a necessary home repair, such as a broken water pipe)

- b. **Immediate needs** are those needs resulting from an emergency situation that must be met that same day to ensure the health and safety of individuals.

2. RESPONSIBILITY OF A LOCAL DISTRICT TO AN APPLICANT'S DECLARATION OF AN EMERGENCY SITUATION AT THE TIME OF APPLICATION – Local districts must take the following actions whenever an applicant for TA declares that an emergency situation exists. These requirements also apply to individuals who request only emergency assistance.

- a. **PROVISION OF EMERGENCY INTERVIEW** – When applicants for TA indicate either verbally during the application process or in writing on the application, that they have one or more emergency situations, they must be interviewed the same day.

- b. Local districts have an affirmative responsibility to ascertain whether an emergency

situation exists, even in situations where the client has difficulty articulating his/her problem.

- c. The applicant's first contact with the local district may be with a pre-screener. The applicant may indicate that he/she has an emergency situation and the pre-screener may determine, based upon the information provided by the applicant, that an emergency situation does not exist. However, even in such a situation, the pre-screener must provide the applicant with notification of the determination that there is not an immediate need and the reasons for such determination by providing a LDSS 4002 - Action Taken on your Request for Assistance to meet an Immediate Need or Special Allowances.

Note: If the local district pre-screens over the telephone and determines, from the information provided over the telephone that, even though the individual stated that s/he has an emergency situation, an interview that day was not necessary, a [LDSS 4002](#) - Action Taken on Your Request for Assistance to Meet an Immediate Need or Special Allowance must be sent.

3. DETERMINATION OF IMMEDIATE NEED

- a. At the time of the emergency interview, local districts must determine if the applicant has an immediate need.
- b. Whether the situation warrants immediate action must be determined on a case-by-case basis.

For example, an eviction proceeding might be forestalled for two weeks. In this type of situation, local districts must use the time from the declaration of the emergency situation, until the situation becomes an immediate need, to investigate the applicant's eligibility.

- c. An immediate need must be met unless the applicant is determined to be ineligible, regardless of the extent to which the investigation has been completed. Local districts are encouraged to meet an immediate need by indirect or in-kind assistance whenever possible.

An example of immediate need is an applicant who is facing an eviction that must be dealt with on the same day, or an applicant who says he/she is without food or without fuel for heating during the cold weather period.

- d. TA individuals under a sanction cannot receive TA and care, including any emergency assistance. (A sanctioned individual may be eligible for payments made pursuant to SSL 131-s.) However, the local district should consider the availability of a public home or shelter or of assistance from private organizations.

4. VERIFICATION OF ELIGIBILITY

- a. Local districts must make every effort to verify an applicant's eligibility for assistance. Generally, it is reasonable to expect that the applicant will have minimal verification necessary to establish his/her identity, family composition and

lawful residence in the U.S. Applicants who are unable to produce this minimal verification should be asked to explain the reasons for this inability.

For example, an applicant may not have access to his/her documents because he/she has been illegally locked out of his/her apartment.

Another example of why someone might not be able to produce verification of eligibility would be an applicant who has been abandoned by a spouse who has taken all documents. In such situations local districts should ask the applicant for collateral sources who can help to establish need and eligibility. The local district should make every reasonable effort to contact these collateral sources as soon as possible.

- b. Applicants who are unable to explain why they cannot produce documentation or who refuse to provide collateral contacts without good reason will be denied assistance for failure to cooperate.
- c. Due to extraordinary circumstances, there can be limited occasions when clients and local districts do not have access to third party sources of documentation. These circumstances include, but are not limited to, situations such as:
 - (1) Families that were forced to leave their homes suddenly and are not able to return to retrieve belongings, such as a fire or flood or a domestic violence situation;
 - (2) Refugees who do not have expected documentation due to the extraordinary circumstances when leaving their country of origin; or
 - (3) Immigrants from countries from which documentation is not obtainable or long delays can be expected in obtaining documentation.
- d. When extraordinary circumstances exist, a special determination may be used to determine eligibility, such as:
 - (1) Written declarations that corroborate an applicant's situation may be used when appropriate third party verification is unavailable, and reasonable conclusions can be drawn based upon available evidence and an examination of the entire case history.
 - (2) Alternative sources that are not normally relied on can be used when other sources are not available. For example, immigration records may be used to verify relationship, dates of birth, etc. For each special determination made, the examiner must describe in the case record the steps taken to obtain primary and secondary evidence and then fully record the basis for making a special determination.
- e. When immediate need has been determined to exist, there are no resources available to meet the immediate need and verification of eligibility has not been completed despite the applicant's cooperation, the immediate need must be met.
- f. During the regular eligibility determination process, if eligibility has not been

established at the point the emergency situation becomes an immediate need, local districts must not delay in meeting the immediate need.

- g. Applicants who are obviously unable to care for themselves should be referred to appropriate services.

5. USE OF RESOURCES

- a. Local districts must determine to the best of their ability that the applicant has no available resources, credit cards or ability to obtain advances of wages from the current employer that could be used to alleviate the emergency. TA applicants with available cash and/or bank accounts must utilize such resources.
- b. For purposes of determining eligibility for ongoing TA, households are allowed to retain resources of up to \$2,000 (or \$3,000 for TA households with a member age 60 or older) equity value. However, individuals claiming immediate need cannot put aside up to \$2,000 (or \$3,000) in cash, checking or saving accounts. These resources must be utilized to meet the immediate need.
- c. Community resources, including friends and relatives, which are actually available to the client must be used before an immediate need can be met by the local district. Local districts must not provide assistance to applicants who refuse to utilize such resources.

Note: The local district must be sure that the resource is actually available. Unless the client volunteers to use family and friends, the local district must check with such people to see if they are willing and able to help. If a referral is made to a community resource such as a food pantry, the local district must confirm that the pantry can supply the food needs of the family until SNAP benefits or a TA grant is available. The family must be able to get to the food pantry.

If such a resource is not actually available, the local district itself must then meet the food need by a means sufficient to supply the family until SNAP benefits are available.

- d. For applicants whose utilities have been disconnected or are scheduled to be disconnected within 72 hours, local districts should make every effort to expedite the negotiation of a deferred payment agreement between the applicant and the utility company. This negotiation can be done by telephone. (Local districts should develop a timely means of learning the results of such negotiations from the utility companies which service their district.)

Note: The Public Service Commission has indicated that the temporary continuation of utility service to a household is appropriate when reasonable efforts are being made to establish an applicant's eligibility for emergency assistance. As such, the immediate need of an applicant threatened with an imminent utility service disconnect may be alleviated by obtaining a temporary extension of service during which time the repayment agreement may be negotiated.

- e. The Office recognizes that in many instances it will be difficult to obtain verification of resources, but local districts must attempt to make as complete an eligibility determination as possible before meeting the specific immediate need. The immediate need must be met if the applicant cannot be determined ineligible and has cooperated in attempts to establish eligibility.

6. MEETING THE IMMEDIATE NEED WHEN NO RESOURCES ARE AVAILABLE

If eligibility has not been established at the time the immediate need must be met and there are no resources available to meet the immediate need, local districts may meet the specific immediate need by:

- a. Pre-Investigation Grant – A pre-investigation grant is a grant of assistance to meet an immediate need for a specific essential item when an immediate need is determined to exist, but financial eligibility has not been fully established by the completed verification and documentation process.
- b. This grant may be an advance voucher or advance payment of part of the regular recurring TA grant. The pre-investigation grant would be considered an advance against the regularly recurring grant if it covers assistance which the regularly recurring grant is intended to cover after the date of eligibility has been established.
- c. The pre-investigation grant may also be a voucher or payment to meet an essential item not covered in the regularly recurring grant (for example, a payment for necessary home repairs) or for a period prior to what will be the date of establishment of eligibility.
- d. A pre-investigation grant cannot exceed the amount of assistance a recipient in a similar situation would receive during the month. (It can include special needs items such as a restaurant allowance, security deposit, property repair, etc.)
- e. If applicants who have received a pre-investigation grant are subsequently determined to be ineligible for ongoing assistance, local districts must determine whether these individuals were eligible for the pre-investigation grant at the time it was issued.
- f. Until the final determination of ongoing eligibility is made and while the application for recurring assistance is still under investigation, individuals in receipt of a pre-investigation grant are to be considered TA applicants.
- g. Incorrectly provided emergency assistance: A local district may determine that the client was ineligible (because no immediate need existed or resources were concealed) even for the emergency assistance only payment that was made as a pre-investigation grant. When this occurs, local districts must take appropriate steps to recover the incorrect payment.

7. USE OF CORRECT CATEGORIES FOR EMERGENCY ASSISTANCE ONLY CASES

- a. Individuals may be eligible for emergency assistance without being eligible for recurring TA.

For example: Individuals with income or resources over the TA resource limit (such as a car needed for employment with Fair Market Value greater than \$9,300) could be eligible for emergency assistance if there are no resources immediately accessible to meet the emergency. If it is determined that the client was eligible for the emergency assistance only payment, local districts must ensure that it is claimed under the proper category of assistance. Emergency payments may be made under the EAF, EAA or the Emergency SNA program. These programs are summarized as follows:

- (1) **EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN (EAF)** – An emergency program designed to provide for the emergency needs of both TA and NTA families with children or a pregnant woman. EAF may be authorized for services or TA items necessary to resolve the emergency situation. EAF authorizations for income maintenance needs are limited to the same items and amounts as described in Office Regulation 352 unless otherwise provided for in Office Regulation 372. However, financial eligibility for TA based upon the State standard of need described in Part 352 of Office Regulations is not a prerequisite for EAF eligibility. (See [TASB Chapter 11](#))
- (2) **EMERGENCY ASSISTANCE FOR ADULTS (EAA)** – Grants of assistance to aged, blind, or disabled individuals and couples who have been determined eligible for Federal SSI benefits or additional State payments and applied for assistance to meet emergency needs as specified in Office Regulation 397, that cannot be met by the regular monthly benefits of SSI and additional State payments or by income and resources not excluded by the Federal Social Security Act. (See [TASB Chapter 12](#))
- (3) **EMERGENCY SAFETY NET ASSISTANCE (SNA)** - Office regulation 370.3 authorizes grants of assistance to provide for the effective and prompt relief of identified needs which cannot be provided for under EAA, EAF, recurring SNA, or recurring FA. The requirements for emergency SNA are explained in [TASB Chapter 10](#).

Note: As stated previously, with the exception of SSL 131-s payments, TA clients under a sanction cannot receive any TA and care, including emergency assistance. (Please See [Chapter 11, Section G](#) and [Chapter 10, Section C](#).) Eligibility for HEAP benefits should be explored to meet emergency energy needs of applicants. Illegal aliens are not eligible to receive TA, including EAF.

8. NOTIFICATION REQUIREMENTS

- a. When applicants for TA assert that they are in an emergency situation, they must be provided with a [LDSS-4002: Action Taken on your Request for Assistance to Meet an Immediate Need or a Special Allowance](#). The [LDSS-4002](#) must be provided to applicants at the time of interview or pre-screening. The [LDSS-4002](#) informs the applicant/recipient of the following:
 - (1) How the local district will meet the immediate need or the reason the local district determines there is no immediate need to be met. The local district may have

met the immediate need through means other than a grant. For example, by referral to a community resource, by contacting a landlord to forestall an eviction, or by assisting the applicant in negotiating a deferred payment agreement with a utility company.

- (2) The reason why assistance to meet the immediate need was denied. For example, an immediate need was determined not to exist because the applicant's eviction was not scheduled to occur for two weeks or the applicant has \$150 available in a savings account which can be used to meet his food needs until Supplemental Nutrition Assistance Program benefits can be issued.
 - (3) Informs the applicant if they must repay assistance provided and if so how much must be repaid.
 - (4) Informs the applicant of his/her right to a fair hearing if he/she disagrees with the local district decision and of his/her right to apply for expedited processing of that fair hearing. If the situation is serious, the State will attempt to process the fair hearing request as quickly as possible.
 - (5) Contains language that is mandated. Therefore no changes in the language will be permitted. If local districts wish to change the format, they must submit their request for change to this Office for approval.
- b. When the final determination of eligibility has been made, all applicants, applying for ongoing TA must be provided with a notice stating the final local district decision on their application. For persons applying for emergency assistance only, the [LDSS-4002](#), action taken on your request, or assistance to meet an immediate need or special allowance, is required to be sent.
 - c. If an applicant is accepted for HEAP benefits and no other emergency situations exist, the HEAP notice is the only notice that must be provided to the applicant. However, if the applicant files a HEAP application (and asserts the existence of an emergency situation) and is denied, both the HEAP notice and the above described notice must be provided to the applicant.

For example: HEAP may be denied but the immediate need may be met in another manner. A separate notice must be provided when a determination is made on the application for ongoing TA.

K. PHOTO IDENTIFICATION CARDS

1. Each social services official shall issue a photographic Common Benefit Identification Card (CBIC) card to any person who is eligible for temporary assistance and to whom payment is to be made, except to a recipient who is unable to access his own benefit personally or a resident in a medical or health-related facility.
2. Each appropriate grantee shall be required to pose for and accept an identification card. Failure of a grantee to fulfill these requirements shall make him ineligible for assistance. If he is the only eligible grantee in his family, the needs of the other eligible family members shall be met as a protective payment.

L. NOTIFICATION

Office regulations governing notification of the district's decision shall be followed whenever a request for assistance or care, including a request for transfer and reclassification, is accepted or denied.

M. CASE RECORD

1. **DEFINITION** – Case record means all written and electronic material concerning an applicant or recipient, including the application form, the case history, budget and authorization forms, medical, resource and financial records.
2. **MAINTENANCE** – A case record shall be maintained for each application and for each case of temporary assistance in order to provide a systematic record of interviews with the applicant or recipient and with other sources of information. The information obtained through social investigation shall be entered promptly on required forms (or approved local equivalents) and/or recorded in the social case history.
3. **PURPOSE AND USE** – The case record shall present a clear and accurate account of the district's provision of assistance and care, and of the services provided either directly or by referral to other community programs.
4. The evidence in the case record shall be used to:
 - a. Substantiate the determination of initial and continuing eligibility, or ineligibility, for assistance or care;
 - b. Document compliance with requirements pertaining to the fiscal and accounting aspects of the use of public funds;
 - c. Validate the supervisory review and written approval of case action by the social services official or by his authorized representative;
 - d. Insure continuity and consistency of service and planning in accordance with individual need regardless of changes in district staff;
 - e. Evaluate the situation in connection with appeals or reapplication.
5. **CASE ACTIVITY CONTROL** – Each local district shall establish and maintain supervisory control of required interviews with recipients, periodic redetermination of eligibility, periodic reauthorizations of assistance, issuance of notices to recipients, and shall record the completion of such action. There shall be maintained, easily available to the local district staff, a current, cumulative record of assistance authorized.

N. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT

1. SSN REQUIREMENT

As a condition of eligibility, all applicants for or recipients of TA benefits are required to furnish an SSN for each member of the TA household and for any other non-applying individual whose needs and income are considered in determining the amount of assistance granted to the household. When a SSN cannot be furnished, the applicant or recipient must apply for such number, submit verification of such application, and provide the number upon its receipt.

Assistance must not be denied, delayed or discontinued pending issuance or verification of a social security number if the applicant or recipient has complied with the above.

2. SSN REQUIREMENTS FOR ALIENS

a. Lawfully Admitted Aliens without United States Citizenship and Immigration Services (USCIS) Work Authorizations

SSA no longer assigns SSNs to lawfully admitted aliens who do not have USCIS work authorization. If an alien does not have permission from the USCIS to work in the United States, the alien may apply for a SSN only if a federal law requires the alien to have a SSN in order to receive a federally-funded benefit (i.e., SNAP, SNA/FP, SNAP or MA) to which the alien has otherwise established eligibility or, a state or local law requires the alien to have a SSN in order to receive general assistance benefit(s) (i.e., SNA) to which the alien has otherwise established eligibility.

New York State law requires a SSN. SSA will provide aliens with satisfactory immigration status who do not have work authorization with a SSN. SSDs must provide aliens with a letter(s) addressed to SSA for those aliens who appear to meet all eligibility requirements for FA, SNAP, MA and/or SNA, except for the SSN requirement. The policy and procedures for this can be found in [07 ADM-01 - Social Security Numbers for Aliens without United States Citizenship and Immigration Services \(USCIS\) Work Authorization](#).

No adverse action can be taken against a lawfully admitted alien or applying members of the lawfully admitted alien's household for failure to obtain or furnish a SSN if the SSA will not issue a SSN solely due to the individual's immigration status.

b. Undocumented Aliens

Undocumented aliens are unable to obtain SSNs due to SSA regulations, therefore, they are not required to apply and/or provide a SSN. If a non-applying household member is an undocumented alien whose needs and income is considered in determining the amount of assistance granted to the household fails to apply and/or provide a SSN, no adverse action can be taken against the household. Undocumented aliens do not need to provide a social security number in order for eligible household members to receive EAF (undocumented aliens are ineligible to receive EAF assistance).

No adverse action can be taken against an undocumented alien or applying members of the undocumented alien's household for the undocumented alien's failure to comply with obtaining or furnishing a SSN.

3. SSN REQUIREMENTS FOR NON-APPLYING HOUSEHOLD MEMBERS

a. Legally Responsible Relatives

Non-applying legally responsible relatives whose needs and income are considered in determining the amount of assistance granted to the household must furnish or apply for an SSN as a condition of eligibility for the entire household. If such person refuses to do so, the entire public assistance household is ineligible for assistance.

b. Non-Legally Responsible Relatives

Social Security Numbers are not required for non-applying non-legally responsible relatives who are included in the household for federal reporting requirements unless the non-applying household member's needs and income are considered in determining the amount of assistance granted to the household.

4. OBTAINING SSN'S FOR NEWBORNS

a. Social Services District Action

Workers should make full use of the Anticipated Future Action (AFA) code on WMS indicating the expected date of delivery, so that a worker can monitor compliance with furnishing a SSN.

Workers should utilize WMS report – WINR-5129 – Newborns with No Social Security Number on WMS. The WINR 5129 report lists any individual born in the previous month with no Social Security Number on WMS. The report includes a Local Office page plus a Unit/Worker page.

Occasionally, a SSN is applied for but not obtained. In instances where 6-months has elapsed since the SSN had been applied for, the parents or guardian of the newborn must be instructed to reapply for a newborn's SSN at their local Social Security Administration, submit verification that the SSN has been reapplied for, and provide the SSD with the SSN when it is received.

b. Enumeration at Birth Program

Hospitals participate in a program, whereby, the hospital files a SS-5 (Application for a SSN) for the newborn. The State Department of Health has revised the birth certificate form to include an attestation that a SS-5 was filed. An applicant or recipient may submit a birth certificate with the "yes" box checked and a signature in place as acceptable documentation that a SSN has been applied for. The parent or guardian must also be instructed to immediately provide the SSD with the SSN when it is received.

If the revised birth certificate is not available, the parent or guardian must be referred

to their local SSA office to apply for the newborn's original or duplicate social security number. The parent or guardian must also be advised that they must provide verification that a new or duplicate social security number has been applied for and instructed to immediately provide the SSD with the SSN when it is received.

5. SOCIAL SERVICES DISTRICT RESPONSIBILITY

An applicant or recipient must be referred to their local SSA office to apply for a social security number. Individuals can also contact SSA's toll-free telephone number at 1-800-772-1213 or online through the SSA portal at www.socialsecurity.gov/myaccount. Any person who is foreign born and applying for either a new or replacement Social Security number must be referred to SSA.

Effective August 1, 2014, SSA Field Offices (FOs) will no longer provide print outs of SSN. If a SSD must have immediate verification of an SSN, the SSA has established a "Point of Contact" protocol whereby if the applicant or recipient is in the FO, the SSA representative will attempt to contact a SSD contact to verify the SSN over the phone. Since a SSN is considered Personal, Private, and Sensitive Information (PPSI), the SSA representative must speak to a SSD contact and is not permitted to leave a message verifying the SSN on voice mail.

Applicants and recipients must be advised to provide the Social Security Administration receipt, SSA-5028 "Receipt for Application for a Social Security Number" or other SSA verification to the SSD as documentation that they have complied with the requirement to apply for a SSN. Applicants and recipients must be advised to immediately provide the SSD with the SSN when the Social Security number is received. Anticipated future action code (AFA) 327 "Follow-up on Application for SSN" should be used to monitor compliance with this requirement.

Assistance must not be denied, delayed or discontinued pending the Social Security Administration's issuance of a social security number as long as the individual provides verification of application.

When a Social Security Number is provided by the applicant or recipient and entered into WMS and WMS SSN Code "8-SSA SSN Validation" appears in the SSN field, the SSN is validated. There is no need to request the applicant or recipient apply or provide a SSN.

6. APPLICANT/RECIPIENT RESPONSIBILITY

Applicants/recipients are required to provide necessary information and documents needed to validate SSNs.

Once an applicant/recipient applies for an original, duplicate or corrected SSN, the local SSA office will issue a receipt (SSA-5028 Receipt for Application for a SSN). The applicant/recipient is required to furnish this receipt or other SSA verification as documentation that they have complied with the requirement to provide an SSN.

Applicants/recipient must immediately furnish the SSD with the SSN when the SSN is received.

7. FAILURE OF AN APPLICANT/RECIPIENT TO COOPERATE IN APPLYING, PROVIDING OR VALIDATING AN SSN

a. Applicant/Recipient

If an applicant/recipient fails to cooperate in applying, providing, or validating a SSN, his/her needs must be removed from the grant and the needs of the family shall be determined based on the remaining persons in the grant.

b. Dependent Child

A dependent child on whose behalf an application is made, is not eligible for assistance if the parent or non-parent caregiver fails to cooperate in furnishing or applying, providing, or validating a SSN for the child.

c. Non-Applying Legally Responsible Relative

If a non-applying legally responsible relative, whose needs and income is considered in determining the amount of assistance granted to the household fails to apply, provide or validate a SSN, the entire household is ineligible for assistance.

8. VALIDATION OF SSN

The Welfare Management System (WMS) SSN Validation process is used to validate SSNs through SSA. All SSNs entered on WMS with a Code 1 (SSN present) will be sent by OTDA to SSA to match social security number information on a regular basis. When the results of the match are received from SSA, WMS will be automatically updated. To assist SSDs in ensuring that SSNs are present and accurate in WMS, system-generated management reports are available through the Benefit Issuance Control System (BICS).

a. SSN Validated

If a SSN passes validation, one of the following SSN codes will be system generated and appear in WMS. If one of the following codes appear, no action is necessary.

- (1) 7 – SSN assigned by SSA – As part of creating MA/SSI cases Auto SDX updates the SSN validation code to a '7'
- (2) 8 – SSN SSA VALIDATION – When the SSN entered on WMS matches SSA's record, Code "8 - SSN SSA Validation" is system-generated on the WMS case record, overlaying the current SSN code. Code "8 – SSN SSA Validation" can be entered by the worker when it appears on the WMS Clearance Report.

b. SSN Failed SSA Validation

If a SSN fails validation, one of the following SSN codes will be system generated and appear in WMS to assist the worker in identifying errors and correcting discrepancies. If one of the following codes appears, the SSD must investigate the discrepancy and if the discrepancy is corrected by the SSD, the WMS SSN code

must be changed to “1 – SSN Present” or “2 – SSN Applied For”.

- 3 – SSN applied for and denied: SSN applied for and denied
- 4 – SSN not applied for
- 9 – SSN failed SSA validation
- A – SSN Not on SSA File
- B – No Match on Name
- C – DOB, Given Name Match (Difference in maiden and married names)
- D – No Match on DOB
- E – Client Known to SSA by different SSN - refer to RFI

c. System Generated Management Reports

SSD's must access their appropriate management report, investigate any recipients listed on the report for discrepancies, and take appropriate corrective action within 45 days of the date the report is available.

- (1) The BICS WINR 5126 “Individuals with Incorrect or No Social Security Numbers on WMS” report, is available to upstate SSDs .The WINR 5126 is a quarterly report that identified and provides a listing of recipients who have an incorrect or no SSN in WMS, or their SSN in WMS failed Social Security Administration (SSA) validation.
- (2) New York City WINR 0203 Report - This management report identifies and provides a listing of recipients whose cases may require corrective action because their SSN in WMS failed SSA validation. This report is sorted by center and worker. It provides a recipient's CIN, SSN, first name, middle initial, date of birth and sex.

d. Resolving Discrepancies Found on Reports

The SSD shall be responsible for resolving any discrepancy on the report by checking the information received from the recipient with the information in WMS and making appropriate corrections in WMS. This may require contacting the individual for additional information.

If an individual's SSN fails SSA validation, the discrepancy causing the failure could be due to incorrect data in the WMS or SSA database. Regardless of the origin of the discrepancy, if a recipient is listed on the report, SSDs must investigate and take any necessary appropriate corrective action within the required time frame.

When it is determined that a discrepancy on the report is due to incorrect information in the SSA database, the following actions must be taken in the situations outlined below:

- (1) Incorrect SSN – If after investigation, the SSD determines that the information on file at SSA is incorrect, the recipient must be referred to the local SSA office to apply for a corrected Social Security Number.
- (2) SSN Not on SSA File – If after investigation, the SSD determines that the

information on file with SSA is incorrect; the recipient must be referred to the local SSA office to apply for an original or corrected Social Security Number.

- (3) DOB, Given Name Match (Difference in maiden and married names) - If after investigation, the SSD determines that the name on file with SSA is not the same name known by social services, the recipient must be informed that he/she must use the same name for social services as SSA. The recipient has the right to decide by which name he/she wants to be known. If he/she chooses to change his/her name with SSA, the recipient must be referred to the local SSA office to apply for a corrected Social Security Number.

If after investigation, it is determined that the SSD incorrectly entered an individual's pertinent information into WMS, the SSD must correct the discrepancy in WMS and change the WMS SSN code to 1 (SSN present but not yet validated).

e. Listing of WMS SSN Codes and Necessary Actions

WMS SSN CODES	NECESSARY ACTION
1- SSN present but not yet validated	NO ACTION NECESSARY
2- SSN applied for but not yet available	If SSN has been received, change code 2 to 1. If SSN has not been received and application is more than month 2 months old, refer applicant to SSA to re-apply for a SSN. Verification of compliance is required.
3- SSN applied for and denied	Request verification of denial, document information in the case record and take appropriate agency actions.
4- SSN not applied for.	Refer the applicant/recipient to SSA to apply for a SSN. When verification of application for a SSN is submitted, change the validation code from 4 to 2. Once SSN is received change validation code from 2 to 1.
7- SSN assigned by SSA	NO ACTION NECESSARY
8- SSN validated by SSA	NO ACTION NECESSARY
9- SSN failed SSN validation	An investigation to determine the reason for the discrepancy must be completed. If discrepancy is corrected by the SSD, change the validation code from 9 to 1.
A- Validation Failed: SSN not on SSA file	This will occur when the SSN in WMS does not match the SSA database. If after investigation, the SSD determines that the information on file with SSA is incorrect, the recipient must be referred to their local SSA office to apply for an original or corrected social security number. S/he must also submit proof of compliance, such as a copy of the Receipt for Application for a Social Security Number (form SSA-5028). When verification of application for a SSN is submitted, change the validation code

	from A to 2 . When SSN received change validation code from 2 to 1.
B -Validation Failed: No match on name	This will occur when the recipient's first or last name in WMS does not match the SSA database. If after investigation, the SSD determines that the name on file with SSA is not the same name known by social services; the recipient must be informed that he/she must use the same name for social services as SSA. The recipient has the right to decide which name he/she wants to be known by. If he/she chooses to change his/her name with SSA, the recipient must be referred to their local SSA office to apply for a corrected social security number. S/he must also submit proof of compliance. When verification of application for a SSN is submitted, change the validation code form B to 2 . Once SSN received, change validation code from 2 to 1 .
D - Validation Failed : No Match on DOB	If after investigation, the SSD determines that the information on file with SSA is not the same known by social services, refer the recipient to the SSA to have the information corrected. S/he must also submit proof of compliance, such as a copy of the Receipt for Application for a Social Security Number (form SSA-5028) When verification of application for a SSN is submitted, change the validation code from D to 2 . Once SSN received change validation code from 2 to 1 .
E - Client known to SSA by Different SSN- refer to RFI	Client known to SSA by different SSN. SSN sent to SSA off by one digit or number transposed. See RFI for correct number. The SSD must correct SSN and change the validation code from E to 1 .
N -State Benefit Eligible Alien	SSN Validation Code N will be used to identify an applicant or recipient who has met all their SNA eligibility requirements but was denied by SSA solely due to their immigration status. Validation code remains N until immigration status changes. If immigration status changes then the client must apply for a SSN. When verification of application for a SSN is submitted, change the validation code from N to 2 . Once SSN is received change validation code from 2 to 1 .
X – SSN SSA Validation/Deceased	

Note: If after investigation, it is determined that the SSD incorrectly input an individual's pertinent information into WMS, the SSD must correct the discrepancy in WMS and change the WMS SSN code to 1 (SSN present but not yet Validated), so that SSA can validate the recipient's SSN at the next update.

9. MULTIPLE SSNs

When an individual submits more than one SSN and indicates that they all belong to him/her, the individual must be referred to the local SSA office. SSA will cross-reference the multiple numbers and advise the individual which SSN should be used. However, SSA cannot cancel a number that has been assigned.

REFERENCES

[11 ADM-05](#)
[10 ADM-04](#)
[08 ADM-08](#)
[07 ADM-01](#)
 [Attachment 1](#)
[06 ADM-02](#)
 [Attachment A](#)
 [Attachment B](#)
[05 ADM-08](#)
[02 ADM-02](#)
[01 ADM-14](#)
[01 ADM-4](#)
[99 ADM-4](#)
[97 ADM-23](#)
 [Attachment 1-11](#)
 [Attachment 12](#)
 [Errata](#)
[97 ADM-20](#)
[93 ADM-20](#)
[93 ADM-8](#)
[93 ADM-4](#)
[92 ADM-33](#)
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[90 ADM-23](#)
[87 ADM-37](#)
[87 ADM-25](#)
[80 ADM-42](#)
[79 ADM -1](#)
[08 INF-17](#)

[07 INF-01](#)
[04 INF-09](#)
[02 INF-29](#)
[01 INF-12](#)
[00 INF-20](#)
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[94 INF-17](#)
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[93 INF-30](#)
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Related Items

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Non-Financial Requirements ([TASB 10-C](#))
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CHAPTER 6: CONTINUING ELIGIBILITY

A. DEFINITION: RECERTIFICATION

Continuing eligibility for temporary assistance shall be established by investigation and documentation at specified intervals, and the process shall be known as recertification, which shall include a reevaluation and reconsideration of all variable factors of need and other factors of eligibility.

1. LOCAL DISTRICT RESPONSIBILITY

In connection with re-determination of eligibility, the local district shall:

- a. Require that the recipient complete the state-prescribed form and submit appropriate supporting data,
- b. Determine the need for additional information from the recipient and/or collateral sources,
- c. Interview the recipient in a face-to-face interview in order to verify factors of eligibility, including those related to:
 - (1) Identity of recipient
 - (2) Residence of recipient
 - (3) Family composition
 - (4) Rent payment or cost of housing
 - (5) Income from any source
 - (6) Savings or other resources
 - (7) Lawful residence in the U.S., if the recipient is an alien
- d. Make appropriate collateral investigation, as required, where the recipient is unable to secure documentation of the above factors and any additional factors of eligibility as required to establish continued eligibility.
- e. Evaluate all the factual information gathered as to its completeness, relevancy and consistency.
- f. Identify the factors of eligibility subject to change which call for prompt review of continuing eligibility.
- g. Advise the recipient of his/her continuing responsibility to keep the local district informed of changes in his/ her circumstances. [DSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) advises the recipient of this responsibility.
- h. Provide client informational books [DSS-4148A](#), [DSS-4148B](#), and [DSS-4148C](#) at each recertification.

- i. Advise the recipient to apply for and utilize any benefits or resources that will reduce or eliminate the need for TA or care.
 - j. Advise the recipient of the opportunity to apply to register to vote. See [TASB Chapter 3, Section D](#) for more information.
2. **GENERAL REQUIREMENTS:** The Client Information Books must be provided at Recertification to all TA, MA and SNAP Recipients at least once per year. In addition, when face-to-face recertifications are more frequent than yearly, the books must be provided at each face-to-face recertification.

The following outlines acceptable practices for distribution of client informational books [DSS-4148A](#), [DSS-4148B](#), and [DSS-4148C](#) at recertification:

ACTION	REQUIREMENTS
Recertification Application (LDSS-3174) is mailed. Face-to-face interview scheduled to follow.	Books do not need to be mailed. Books must be provided at the face-to-face interview.
Recertification Application (LDSS-3174 or equivalent) is mailed. No face-to-face interview is scheduled to follow. (This is an eligibility review at the six month interval between required once-a-year face-to-face recertifications.)	Books do not need to be mailed to those whose eligibility is being reviewed by mail or by telephone contact between required once-a-year face-to-face recertifications. Books must be provided at the face-to-face interview.

B. REQUIRED CONTACTS AND INVESTIGATION

1. Contacts with recipients and collateral sources shall include face-to-face contacts, correspondence, reports on resources, eligibility mail outs and other documentation. Contacts with or concerning recipients shall be made as frequently as individual need, change in circumstances or the proper administration of assistance or care may require.
2. All variable factors of need and eligibility shall be reconsidered, reevaluated and verified at least once in every six months for all TA cases ("All Commissioner" letter - 6/2/83). Unless the local district has an Office approved waiver.
3. Required Face-to-Face Interviews: The local district shall use the state-prescribed Recertification Form ([LDSS-3174](#)) in the recertification process and shall require:
 - a. A face-to-face interview, by the end of the third calendar month following the month of acceptance for all new and reopened FA and SNA cases.
 - b. A face-to-face interview with the recipient for each recertification
4. Recipient Responsibility: The recipient shall appear at the face-to-face interviews and shall present appropriate documentation as required to substantiate both categorical and financial eligibility. If because of age, handicap, or other verifiable limiting condition, the recipient is unable to appear for a face-to-face interview or requires the use of an interpreter for the deaf, the local district shall make appropriate arrangements to accommodate the client. The client shall notify the local district of special needs or requirements as soon as the notice to appear is received and give the reason for such special needs or requirements. See [TASB Chapter 4 Section P](#).
5. Additional Contacts: In addition to personal interviews and correspondence with the recipient, there shall be contact, as the circumstances of the individual case may require, with appropriate persons and agencies to secure verification of data which is essential to establish eligibility for TA and which the recipient is unable to secure.
6. Contacts with recipients and collateral sources of information shall be directed toward consideration of all variable factors of eligibility including the following.
 - a. **FINANCIAL NEED** - Identity of the recipient and his individual circumstances shall be reviewed and verified as indicated in relation to changes in the household, in living arrangements, in income and in allowance schedules, in order to determine those items of need that should be added, deleted or changed in amount.
 - b. **FINANCIAL RESOURCES** - Current availability and use of financial resources shall be reconsidered and verified in relation to fluctuations in value or income or the initiation or termination of rights to benefits.
 - c. **EMPLOYMENT, EMPLOYABILITY AND TRAINING FOR EMPLOYMENT** - The employment, potential employability, availability for employment, or need for training or retraining shall be reviewed and established. For mor information see the Welfare to Work manual.

- d. **RELATIVES** - Changes in circumstances, which affect the ability or willingness of relatives to assist the recipient financially, shall be reviewed. If a legally responsible relative is failing to support according to ability and/or court order, referral for appropriate legal action shall be made.
 - e. **SPECIAL CATEGORICAL REQUIREMENTS** - There shall be review of factors of categorical eligibility which are subject to change such as further impairment, recovery or improvement in the condition of an incapacitated parent, return of an absent parent, termination of eligibility or children because of age or leaving school, and obtaining employment, minor parent education and living arrangement requirements, child absence from the household for more than 45 days. In reviewing a SNA case, eligibility to assistance under a federally aided category shall be considered.
 - f. **HEALTH** - Changes in health conditions shall be considered with respect to continuing eligibility and required services.
 - g. **SERVICES** - There shall be a review of the need for services and appropriate referral made therefore.
7. Required contacts must be made at the specified recertification intervals and whenever case circumstances indicate changes in eligibility or degree of need.

C. ACTIONS BASED ON REQUIRED CONTACTS

1. **FAILURE TO APPEAR AT THE FACE-TO-FACE INTERVIEWS** - If a recipient fails to appear without good cause, the local district shall send a 10-day notice of proposed discontinuance of assistance the [LDSS- 4014A](#) - Action Taken on Your Recertification: Temporary Assistance, Supplemental Nutrition Assistance Program, Medical Assistance Coverage and Services and [LDSS-4014B](#) - Action Taken on Your Recertification: Temporary Assistance, Supplemental Nutrition Assistance Program, Medical Assistance Coverage, Services.
 - a. If the recipient does not respond within this 10-day period, the case shall be closed as of the end of the 10- day period. Any request for assistance made after a case is closed shall be considered a new application.
 - b. If the recipient appears for a face-to-face interview during the 10-day notice period, an interview shall be arranged. If it is determined that he is eligible for continued assistance, the 10-day notice of proposed discontinuance shall be nullified.
2. **MAIL-IN RECERTIFICATION PROCESS**
 - a. Local districts, which use an OTDA approved eligibility mail out questionnaire , or the State mail-in Recert/Eligibility Questionnaire ([LDSS-4887](#)) for one of the two mandatory semi-annual TA face-to-face recertification eligibility interviews required in 18 NYCRR section 351.21 must develop a waiver request outlining the eligibility mail out process, which is to be used.
 - b. Such waiver request must be submitted to and approved by this Office before a local district's mail out process can be implemented.
 - c. The waiver request must include all of the following:
 - (1) Regulation for which the waiver is sought (normally 351.21).
 - (2) How the mail-in process will work including identifying if the optional system generated mail-in recert process via the Client Notices System (CNS) will be used in districts outside of NYC.
 - (3) A copy of the local mail-in recertification form must be included for this Office's approval if the State mail-in Recert/Eligibility Questionnaire ([LDSS-4887](#)) will not be used or if the CNS supported process is not used. If a district develops their own mail-in eligibility questionnaire the following mandated areas of language must be addressed on each district's local mail-in recertification form.
 - (a) Supplemental Nutrition Assistance Program Change Reporting Rules - federally required SNAP language for six month reporting.
 - (b) SSI Interim Assistance Repayment Agreement - provides authorization for the Social Security Administration (SSA) to send the SSD the recipient's initial Supplemental Security Income (SSI) payment to the SSD to repay

interim assistance provide to the individual while their SSI application was pending.

- (c) Lifeline Opt-out—outlines opt out provision for Lifeline.
- (d) Able Bodied Adult Without Dependents (“ABAWD”) – required reporting language when an ABAWD’s monthly participation in employment or other work activities falls below 80 hours.
- (e) National Voter Registration Act (NVRA) – required to ensure recipient awareness of NVRA.
- (4) Specifically address the implications of the waiver for Medical Assistance (MA) and Supplemental Nutrition Assistance Program (SNAP).
- (5) Identification of the target caseload (i.e., household composition, school attendance, etc.).
- (6) How often eligibility mail out questionnaires will be sent.
- (7) Timeframe within which the client must respond.
- (8) The action the local district will take if the questionnaire is not returned.
- d. To submit a waiver request mail request to:
 - Jeffrey Gaskell, Assistant Deputy Commissioner
Office of Temporary and Disability Assistance
Employment and Income Support Programs
40 North Pearl Street –11th floor
Albany, NY 12243
- e. Districts must not modify an approved waiver without this Office’s approval.
- f. Districts must inform this Office in writing in the instance of stopping a waiver process and reinstituting the regulatory requirement.
- g. This Office may rescind the approval of any eligibility mail out waiver or suspend such process when circumstances make such action appropriate.
- h. If the recipient does not respond within this 10-day period, the case shall be closed at the end of the 10- day period. Any request for assistance made after a case is closed shall be considered a new application.
- i. If the recipient responds to the eligibility mail out during the 10-day notice period, the 10-day notice of proposed discontinuance shall be nullified.

Note: A local district may request and the Office may approve a waiver of the regulatory provisions, which direct that failure to respond to an eligibility mail out within certain time periods will result in case closing.

Such waiver requests may be included with the district's eligibility questionnaire process waiver or may be submitted anytime thereafter.

- j. The mail-in recertification process must not be used for any of the following groups:
 - (1) TA cases in which any member of the filing unit has earnings or for which a legally responsible relative's earnings are budgeted.
 - (2) TA cases in which any member of the household is sanctioned.
 - (3) TA cases in which a time-limit trackable individual has reached a time-limit count of 48 months or more, effective January 1, 2006.
- k. If an individual's status changes by reason of becoming sanctioned or employed during a current certification period when that person is on a mail-in recertification cycle, the district must make the change to remove the person from the mail-in recertification cycle and place them on a six month face-to-face recertification at the time of the next face-to-face recertification.

3. OPTIONAL SYSTEM GENERATED MAIL-IN RECERT USING CLIENT NOTICES SYSTEM (CNS)

Districts outside of New York City have the option of using the Welfare Management System (WMS) to generate the State Mail-in Recert/Eligibility Questionnaire ([LDSS-4887](#)) as an attached form to the CNS mail-in recertification notice to be sent to designated TA recipient cases approximately six weeks prior to the six month point of a 12 month certification period. For instructions on how to implement this process see [06 ADM-10](#) "Revised Temporary Assistance (TA) Mail-in Recertification Process".

- 4. **QUALITY CONTROL REVIEWS ([92 ADM-41](#))** - When a head of household refuses without good cause to cooperate in a quality control review, the entire household is ineligible for TA until the head of household cooperates with the review.
 - a. Good cause includes circumstances beyond the head of household's control, such as, but not limited to:
 - (1) Illness of the head of household,
 - (2) Illness of another household member requiring the presence of the head of the household or,
 - (3) A household emergency.
 - b. Failure to cooperate with a OC review exists when the head of household will not provide a State or federal quality control reviewer with information or documentation that is necessary to complete the quality control review. When the head of household fails to cooperate, a quality control reviewer will notify the local district by using the "Report of Incomplete Quality Control Review", DSS-1971.
 - c. The form, DSS-1971, may be used during other local district audits, such as expanded reviews. If the form must be used for failure to cooperate in any review other federal OC, it will be annotated that it is not federal OC.

- d. When such notification is received from State quality control, the local district must send the household a timely and adequate notice to close the case.
 - e. The suggested client notice reason language is, "You did not cooperate with the Quality Control Reviewer. You were given more than one chance to cooperate. You did not tell us a good reason why you did not cooperate. This decision is based on Office regulations 326.1 and 351.22(d)".
 - f. A case that is closed for failure to cooperate with a OC review and which reapplies within three months after closing can be reopened only after the head of household cooperates or agrees to cooperate with quality control. This is true even if the OC sample period has ended.
 - (1) The eligibility worker must notify the local district OC liaison that the household has reapplied.
 - (2) The local district OC liaison must contact State OC to determine if OC will conduct the review.
 - (3) If no review will be done, the case can be opened if otherwise eligible.
 - (4) If OC will conduct the review, they must notify the local district OC liaison that they are satisfied that the head of household will cooperate. The OC liaison can then notify the eligibility worker that the case may be opened if the case is otherwise eligible.
 - (5) If the head of household still refuses to cooperate, the case must be denied.
 - g. Failure to cooperate does not exist if the head of household cannot provide the necessary information for reasons beyond the control of the household.
 - (1) If the TA eligibility examiner has information about the household that may help to establish good cause, the examiner should pass the information on to the OC reviewer.
 - (2) The ultimate decision about good cause for non-cooperation with a OC review rests with OC.
5. **INDICATION OF INELIGIBILITY OR CHANGE IN NEED** - When a local district receives indication of ineligibility or of change in degree of need, action shall be taken to review these situations as they occur. An investigation shall be initiated promptly and completed within 30 days.
6. **VERIFIED INELIGIBILITY OR CHANGE IN NEED**
- a. **INELIGIBILITY OR DECREASE IN NEED** - When a local district verifies ineligibility or a change which results in a decrease in need, it shall immediately initiate action to reduce the grant for the appropriate payment month and notify the recipient of the

proposed change in his assistance grant in accordance with OTDA Regulations.
See [TASB Chapter 13, Section A](#).

- b. **INCREASE IN NEED** - When the verified data indicates an increase in need, action shall be taken immediately to increase the grant for the next payment period possible under the existing payment procedure. See [TASB Chapter 13, Section A](#).
- c. **ADDITIONAL LOCAL DISTRICT ACTIONS** - An appropriate entry shall be made in the case record of whatever action is taken and the basis for this.
- d. **CHANGE IN GRANT** - A reduction or increase in grant involves a reauthorization for a continuing grant in a different amount.
- e. **CASE CLOSED** - This is a final terminal action signifying that the case is no longer eligible for financial assistance in that TA program. Such action is also taken when the case is transferred or reclassified to another category of TA.
- f. The case must be closed when the recipient fails to pick up temporary assistance benefits from an electronic payment file transfer outlet for two consecutive months.

D. DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION

1. OVERVIEW

This section describes the processes and procedures that must be followed when a TA recipient is accused of intentionally violating the requirements of the SNA program (including the veteran assistance program) or the FA program in a fraudulent manner. If such a recipient is found to have committed an intentional program violation (IPV), the recipient may be disqualified from participation in such program for the periods of time set forth in this Section

2. DEFINITIONS

- a. **FA/SNA IPV** – IPV in either the FA or the SNA program means the commission of one or more acts in violation of standards for the FA or SNA program. An FA or SNA-IPV occurs when an individual has established or maintained his or her eligibility or the eligibility of the individual's family for either FA or SNA or has increased or prevented a reduction in the amount of either FA or SNA including veteran assistance, by intentionally:
 - (1) Making a false or misleading statement, or misrepresenting, concealing or withholding facts concerning the individual's eligibility for FA or SNA,
 - (2) Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity concerning the individual's eligibility for FA or SNA, or
 - (3) Engaging in any conduct inconsistent with the requirements of the FA or SNA program.
- b. **ADMINISTRATIVE DISQUALIFICATION HEARING** – Administrative disqualification hearing means a hearing scheduled by the Office, at the request of a local district, upon the submission by the local district of sufficient documentary evidence to establish that an individual has committed one or more acts in violation of program standards described in paragraph 1 above.
- c. **WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING** – Waiver of administrative disqualification hearing means an election of an individual, in compliance with the provisions of this Section, to accept the imposition of an appropriate penalty contained in this Section without a hearing.
- d. **DISQUALIFICATION CONSENT AGREEMENT** – Disqualification consent agreement (DCA) means a document signed by an accused individual in which an individual or any caretaker relative or head of household admits to committing an IPV and consents, as described in TASB this Section, to the imposition of an appropriate disqualification penalty, as set forth in this Section without a trial.
- e. **CARETAKER RELATIVE** – Caretaker relative means a parent or other relative, as defined in [TASB Chapter 9, A, 1](#), with whom a child eligible for FA or non-cash

SNA/FP. It also applies to case with children that are receiving SNA because of the State sixty-month time limit.

- f. **HEAD OF HOUSEHOLD** - The head of household is the member of the applicant household designated by the household to represent the household in all matters pertaining to its eligibility for and receipt of benefits. The head of household classification must not be used to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to apply for benefits.

3. RESPONSIBILITIES

- a. **DUAL RESPONSIBILITY** - The Office and local districts have the responsibility for investigating the alleged commission of IPVs and ensuring that the procedures set forth in this Section are followed.
- b. **ADMINISTRATIVE HEARINGS** - Administrative hearings for SNA-IPV and FA-IPV may be scheduled by the Office, provided that not more than six years have elapsed between the month an individual committed an IPV and the date on which the local district discovered the IPV, and the Office determines that there is evidence to substantiate that an IPV has occurred.

4. LOCAL DISTRICT INVESTIGATION UNIT OPERATIONS PLAN. This plan must include:

- a. A brief description of the organizational units responsible for the investigation and prosecution of allegations of client fraud;
- b. A brief description of any claims establishment (recoupments) and collection activities for which this organizational unit may also be responsible;
- c. An explanation of the coordination between the investigation units and the prosecutor; i.e., courts in which cases of alleged frauds are heard, referral process, etc;
- d. An explanation of how it is proven that the individual was advised on the record of the court of the disqualification provision prior to entering any plea; and,
- e. A copy of or a statement of the agreement with the District Attorney's office in accordance with OTDA Regulation 18 NYCRR 348.2(c).

All plans must be submitted to:

New York State Office of Temporary and Disability Assistance
Audit and Quality Improvement - Riverview
40 North Pearl Street
Albany, NY 12243

- f. Local districts must report information on individuals who have been found to commit IPVs in the TA program to the Office's Case Integrity Unit.

5. REFERRAL TO THE INVESTIGATION UNIT

- a. When an inconsistency in the facts of a TA case is discovered, the TA worker must document the inconsistency, including the amount of any overpayment and determine whether it was the result of a potential IPV.
- b. If the worker has reason to suspect an individual has committed an act, which may be an IPV, the worker starts the recoupment.
- c. The onset of a recoupment may be delayed if it is determined that collection action may negatively impact the possibility of obtaining an IPV determination.
- d. For TA, a timely and adequate notice must be sent and if there is a Supplemental Nutrition Assistance Program impact, a repayment agreement must also be sent. This may be done concurrently with referring the case to the local district's Investigation Unit.
- e. The procedures for making the referral must be established by the local district.
- f. The Investigation Unit then conducts an investigation of the alleged/potential IPV. There does not have to be an actual overpayment to be an IPV.
- g. If the Investigation Unit determines that the allegation is unfounded or that all the elements necessary to process the case further as an IPV are not present (e.g., unavailability of pieces of documentary evidence required to prove the intent of the client), no further action is taken and the eligibility worker is notified to begin the recovery of overpayments if this has not already begun.

6. REFERRAL TO PROSECUTING AUTHORITIES

- a. The local district must refer a case involving an TA IPV in which it believes the facts warrant civil or criminal prosecution to the appropriate district attorney, or to any other prosecutor authorized to act on the matter, and not to the Office for an administrative disqualification hearing.
- b. This will not apply in instances in which the local district has received prior notification from the district attorney or other equivalent prosecutor that the amount of any overpayment or over-issuance determined by the local district to exist is less than the amount which the appropriate official has deemed sufficient for prosecution, provided that the local district has not been notified by any other prosecutor authorized to act on the matter that such prosecutor intends or desires to prosecute such matter.
- c. The Office may not reverse a determination following an administrative disqualification hearing for lack of compliance with the provisions of this Section.

7. DISQUALIFICATION CONSENT AGREEMENT (DCA) - A DCA must be in a format prescribed by the Office and must include:

- a. Notification to the accused individual of the consequences of signing the agreement and consenting to a disqualification penalty;
- b. A statement for the accused individual to sign indicating that he or she understands the consequences of signing the agreement, along with a statement that any caretaker relative or head of household must also sign the agreement if the accused individual is not the caretaker relative or head of household;
- c. A statement that signing the agreement will result in disqualification of the accused individual and reduction or discontinuance of assistance for the disqualification period, even if the accused individual was not found guilty of civil or criminal misrepresentation or fraud;
- d. A statement describing the disqualification period which will be imposed as a result of the accused individual's signing the agreement; and
- e. A statement that the remaining members of the household or assistance unit, if any, will be held responsible for repayment of the overpayment or over-issuance, unless the accused individual has already repaid the overpayment or over-issuance as a result of meeting the terms of any agreement with the prosecutor or any court order.
- f. The [LDSS-4903 "Disqualification Consent Agreement"](#) and [LDSS-4904 "Notice of Consequences to a Disqualification Agreement"](#) is available online. See [08-INF-06](#).

8. COURT ACTION AND DCAs

- a. When a case is referred to the appropriate district attorney, or to any other prosecutor authorized to act on the matter, and is accepted for prosecution, the prosecutor may choose to settle the case or a court of appropriate jurisdiction hearing the case may issue a pre-determination disposition order, such as an order adjourning the case in contemplation of dismissal, provided that full restitution is made. In such cases, the local district may use a DCA as described in paragraph 7. a ,above.
- b. Local districts which contemplate the use of DCA's must enter into written agreements with the appropriate prosecutors which give the local districts opportunity to send advance written notification of the consequences of signing a DCA to the assistance unit or household when deferred adjudication is contemplated.
- c. If the prosecutor requests or authorizes a local district to assist in obtaining a DCA as described in paragraph a above, a copy of the DCA, together with the notification of the consequences of signing the DCA must be provided to the accused individual at least 10 days prior to the execution of the DCA and the accused individual must be advised that he or she may obtain a legal or other authorized representative for counsel and advice prior to and at the time the DCA is executed by such accused individual.

9. COMMENCEMENT OF THE ADMINISTRATIVE DISQUALIFICATION HEARING PROCESS

- a. Upon discovering and determining that an IPV may have occurred, the local district must document the determination and reach a conclusion as to whether the documented acts constitute an IPV in accordance with the definitions described in D.2 above.
- b. If the local district concludes that the documented acts resulted in an IPV and that referral, in accordance with this Section, to the appropriate prosecutor authorized to act on the matter, is not warranted or not possible due to the amount in issue, the local district may process the case for an administrative disqualification hearing.
- c. If the local district refers an overpayment or over-issuance to the appropriate prosecutor authorized to act on the matter, and that prosecutor declines to prosecute or fails to take action on the referral within a reasonable period of time, and the local district elects to initiate the process for an administrative disqualification hearing, the local district must formally withdraw in writing the referral to the prosecutor before referring the case to the Office.
- d. Failure to present evidence of such a formal written withdrawal either in its evidentiary transmittal to the Office or at the hearing may result in an administrative disqualification hearing decision adverse to the local district.
- e. If the local district elects to process a case for an administrative disqualification hearing, it must assemble documentary evidence which the local district believes is sufficient on its face to support its determination of IPV and forward the evidence in the form of an evidentiary packet to the Office of Administrative Hearings, Office of Temporary and Disability Assistance, with a request that the Office schedule an administrative disqualification hearing.
- f. If the local district processes a case for an administrative disqualification hearing for a SNAP-IPV and the factual issues arise from the same or related circumstances as a case for an TA IVP, the cases must be consolidated and the local district must submit with the required evidentiary packet a statement of the particular IPV being alleged and the sanction sought to be imposed for each such IPV being alleged.
- g. The evidentiary packet forwarded by the local district to the Office accompanying the local district's request for an administrative disqualification hearing must have consecutively numbered pages, must be submitted in three copies for each accused individual and must include, but not be limited to, the following:
 - (1) The full name (including middle name), the complete address (including county of residence), the social security number, the case number and the date of birth of the person(s) charged and against whom a disqualification penalty is sought;

- (2) A list of the particular charge(s) and the individual or individuals against whom a disqualification penalty is sought, together with any statement required by paragraph f above if cases are consolidated;
 - (3) A summary of the evidence to be introduced;
 - (4) A listing of the names, titles and phone numbers of all local district personnel and witnesses who will appear in support of the determination;
 - (5) An itemized list of all the exhibits included in the packet with the page number(s) on which each exhibit is found;
 - (6) Copies of all documents to be used in support of the local district's determination;
 - (7) Information as to when and where the original evidence exhibits submitted in the case may be reviewed;
 - (8) Information as to the availability of free legal services; and
 - (9) A statement indicating whether the individual previously has been determined to have committed an IPV by either a court of competent jurisdiction or an administrative disqualification hearing decision or whether the individual previously has waived attendance at an administrative disqualification hearing or previously has signed a DCA. If the person previously has been determined to have committed an IPV or previously has waived attendance at an administrative disqualification hearing or previously has signed a DCA, supporting documentation of such facts must be included in the evidentiary packet.
 - (10) Verification of actual benefits received is required when submitting the evidentiary packet.
- h. Upon receipt of a local district's request for a hearing and accompanying evidentiary packet, the Department will review the packet to determine if it contains sufficient documentary evidence to substantiate that an individual has committed one or more IPV's in accordance with the definition described in this Section. The Office also will determine whether the evidentiary packet satisfies the provisions of paragraph g,1 above.
- i. If the Office review of the evidentiary packet indicates that there is either insufficient documentary evidence to establish that an IPV was committed or that the packet does not comply with the provisions of paragraph g,1 above, the Office will return the packet to the local district and not schedule a hearing.

10. NOTIFICATION OF ADMINISTRATIVE DISQUALIFICATION HEARING

- a. Following a determination that the evidentiary packet is sufficient, the Office must schedule an administrative disqualification hearing. The notice of administrative disqualification hearing which notifies the accused individual of the scheduled

hearing must be mailed certified mail, return receipt requested, to the accused individual.

- b. The hearing will be held at a time and place convenient to the accused as far as practicable, taking into account circumstances such as physical inability to travel to a regular hearing location.
- c. When it mails the notice of administrative disqualification hearing to the accused individual, the Office must mail to the local district, which requested the hearing a notification of the time, date and place of the hearing by regular mail.
- d. A written notice of administrative disqualification hearing must be provided by the Office to an individual alleged to have committed an IPV in accordance with the definitions described in this Section. This notice must be provided to the individual at least 30 days prior to the date of the administrative disqualification hearing. The notice must include all of the following:
 - (1) The date, time, and place of the hearing.
 - (2) The charge(s) against the individual.
 - (3) A summary of the evidence and how and where the evidence may be examined.
 - (4) A statement warning that the decision will be based solely on information provided by the local district if the individual fails to appear at the hearing.
 - (5) A notification that the individual or the individual's representative may have an opportunity to examine all documents and records to be used at the hearing by calling an identified telephone number and making arrangements to examine the documents and records at a specified place, provided that confidential information, such as names of individuals who have disclosed information about the TA unit or the nature or status of pending criminal prosecutions, cannot be released.
 - (6) Notification of the individual's right to:
 - (a) An adjournment provided that such a request is made at least 10 days in advance of the scheduled hearing date. In addition, such notification must advise the individual that if an adjournment is requested less than 10 days prior to the scheduled hearing date, the individual must demonstrate good cause for requesting the adjournment;
 - (b) Present the case or be represented by legal counsel or other person;
 - (c) Bring witnesses;
 - (d) Advance arguments without undue interference;
 - (e) Question or refute any testimony or evidence;

- (f) Confront and cross-examine adverse witnesses; and
- (g) Submit evidence to establish all pertinent facts in the case.
- (7) Notification that the accused individual has the right to remain silent during the hearing process, but that inferences can be drawn from the silence of the individual.
- (8) A statement that upon request, a copy of Office Regulation 359 will be made available to the individual or his or her representative at the local district during normal business hours.
- (9) Copies of the sections of Office Regulation 359 relevant to the hearing process.
- (10) A citation of the State regulations governing the hearing and/or offense where appropriate
- (11) A listing of legal aid and/or legal services organizations, which are available to assist in the defense of the case.
- (12) A statement that the hearing does not preclude the State or federal government from prosecuting the individual for fraud in a civil or criminal court action, or from collecting an overpayment or recovering over-issuances of benefits.
- (13) A statement that in order to receive a new hearing the individual or the individual's representative will have 10 days from the date of the scheduled hearing to present to the Office good cause reasons for failing to appear at the hearing.
- (14) A description of the penalties that can result from a determination that the individual has committed an IPV and a statement of the penalty which is applicable to the individual.
- (15) An explanation that the individual may, in writing, waive his or her right to appear at an administrative disqualification hearing as provided in this Section. This explanation must include:
 - (a) The date that the signed waiver must be received by the Office and a place in which the accused individual can sign his or her name. This explanation must also include:
 - (i) A statement that any caretaker relative or head of household must also sign the waiver if the accused individual is not the caretaker relative or head of household and a place in which such person can sign his or her name; and,
 - (ii) The waiver statement must include an appropriately designated signature block in which such other individual can sign his or her name;
 - (b) A statement of the accused individual's right to remain silent concerning the charge(s), but that inferences can be drawn from the silence of the individual,

and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law or at an administrative hearing;

- (c) The fact that a waiver of an individual's right to appear at an administrative disqualification hearing may result in a disqualification penalty and a reduction or discontinuance of TA for the appropriate period even if the accused individual does not admit to the facts as presented by the local district;
- (d) An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the local district;
- (e) The telephone number and, if possible, the name of the Office employee to contact for additional information; and
- (f) the fact that the remaining members, if any, of the household or assistance unit will be held responsible for the repayment of any overpayment or over-issuance.

11. ADMINISTRATIVE DISQUALIFICATION HEARINGS

Following a determination that the evidentiary packet is sufficient, the scheduling of an administrative disqualification hearing and the receipt of the notice required by this Section, an administrative disqualification hearing will be conducted in accordance with the following requirements.

- a. **CONSOLIDATED HEARING** - Where factual issues arise from the same or related circumstances, a consolidated administrative disqualification hearing will be held for an SNAP-IPV and TA IPV. All evidence, testimony and proof relating to the consolidated cases will be presented together, but separate findings will be made with respect to each separately alleged IPV.
- b. **ADJOURNMENT** - An administrative disqualification hearing will be adjourned when:
 - (1) The request for such adjournment is made at least 10 days in advance of the scheduled hearing date; or
 - (2) The request for such adjournment is made less than 10 days prior to the scheduled hearing date and the individual demonstrates good cause for requesting the adjournment.
 - (3) The hearing cannot be adjourned for more than a total of 30 days.
- c. **RIGHTS IN THE ADMINISTRATIVE DISQUALIFICATION HEARING PROCESS** - The accused individual, or such individual's representative, must have adequate opportunity to:

- (1) Examine the contents of the individual's case file, and all documents and records to be used by the local district at the hearing, at a reasonable time before the date of the hearing and during the hearing;
- (2) Present the case himself or herself, or with the aid of an authorized representative;
- (3) Bring witnesses;
- (4) Establish all pertinent facts and circumstances;
- (5) Advance any arguments without undue influence; and
- (6) Question or refute any testimony or evidence including the opportunity to cross-examine adverse witnesses.

d. CONDUCT OF AN ADMINISTRATIVE DISQUALIFICATION HEARING

- (1) The hearing officer must advise the accused individual that he or she may refuse to answer questions during the hearing.
- (2) The burden of proving that an accused individual has committed an IPV is on the local district.
- (3) When an individual has been convicted in a State or federal court of a TA IPV, and such conviction was based on a plea of guilty, and such conviction was based on the same set of facts which will be the subject of the administrative disqualification hearing, and such individual was not advised on the record in the court proceeding of the disqualification provisions:
 - (a) Neither the conviction itself nor the records of the court proceeding may be used in any manner in the administrative disqualification hearing; and,
 - (b) The existence of the court proceeding may not be disclosed in any manner to the hearing officer by the Office or local district nor by any person acting on behalf of the Office or local district nor by any witness presented by any local district official.
- (4) All provisions in Office Regulation 358 and this Section concerning the conduct of fair hearings, which are not inconsistent with any of the specific provisions of this section, are applicable to administrative disqualification hearings.

e. DECISION AFTER AN ADMINISTRATIVE DISQUALIFICATION HEARING

- (1) The decision after an administrative disqualification hearing must be based exclusively on clear and convincing evidence and other material introduced at the hearing, which demonstrates that an individual committed and intended to commit one or more IPV.

- (2) The decision after an administrative disqualification hearing must specify the reasons for the decision, identify the supporting evidence, identify the pertinent statutes or regulations and respond to reasoned arguments made by the individual or his or her representative.
- (3) The Office must conduct the hearing; arrive at a decision and forward the decision to the local district for implementing action within 90 days of the date of the notice of administrative disqualification hearing. In the event of a client-requested adjournment, this time limit will be extended by the number of days the hearing was postponed.

f. DEFAULT OF AN ADMINISTRATIVE DISQUALIFICATION HEARING

- (1) If an accused individual cannot be located or fails to appear at a hearing scheduled pursuant to this section, the opportunity to appear at the hearing may be considered to be defaulted by such individual unless the individual contacts the Office within 10 days after the date of the scheduled hearing and presents good cause reasons for the failure to appear. If such reasons exist, the hearing will be rescheduled. A determination that good cause exists must be entered into the record.
- (2) If the opportunity to appear at a hearing has been defaulted by the accused individual in accordance with paragraph (1) above the hearing must be conducted without the accused individual being present. Even though the accused individual is not present, the hearing officer is required to consider the evidence carefully and determine if an IPV was committed based on clear and convincing evidence.
- (3) If an accused individual fails to appear at a scheduled administrative disqualification hearing and is found to have committed an IPV, but a hearing official later determines that the individual had good cause for not appearing, the previous decision will not remain valid and a new hearing will be scheduled and conducted. The hearing officer who presided originally at the hearing may conduct the new hearing.

- g. ACCESS TO RECORD OF PROCEEDINGS** - The transcript or recording of testimony, exhibits, or other official reports introduced at the hearing, together with all papers and requests filed in the proceeding, and the original or a true copy of the decision after an administrative disqualification hearing must be made available to the individual or to the individual's representative at a reasonable time and place.

- h. REVIEW OF DISQUALIFICATION HEARING DECISIONS** - A subsequent fair hearing cannot reverse A decision that an IPV has been committed. However, the disqualified individual is entitled to seek relief in a court having appropriate jurisdiction pursuant to article 78 of the Civil Practice Law and Rules. The period of disqualification may be subject to stay or other injunctive remedy ordered by such a court, but any period for which sanctions are imposed shall remain in effect, without possibility of administrative stay, unless and until a court of appropriate jurisdiction subsequently reverses the finding upon which the sanctions were imposed.

12. WAIVER OF AN ADMINISTRATIVE DISQUALIFICATION HEARING

- a. An administrative disqualification hearing is waived when a waiver of administrative hearing document which is sent by the Office to an individual for whom the Office has scheduled an administrative disqualification hearing is properly executed by the individual or any caretaker relative or head of household, if the accused individual is not the caretaker relative or head of household, and received by the Office.
- b. The Office will send written notification to the local district which had requested the hearing that it may impose the appropriate penalty contained in this Section upon sending a notice of disqualification to the individual, as described in this Section. A waiver of an administrative disqualification hearing must comply with the provisions of this Section.
- c. A disqualification penalty, which has been imposed following a waiver of an administrative disqualification hearing, cannot be changed in a subsequent fair hearing. There is no right to appeal the penalty by a fair hearing.
- d. Upon timely receipt of a properly executed waiver, the Office will notify the local district in writing of the cancellation of the scheduled administrative disqualification hearing and of the local district's responsibility to proceed with the recovery of any overpayment or over-issuance.
- e. When an individual waives his or her right to appear at an administrative disqualification hearing, the disqualification and appropriate reduction or discontinuance of assistance must result regardless of whether the individual admits or denies the charges made by the local district.

13. PENALTIES

- a. **FA/SNA** - Individuals found to have committed an TA-IPV, either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a DCA confirmed by a court, will be ineligible, individually or as a member of an assistance unit, to receive FA/SNA (including veteran assistance):
 - (1) For six months for the commission of a first TA-IPV, and the offense is less than \$1,000
 - (2) For 12 months for the commission of a second IPV, or the offense is between \$1000 and \$3900; and
 - (3) For 18 months for the commission of a Third IPV, or the offense is over \$3900.
 - (4) For 5 years for the commission of a fourth or subsequent offense.

EXAMPLE: A Safety Net Assistance recipient with no prior disqualifications for an IPV is convicted of an offense in an amount of \$4,000. This individual is now ineligible for all TA programs for a period of 18

months. The remaining household members may, if otherwise eligible, receive TA.

b. **BUDGETING OF DISQUALIFIED INDIVIDUALS** - The income and resources of the disqualified individual, but not his or her needs, must be considered in determining the remaining case members' eligibility and degree of need for TA.

c. **COURT DETERMINES IPV** - If a court of appropriate jurisdiction determines that an individual has engaged in conduct that would constitute an IPV in accordance with the definitions described in this Section, the local district must impose the penalties except as otherwise set forth below:

(1) Notwithstanding the provisions of this section, an individual found guilty of an IPV must be disqualified from the TA program for the length of time specified by the court, if the court has imposed a disqualification period for such a violation.

(2) With respect to a TA-IPV, if a court fails to impose a disqualification period, the local district may impose the disqualification penalties for a TA-IPV, as specified above.

(3) If a court orders disqualification, but a date for initiating the disqualification period is not specified, the local district must initiate the disqualification period for currently eligible individuals within 45 days of the date the disqualification was ordered.

(4) If a court does not order disqualification, but disqualification must be imposed as the result of a criminal or civil court determination finding that an individual has engaged in conduct that constitutes an IPV, the local district must initiate the disqualification period for currently eligible individuals within 45 days of the date of the court determination.

(5) No individual may be sanctioned for an TA-IPV on the basis of a conviction in a State or federal court if that conviction is based on a plea of guilty unless the individual was advised on the record in the court proceeding of the disqualification provisions contained in this section prior to the entry of the plea.

(6) An individual not so advised may, however, be subject to an administrative disqualification hearing on the same set of facts as the court proceeding, provided that neither the conviction itself nor the records of the court proceeding may be used in any manner in the administrative disqualification hearing, nor may the Office or a local district, any person acting on behalf of the Office or a local district or any witness presented by the Office or a local district, disclose the existence of the court proceeding in any manner to the hearing officer.

14. **DISQUALIFICATION** - The local district must disqualify from the appropriate program(s) the individual(s) found to have committed an IPV, or who have signed a waiver of right to an administrative disqualification hearing or DCA, in cases referred for prosecution, but not the entire assistance unit or household of such individual(s), except as provided below.

- a. A disqualified individual is ineligible to participate in a program from which he or she is disqualified for the periods provided in [paragraph D, 13 of this section](#).

Note: When one member of a multi-person SNA case is sanctioned for fraud and the case type changes to FA during the sanction period, the sanctioned client continues his period of ineligibility while in the FA case.

- b. If an individual signs a DCA, the period of disqualification will begin within 45 days of the date the individual signed the DCA unless the DCA is incorporated into a court determination issued at a later date or a court determination has specified the date for initiating the disqualification period, in which event the local district will disqualify the individual in accordance with the court order.
15. **NOTICE TO BE SENT** - If there is a determination that a member of the household or assistance unit has committed an IPV, the local district must take immediate action to send the individual a notice of disqualification.
- a. In the case of an individual who is not currently in receipt of TA, the disqualification period will be postponed until after a re-application for benefits under the applicable program has been approved.
 - b. Once a disqualification penalty has been imposed against a member of the household or assistance unit, the period of disqualification continues uninterrupted until completed regardless of the eligibility of the other members of the household or assistance unit. However, the disqualified member's household or assistance unit continues to be responsible for repayment of any overpayment or over-issuance which resulted from the disqualified member's IPV regardless of the household's or unit's eligibility for TA.
16. **REPORTING** - Local districts must report to the Office information on individuals who have been found to commit an IPV by a hearing decision or a court or who have signed a waiver of hearing or a DCA. The following data must be submitted on each individual:
- a. Full name;
 - b. Social security number;
 - c. Date of birth;
 - d. Number of disqualification(s) (1st, 2nd, 3rd, etc.);
 - e. Date disqualification took effect for a currently otherwise eligible individual; and
 - f. Length of disqualification imposed or to be imposed. This information is to be submitted no later than 20 days after the date the disqualification took effect, or would have taken effect for a currently ineligible individual, the imposition of whose disqualification penalty will not be imposed until the individual becomes eligible for assistance or benefits. This information is to be updated by local districts where appropriate.

REFERENCES

351.1
351.20
351.21
351.22
351.24
352.17
359.0
359.1
359.2
359.3
359.4
359.5
359.6
359.7
359.8
359.9

[06 ADM - 10 "Revised Temporary Assistance \(TA\) Mail-in Recertification Process"](#)
[Attachment - Mail-In Recert/Eligibility Ouestionnaire](#)
[Attachment - Mail-In Recert/Eligibility Ouestionnaire \(Spanish\)](#)

[01 ADM-14](#)
[Attachment - List of Waiver Districts](#)

[97 ADM-23](#)
[Attach 1 - 11](#)
[Attach 12](#)
[Errata](#)

[96 ADM-5](#)
[Attachment](#)

[95 ADM-1](#)
[93 ADM-9](#)
[93 ADM-8](#)
[92 ADM-41](#)
[90 ADM-41](#)
[89 ADM-50](#)
[85 ADM-38](#)
[08 INF-06](#)

[Attachment A - LDSS 4903](#)
[Attachment B - LDSS 4904](#)

[02 INF - 21 " Temporary Assistance Procedures: Certification periods of TA Cases with Earned Income"](#)
[99 INF-12](#)
[95 INF-8](#)
[94 INF-11](#)
[92 INF-49](#)
[91 INF-60](#)

Related Items

[90 INF-65](#)

77 ADM-40

[TASB Chapter 13 - Budgetary Method](#)

[TASB Chapter 5 A - Definition: Investigation](#)

[TASB Chapter 5 D - Sources of Information](#)

SNAPSB

Section 6- Continuing Eligibility

Section 5- Initial Eligibility Determination

CHAPTER 7: Temporary Assistance Employment/ Participation Requirements

For Temporary Assistance employment requirement information, please:

1. Refer to the: [Temporary Assistance Bureau](#) and [Supplemental Nutrition Assistance Program](#) Manual; or
2. Contact your Employment Technical Advisor with employment/work requirement questions.
3. The Temporary Assistance & Supplemental Nutrition Assistance Program is accessible via the Welfare to Work Caseload Management System and CentraPort.

CHAPTER 8: NOTICE OF AGENCY DECISION

A. DEFINITIONS

1. **NOTICE OF ACTION** – Notice of action means a notice from a local district advising an applicant, recipient or resident of a tier II facility of any action the local district intends to take or has taken on his/her TA. This includes the acceptance, denial, discontinuance, suspension, or reduction of TA, an increase in TA, a change in the amount of one of the items used in the calculation of a TA grant although there is no change in the amount of such TA grant, a change in the manner or method or form of payment of a TA grant, and determination that an applicant for or recipient of TA is employable, and a denial or acceptance of HEAP or a determination to discharge a resident of a tier II facility involuntarily after such resident requests and participates in a hearing held by the facility or the local district in which the facility is located.
2. **ADEQUATE NOTICE** – Adequate notice means a notice of action, or an adverse action notice, or an action taken notice which contains all provisions necessary for the notice to meet adequacy standards. Please see this Chapter, [Section B](#), [Section C](#) and [Section D](#) for the provisions of adequate notice.
3. **TIMELY AND ADEQUATE NOTICE** – Timely and adequate notice means a notice which meets the adequacy provisions and which is mailed at least 10 days before the date upon which the proposed action is to become effective.
4. **NOTICE DATE** – The date the worker completes the notice. On a timely and adequate notice, the date must be at least ten days before the effective date of the action. On adequate – only notices and notices given at application, the date may be less than ten days from the effective date of the action.
5. **EFFECTIVE DATE** – The date the action or change will occur. Fair hearing regulations require that notice be given as to when an action will take effect.
 - a. In situations which require timely and adequate notice of adverse action (i.e., discontinuance, reduction), the effective date is used to determine if aid continuing can be given. In order for an appellant to have the right to aid continuing, the fair hearing must be requested by the effective date.
 - b. In situations which require an adequate – only notice, the postmark date of the notice is used to determine whether the appellant is entitled to aid continuing (reinstatement) when a hearing is requested.
6. **CLIENT NOTICE SYSTEM (CNS)** – produces automated notices using case and individual information contained in WMS. Automated notices through CNS include all required information as well as an ABEL budget narrative.

B. ADEQUATE NOTICE

1. Basic Requirements – To be considered adequate, the notice must include:
 - a. The action the local district proposes to take or is taking, and
 - b. If a single notice is used for all affected assistance, benefits or services, the effect of such action, if any, on a recipient's other assistance, benefits or services. Otherwise the notice shall state that there will be a separate notice for other affected assistance.
2. Additional Requirements – the adequate notice must specify the following:
 - a. For reduction in a TA grant - Both the dollar amount of assistance prior to the reduction and the reduced amount;
 - b. For recoupment - The total amount to be recouped and the rate of recoupment must be specified. Also, the adequate notice must inform the recipient of their right to claim that the rate of recoupment will cause undue hardship;
 - c. For a notice of authorization of a TA grant – The amount of the grant;
 - d. For an increase in a TA grant – The new amount of the grant;
 - e. For all actions except a denial – The effective date of the action;
 - f. For all actions except an acceptance of an application for TA – The specific reasons for the action;
 - g. The specific laws and/or regulations upon which the action is based;
 - h. The applicant's or recipient's right to request an agency conference and fair hearing;
 - i. The procedure for requesting an agency conference or fair hearing, including the address and telephone number where a request for a fair hearing may be made and the time limits within which the request for a fair hearing must be made;
 - j. An explanation informing the recipient that a request for a conference is not a request for a fair hearing and that a separate request for a fair hearing must be made. Furthermore, that a request for a conference does not entitle one to aid continuing, and that a right to aid continuing only arises when a request for a fair hearing has been made; and
 - k. When the local district action or proposed action is a reduction, discontinuance, or restriction of TA, the circumstances under which;
 - (1) TA will be continued or reinstated until the fair hearing decision is issued; that a fair hearing must be requested separately from a conference;

- (2) A statement that when only an agency conference is requested and there is no specific request for a fair hearing, there is no right to continued TA;
 - (3) That participation in an agency conference does not affect the right to request a fair hearing;
 - (4) The right of the applicant or recipient to review the applicant's or recipient's case record and to obtain copies of documents which the local district will present into evidence at the hearing and other documents necessary for the applicant or recipient to prepare for the fair hearing at no cost.
 - (5) The notice must also contain an address and telephone number where the applicant or recipient can obtain additional information about:
 - (a) The applicant's or recipient's case;
 - (b) How to request a fair hearing
 - (c) Access to the case file; and/or,
 - (d) Obtaining copies of documents
 - (6) The right to representation by legal counsel, a relative, friend or other person, to represent oneself, the right to bring witnesses to the fair hearing and to question witnesses at the hearing;
 - (7) The right to present written and oral evidence at the hearing;
 - (8) The liability, if any, to repay continued or reinstated benefits, if the recipient loses the fair hearing;
 - (9) Information concerning the availability of community legal services to assist an applicant or recipient at the conference and fair hearing;
 - (10) A copy of the budget or the basis for the computation, in instances where the local district's determination is based upon a budget computation. This does not apply to actions taken involving HEAP benefits.
3. The TA, SNAP and MA sections of the combined notice must always be completed.

C. MASS CHANGES

1. When an automatic TA grant adjustment is required for a class of recipients because of a change in either State or federal law, the notice provided to a member of such class will be adequate if it includes:
 - a. A statement of the intended action;
 - b. The reasons for such intended action;
 - c. A statement of the specific change in the law requiring such action;
 - d. A statement of the circumstances under which a hearing may be obtained and assistance continued. Such statement must advise the recipient that although the recipient has the right to have a hearing scheduled, the hearing officer at the hearing may determine that the recipient did not have a right to a hearing or continuation of assistance unless the reason for the appeal is the incorrect computation of the grant; and,
 - e. The liability, if any, to repay continued or reinstated assistance, if the recipient loses the fair hearing.

D. NOTICE OF ACTION

1. Notice of Action is required when a local district proposes:
 - a. To accept, deny, increase or make change in the calculation of the grant amount and method of payment.
 - b. Except as set forth in [this Chapter, Section E](#), a timely and adequate notice shall be provided, when a local district:
 - (1) Takes any action to discontinue or reduce a TA grant;
 - (2) Changes the manner, method or form of payment of a TA grant; or,
 - c. An adequate only notice shall be provided when the local district:
 - (1) Accepts an application for TA
 - (2) Denies an application for TA
 - (3) Increases a TA grant
 - (4) Determines to change the amount of one of the items used in the calculation of a TA grant, even if there is no change in the amount of the TA grant.
 - d. Action based on a change in State or federal law requiring automatic TA grant adjustments for classes of recipients. When a member of a class of TA recipients for whom changes in either State or federal law require automatic grant adjustments, recipients are entitled to timely notice of such grant adjustment. This notice will be adequate if it includes those items listed in this Chapter, [Section B](#), [C](#), and [D](#).
 - e. Residents of tier II facilities have the right to adequate-only notice when they have been involuntarily discharged from a tier II facility as as defined in Office Regulation 900 and TASB Chapter 17, Section E, and have requested and participated in a hearing, held by the facility or by the local district in which the facility is located, to determine whether the resident should be involuntarily discharged. Such notice must be on a form mandated by the Department, which meets the requirements for an adequate notice as set forth in this Chapter, [Section B](#).

E. EXCEPTIONS TO TIMELY NOTICE REQUIREMENTS

1. A recipient of TA has the right to adequate-only notice no later than the effective date of the proposed action when:
 - a. The local district has factual information confirming the death of a recipient or the payee of an FA case, and there is reliable information that no relative is available to serve as a new payee.
 - b. The local district has received a clear written statement signed by the recipient which includes information that requires the local district to discontinue or reduce the TA and the recipient has indicated in such statement that he/she understands that such action will be taken as a result of supply such information.
 - c. The local district has received a clear written statement from the recipient indicating that he/she no longer wishes to receive TA.
 - d. The local district has reliable information that the recipient has been admitted or committed to an institution or prison which renders him/her ineligible for assistance or services under the Social Services Law.
 - e. The recipient's whereabouts is unknown and mail addressed to him/her by the local district has been returned by the post office with an indication that there is no known forwarding address. However, TA will be given to the recipient if the local district is made aware of his/her whereabouts during the period covered by TA benefit; or the recipient has been accepted for TA in another local district, and that acceptance has been verified by the local district previously providing him/her with such assistance.
 - f. The recipient has been placed for long-term care in a skilled nursing home, intermediate care facility or hospital.
 - g. A child has been removed from the home as a result of a judicial determination, or voluntarily placed in foster care by the child's legal guardian.
 - h. A special allowance granted for a specific period has been terminated and the recipient has been informed in writing at the time that he/she was first granted the special allowance that the allowance would automatically terminate at the end of the specified period.
 - i. The local district has determined to accept the application for TA or has determined to increase assistance.
 - j. A recipient of SNA has been determined eligible for SSI and the local district has made a determination that the amount of SSI makes the recipient no longer eligible for SNA.

F. FACTORS COMMON TO ALL NOTICES

1. Heading – Completion of all sections of the heading is required except for Office No., Unit No., Worker No. and the telephone number for the unit or worker. The unit or worker responsible for issuing the notice must be identified.
2. Notice Date – This is the date the worker completes the notice.
3. Telephone Numbers
 - a. Legal Assistance Information – In local districts where there is only one advocacy agency, the telephone number for that agency should be given. Local districts that have more than one advocacy agency should list a social services number where the client can receive information about advocacy agencies that represent clients residing in the local district.

Use of numbers which are not Department of Social Services numbers should be cleared first with the outside agency to assure they are correct and that the agency is able to handle the telephone inquiries that might result.
 - b. Agency Conference, Fair Hearing Information and Assistance, Record Access – The notice is designed to give one general number or specific numbers for each type of information needed. If local districts opt to use a general telephone number, procedures must be in place to ensure that clients who call to request information in one or more of the above areas are directed to a person who has the knowledge and authority to respond to the specific need.
4. CIN/RID (Client Identification Number/Recipient Identification Number) – The CIN/RID number is that of the head of household.
5. Client Rights Language – The text on the reverse side of each notice is based on one prototype and the only substantive difference between the forms is in the aid continuing sections.
6. Distribution – The State-mandated notices are comprised of three-ply chemically carbonless paper which will eliminate the need for photo-copying. Two copies of the notice are to be sent to the client and the remaining copy is for the case record.

G. COMBINED MANUAL NOTICES

1. Manual notices will be used in those situations in which the Client Notices System (CNS) does not support the action or when CNS may be unavailable. For detailed information about the preparation of a CNS notice, please refer to:
<http://otda.state.ny.net/dta/manuals/CNSCodesText.pdf>.
2. Combined manual notices are separated into two pages. The first page, Notice A provides information about TA and Medical Assistance eligibility and the second page, Notice B, provides information about SNAP eligibility.

H. MANUAL NOTICES USED AT APPLICATION

1. The manual notices below are sent to TA applicants. They describe the effect of the action on eligibility and/or benefit amounts of each of the three program areas – TA, SNAP, and MA.
 - a. [LDSS-4013 A](#) (05/16)/[LDSS-4013A NYC](#) (05/16) “Action Taken on Your Application: Public Assistance, Supplemental Nutrition Assistance Program Stamps Benefits and Medical Assistance Coverage”. This notice is to be used to inform applicants of the decision made on their application for TA.
 - b. [LDSS-4013 B](#) (05/16) / [LDSS-4013B NYC](#) (05/16): “Action Taken on Your Application: Public Assistance, Supplemental Nutrition Assistance Program Benefits and Medical Assistance Coverage
2. Important information needed to complete the TA Section of the [LDSS-4013A](#) or [LDSS-4013A NYC](#)
 - a. The recoupment statement is a requirement under Office Regulation 358. If a TA application is accepted and a recoupment for past over-payments is taken, the box before the recoupment statement must be checked and a clear explanation of the reason for the recoupment provided.
 - b. If a TA recipient is not receiving SNAP as part of the TA case (e.g., the household indicated it did not want SNAP, the household is receiving SNAP under another TA case or in a separate mixed household case), this must be written on the FS section of the combined TA notice.
3. Important information needed to complete the SNAP Section of [LDSS-4013B/LDSS-4013B-NYC](#). This section is used to tell an applicant the disposition of the application - accepted, denied or pended.
 - a. Supplemental Nutrition Assistance Program policy requires that clients be advised when benefits will be available on an automated system. The Approved box allows for this entry.
 - b. If an established FS claim is being recovered by allotment reduction, the OVERPAYMENT box must be checked. However, a recoupment cannot be taken and this box checked unless all appropriate procedures and notices have been used regarding claims establishment. ([See SNAPSB](#))
4. MA Section – For MA instructions see the Medicaid Reference Guide (MRG).

I. MANUAL NOTICES USED AT RECERTIFICATION

1. The following manual notices are used to inform recipients of the result of their recertification.
 - a. [LDSS-4014 A](#) (5/16)/[LDSS-4014A NYC](#) (05/16), “Action Taken on Your Recertification: Public Assistance, Supplemental Nutrition Assistance Program Benefits, Medical Assistance coverage and Services”.
 - b. [LDSS-4014B](#) (05/16) / [LDSS-4014B NYC](#): (05/16) “Action Taken on Your Recertification: Public Assistance, Supplemental Nutrition Assistance Program Benefits, Medical Assistance coverage and Services”.
2. Important information needed to complete the TA Section of the [LDSS-4014 A](#) or [LDSS-4014 A NYC](#). When the recertification results in a negative action for any of the programs, this notice must be postmarked at least 10 days prior to the effective date of the action.
 - a. Clients must be notified of the result of their recertification, even if there is no change in the grant amount. The action **continue your regular monthly TA grant unchanged** is included on the notice.
 - b. This notice has space to inform the client of other amounts which the client can expect to receive during the certification period. For example, if a household receives a recurring visitors allowance, the amount, reason and dates can be entered in this space.
 - c. The recoupment section, if applicable, must be completed.
 - d. If the client reports a change which results in a different budget calculation, even if it results in no change in the benefit amount, a copy of the budget and the ABEL budget narrative must be sent with the notice.
3. Important information needed to complete the SNAP Section of the [LDSS-4014B](#).
 - a. If an established SNAP claim is being recovered by allotment reduction, the OVERPAYMENT box must be checked. However, a recoupment cannot be taken and this box checked unless all appropriate procedures and notices have been used regarding claims establishment. ([See SNAP SB](#))
 - b. When a household is not participating in the SNAP Program, a notation must be made on the reason line in the SNAP section indicating why the household is not participating.
4. MA Section – For MA instructions see the Medicaid Reference Guide (MRG).

J. MANUAL NOTICES USED TO ADVISE A TA RECIPIENT OF CHANGES TO ELIGIBILITY (timely and adequate notice)

1. The following notices are used to advise a TA recipient of changes to eligibility or benefit amount during the certification period – reductions, discontinuations, increases, or continuation of assistance unchanged (when an action has been taken which did not affect the amount of the benefit).
 - a. [LDSS-4015A](#) (05/16)/[LDSS-4015A NYC](#) (05/16) “Notice of Intent to Change Benefits: Public Assistance, Supplemental Nutrition Assistance Program Benefits, Medical Assistance Coverage and Services” (timely and adequate)
 - b. [LDSS-4015B](#) (05/16)/[LDSS-4015B NYC](#) (05/16) “Notice of Intent to Change Benefits: Public Assistance, Supplemental Nutrition Assistance Program Benefits, Medical Assistance Coverage and Services” (timely and adequate)
2. **TA/SNAP** Sections – This notice is used to provide timely notice to a recipient (i.e., notice at least ten days before the action will take effect) and must be used if the change requires timely notice for any program area covered by the notice.

Example: An increase in the TA grant which does not require timely notice results in a decrease to SNAP. This notice must be used because the adverse SNAP action requires timely notice. In this situation, the effective date of the TA change may be different (earlier) than the effective date of the SNAP change.
3. The recoupment section, if applicable, must be completed. If a recoupment is currently in place, the **RECOUPMENT** box must be checked.
4. When a household is not participating in the SNAP Program, a notation must be made on the reason line in the Supplemental Nutrition Assistance Program section indicating why the household is not participating.
5. MA Section – For MA instructions see the Medicaid Reference Guide (MRG).

K. MANUAL NOTICES USED FOR INTENT TO CHANGE TA BENEFITS (Adequate Only)

1. The following notices are used to tell a recipient of changes to eligibility or benefit amounts during the certification period, when timely notice is not required.
 - a. [LDSS-4016A](#) (05/16)/[LDSS-4016A NYC](#) (05/16): “Notice of Intent to Change Benefits: Public Assistance, Supplemental Nutrition Assistance Program benefits, Medical Assistance Coverage and Services”. (Adequate Only)
 - b. [LDSS-4016B](#) (05/16)/[LDSS-4016B NYC](#) (05/16): “Notice of Intent to Change Benefits: Public Assistance, Supplemental Nutrition Assistance Program benefits, Medical Assistance Coverage and Services”. (Adequate Only)
2. Based on the different program requirements this adequate – only notice can be used for TA households under the following circumstances:
 - a. The conditions for adequate – only notice for TA and MA apply and no notice is required for SNAP.
 - b. Even though notice is not required for SNAP, the appropriate SNAP boxes on the combined notice must be completed to avoid confusing the recipients about their SNAP eligibility and benefits.
 - c. The action being taken is an increase for both TA and SNAP, or an increase in either program that does not adversely affect the other program.
3. TA Section – This recoupment section, if applicable, must be completed.
4. SNAP Section:
 - a. This notice is used to inform a TA recipient of a SNAP change during the certification period that does not have any effect on TA, MA or Services Benefits. For example, a change in SNAP Program regulations that results in decreased SNAP benefits but has no effect on the TA grant.
 - b. If an overpayment is currently in place for Supplemental Nutrition Assistance Program, see [SNAP SB](#).
 - c. This notice will be used to inform recipients of increase and continue actions. The only other time adequate- only notice can be given for a SNAP action is when the action is the result of information reported on the periodic report. The DISCONTINUE box may be used at local district option in situations where no notice is required. These situations are specified in [SNAP SB](#) Section 7-B-4-all.
5. MA Section – For MA instructions see the Medicaid Reference Guide (MRG).

L. OTHER MANUAL NOTICES

1. [LDSS-3152](#) (5/16): ACTION TAKEN ON YOUR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS CASE (7/06) and [LDSS-2114](#) (15/16): CONTINUING YOUR PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND/OR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS – Under certain circumstances, these notices must be used by the TA worker for a TA household. See SNAP SB for information regarding when and how these notices are used for a TA case.

M. TA ONLY MANUAL NOTICES

1. [LDSS-2425A](#)/LDSS-2425A local equivalent(LE) (NYC): **REPAYMENT OF INTERIM ASSISTANCE NOTICE** – Every individual whose initial SSI payment is received by a local district must receive a [LDSS-2425A](#), "Repayment of Interim Assistance Notice" ([LDSS-2425A-LE](#)) providing the individual with a complete accounting of his/ her SSI benefits withheld as reimbursement for Interim Assistance. (Please see [Chapter 10, Section L](#)). Please refer to [11 INF-10](#) attachment 5 for instructions on completing the [LDSS-2425A](#).
2. [LDSS-4002](#) (05/16): **ACTION TAKEN ON YOUR REQUEST FOR ASSISTANCE TO MEET AN IMMEDIATE NEED OR A SPECIAL ALLOWANCE:**
 - a. TA section – This notice is to be used whenever an applicant requests assistance to meet an immediate need or when a recipient requests an additional allowance to meet a special or immediate need.
 - (1) A decision on a request for an additional allowance must be made within 30 days of the local district's receipt of a completed request form ([LDSS-3815](#)): "Request For An Additional Allowance By A Temporary Assistance Recipient" unless there is an immediate need.
 - (2) The [LDSS-4002](#) (05/16): Provides that the applicant may be told about up to three requests. For example, the individual may have requested a broker's fee, moving expenses, and a security deposit. The district may tell the individual about the decision about each of the requested items.
 - (3) The [LDSS-4002](#) (05/16): Also allows the worker to indicate that the notice is a follow-up on a previous request. For example, the applicant claimed an immediate need – an eviction – on November 7th. The worker found that the eviction would not occur before December 1st. The [LDSS-4002](#) issued on November 7th told the applicant that since the emergency is not one that had to be met that day, the applicant was being referred to the housing specialist for resolution of the emergency. The housing specialist contacted the landlord and after some negotiation, the landlord agreed to withdraw the eviction action since DSS agreed to pay the rent arrears. On November 12th, the housing specialist issued a second [LDSS-4002](#) telling the applicant that the emergency would be met by the payment of the rent arrears to avoid the eviction. The housing specialist noted that this notice was a follow-up to the November 7th notice.
 - (4) allows space for the worker to inform the applicant if repayment is required and the repayment amount.
 - (5) In the case of an immediate need of an applicant or recipient, notice must be provided in accordance with [02 ADM-02](#).
 - b. SNAP section – Self-explanatory.
 - c. MA section – For MA instructions see the Medicaid Reference Guide (MRG).

N. ABEL BUDGET NARRATIVES FOR MANUAL NOTICE ONLY

Each time that a TA applicant or recipient receives a grant-related manual notification, and is provided with a TA ABEL budget, a copy of the appropriate TA budget narrative must also be provided, as follows:

1. **OPENINGS** – Whenever an applicant is sent a notification of acceptance for TA, and a new case is opened, copies of the TA ABEL budget used to calculate the grant and copies of the "Public Assistance Budget Benefit Narrative" ([LDSS-3951](#) rev-9/15) shall be furnished to the applicant.
2. **DENIALS** – Whenever the opening of a TA case is denied due to failure to meet financial eligibility requirements, copies of the TA ABEL budget used to determine the ineligibility shall be provided to the applicant and the appropriate budget narrative shall also be supplied. Either of two following TA budget narratives may be appropriate:
 - a. "Public Assistance Excess Gross Income Narrative" ([LDSS-3952](#) rev 9/15) for ineligibility due to total gross income limit.
 - b. "Public Assistance Excess Net Income Narrative" ([LDSS-3953](#) rev 9/15) for ineligibility due to excess net income.
3. **UNDERCARE CASE CHANGES** – Whenever a change in the circumstances of a recipient affects the TA grant (increase or decrease) and a manual notice is provided, copies of the TA ABEL budget used to determine the budgetary change and copies of the "Temporary Assistance Budget Benefit Narrative" ([LDSS-3951](#) rev 9/15) shall be furnished with the notifications of change.
4. When there is a change in the amount of one of the items used in the calculation of the TA grant, even if there is no change in the amount of the grant, the "Temporary Assistance Budget Benefit Narrative" ([LDSS-3951](#) rev 9/15) shall be furnished with the required manual adequate notice.
5. **RECERTIFICATIONS** – Whenever a TA case is recertified with a change (increase or decrease) in the grant amount and a manual notice is provided, printed copies of the TA ABEL budget used to determine the amount of grant and a copy of the "Temporary Assistance Budget Benefit Narrative" ([LDSS-3951](#) rev 9/15) shall be furnished with the notification of change.
6. If there is no change in the grant amount as a result of recertification, except when there is a change in the amount of any item(s) used in the calculation of the grant amount, issuance of TA ABEL budgets and the budget narrative is a local district option.
7. If a case is ineligible upon recertification, the case is treated as a closing.
8. **CLOSINGS, RECERTIFICATION CLOSINGS** – Whenever a manual notice is provided to a TA case that is terminated due to failure to meet financial eligibility requirements, including closings at the time of recertification, copies of the TA ABEL budget used to determine the ineligibility shall be provided to the recipient and the appropriate budget explanation shall be supplied. Either of two TA budget narratives may be appropriate:

- a. "Temporary Assistance Excess Gross Income Narrative" ([LDSS-3952](#) rev 9/15) for ineligibility (closing) due to total gross income exceeding the limit;
 - b. "Temporary Assistance Excess Net Income Narrative" ([LDSS-3953](#) rev 9/15) for ineligibility (closing) due to excess net income.
9. **CLOSINGS DUE TO LUMP SUMS** – Whenever a manual notice is provided to a TA case closed for a specified period of time due to the receipt of income in a lump sum payment, notifications of budgetary changes resulting in a closing shall be provided to the client. TA ABEL budgets used to determine this closing and a copy of the "Temporary Assistance Lump Sum Ineligibility Narrative" ([LDSS- 3954](#) rev 9/15) shall also be furnished.
10. **BOTTOM-LINE BUDGETS** – In case situations requiring a bottom-line budget, the applicant or recipient shall be mailed a copy of the bottom-line budget (showing as much financial data as possible) and a copy of the most appropriate TA budget narrative.

O. TRANSFERS, RECLASSIFICATIONS AND WITHDRAWALS

1. **TRANSFERS AND RECLASSIFICATIONS** – All of the procedures covering notification of agency decisions shall be observed for persons actively in receipt of assistance or care when transferred or reclassified to another program. The notification should include statements covering the programs involved and the reason for the change, and the right of complaint or appeal if dissatisfied with the new action.
2. **WITHDRAWAL OF APPLICATION** – It is not a requirement under Office Regulation 358 that local districts provide notice when an application is withdrawn. It is, however, strongly recommended that local districts send a notification to the client that the application dated _____ was withdrawn at the client's request and state the reason cited by the client. A copy should be kept in the case record. Notification can be provided by a letter to the applicant or by a form the local district has developed for that purpose. When an application is withdrawn, the reasons therefor shall be recorded in the case record.

P. REFERENCES

355.3
358-2.15
358-2.2
358-2.23
358-3.3
89-ADM-21
88-ADM-27
[07-INF-02](#)
[Attachment](#)
[02-INF-28](#)
[Attachment I](#)
[Attachment II](#)
[Attachment III](#)
[Attachment IV](#)
[01-INF-17](#)
[00-INF-1](#)
[98-INF-11](#)
88-INF-83
11-INF-10
91-LCM-57
90-LCM-192
89-LCM-177

Related Item

355.5

SNAP SB

Section 7 – Notice of Agency Decision
Section 15 – Claims Against Households

CHAPTER 9: FAMILY ASSISTANCE

A. DEFINITIONS

1. **CARETAKER RELATIVE** – A relative related to the child by any degree of blood marriage or adoption. See [section J](#), below for a complete listing.
2. **TANF-FUNDED ASSISTANCE** – In New York State, payments through FA, CAP, SNA funded from TANF, and payment for recurring cash assistance needs (needs extend beyond four months) through EAF qualify as TANF-funded assistance.
3. **FAMILY ASSISTANCE (FA) PROGRAM** – FA is one of the federally funded temporary assistance (TA) program for families. FA can only be provided to a family that includes a minor child living with a parent or caretaker relative, or to a pregnant woman. As a TANF-funded program, FA is subject to the State 60-month lifetime limit on assistance.
4. **DURATIONAL TIME LIMIT** – There is a lifetime limit of 60 months, whether or not consecutive, that is imposed upon individual adult recipients of federally-funded TANF block grant assistance. After an adult has received such assistance for 60 months, he or she is ineligible for such assistance unless exempted from the limit. In addition, such federally funded assistance must not be issued to the family that includes an adult who has reached the limit.
5. **DURATIONAL TRACKING** – This is the process of counting the calendar months in which a trackable individual receives federal TANF-funded assistance, either in New York State or elsewhere, and any SNA cash assistance (case type 16), which also counts toward the State 60-month time limit. The purpose of tracking is to apply the State 60-month time limit in eligibility decisions for federally funded assistance when a trackable member of a family has reached the limit, and to inform applicants for and recipients of TA about the number of months used toward the limit.
6. **TRACKABLE INDIVIDUAL** – A trackable individual is an adult or a minor head of household, or minor married to the head of household, who is receiving TANF-funded assistance or SNA cash assistance. A minor is considered to be a head of household when he or she is the grantee for his or her own family. A minor with a child of his or her own who resides in an adult-supervised living arrangement in which payment is made to a person who is not the minor and who is responsible for the disposition of the funds, shall not be considered a "head of household" and therefore shall not be tracked toward the time limit while residing in such an arrangement as a minor.
7. **MINOR CHILD** – A minor child is an individual who is not yet eighteen years old, or who is between eighteen and nineteen and is a full-time student in a secondary school, or in the equivalent level of vocational or technical training. At least one individual in the family must be a "minor child" or a pregnant woman for FA eligibility to exist.
8. **ADULT** – An individual who is not a minor child; that is, someone who is either nineteen or older, or who is between eighteen and nineteen years old and not a full time student in a secondary school, or in the equivalent level of vocational or technical training.

9. **MONTH OF ASSISTANCE** – A calendar month will count toward the durational time limit as one month of assistance whenever any assistance for recurring need is provided through a TANF-funded program, or in which SNA cash assistance (case type 16) is provided, for all or for any part of the month. In New York State, TANF-funded assistance includes ADC, FA, and CAP from December 2, 1996, and TANF-funded SNA after August 4, 1997. SNA cash assistance includes Home Relief provided after August 4, 1997. Each calendar month in which such assistance is provided is countable toward the lifetime limit of any trackable individual (that is, any adult or minor head of household) in the case. The following special situations apply:

a. The following are Exempt from count:

- (1) Services with no monetary value.
- (2) Once only emergency payments for non-recurring needs (needs do not extend beyond four months), including diversion payments, do not count toward the time limit.
- (3) Assistance to a minor child and the child or children of such individual in an adult-supervised living arrangement will not count toward the individual's time limit, provided that the minor child is not the grantee. (Assistance to such a minor parent will be counted only if he or she is a "head of household" or the spouse of the head of household).
- (4) Non-cash Safety Net Assistance unless TANF-funded.
- (5) Assistance in a "child only" case - for example, an FA case consisting of a minor child who lives with a parent who receives Supplemental Security Income.

b. The following are Countable paymentenets:

- (1) Months in which no cash payment was issued will count if a recoupment was being taken which eliminated the potential TANF-funded payment.
- (2) Months of assistance in other states count if the assistance is provided through federal TANF block grant funds - for example, through that state's FA or equivalent program.
- (3) Months in which a sanctioned but trackable individual remains a member of an assistance unit receiving TANF-funded temporary assistance or SNA cash assistance.

10. **TIME LIMIT COUNT** – The time limit count is the numerical count for an individual of the number of months of assistance that have been applied toward the limit of sixty months over the lifetime record for the individual, beginning with the TANF-funded assistance under PRWORA - from December 2, 1996 in New York State, and with SNA cash assistance under the Welfare Reform Act (WRA) of 1997 - after August 4, 1997.

11. **EXEMPTION** – Under the WRA, exemption to application of the time limit will be made on the basis of hardship when the adult family member is unable to work because of an

independently verified physical or mental impairment including those which result from domestic violence, or when the adult family member receives Supplemental Security Income (SSI) benefits or additional State payments under Section 208 of the Social Services Law. Given such a determination of hardship, TANF-funded assistance will be provided to a family that contains an individual who has reached the State 60-month limit on such assistance.

12. **NEW YORK STATE TWO YEAR LIMIT ON SNA CASH ASSISTANCE** – In addition to the State 60-month time limit on receipt of TANF-funded assistance, a two year lifetime limit on receipt of cash assistance through SNA (case type 16), whether or not TANF-funded, after August 4, 1997. SNA received after August 4, 1997 counts toward the 24-month time limit on SNA cash assistance, as well as toward the State 60-month time limit on TANF-funded assistance. The State 60-month and the 24-month time limits are thus inter-related and impact on each other.

B. APPLICATION FOR FA

1. FA applications must be received and recorded on the State-prescribed form.
2. The relative with whom the child will live is the applicant on the child's behalf.
3. If children, or a child, from one family are placed with eligible relatives in different homes, each eligible relative shall make a separate application and, if found otherwise eligible, shall receive an FA grant for the child or children under his care.

C. APPLICATION AS AN ASSIGNMENT

1. The application for or receipt of FA or SNA-FP (case type 11 and 12) shall constitute an assignment to the State and the local district concerned of any rights to support from any other person as such applicant or recipient may have in his own behalf, or in behalf of ,any other family member for whom the applicant or recipient is applying for or receiving assistance.
2. In a manner prescribed by the Office, applicants for or recipients of FA or SNA-FP shall be informed that such application for or receipt of such benefits will constitute such an assignment. [LDSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) informs TA applicant/recipients of this assignment.
3. Such assignment will terminate with respect to current support rights upon a determination by the local district that such person is no longer eligible for FA or SNA-FP, except with respect to the amount of any unpaid support obligation that has accrued.

D. DETERMINATION OF INITIAL ELIGIBILITY

1. **GENERAL REQUIREMENTS** – Eligibility for FA must be determined for each applicant in accordance with the policies and procedures generally applicable in TA.
2. **FACTORS OF ELIGIBILITY** – The determination of initial eligibility shall include consideration of the following factors:
 - a. Financial eligibility criteria:
 - (1) Financial need
 - b. Categorical eligibility criteria:
 - (1) Age
 - (2) Welfare of child or minor
 - (3) Residence within the State
 - (4) Living arrangements
 - (5) Relationship of child to relative
3. **SOCIAL SECURITY NUMBER (SSN)**
 - a. Districts must inform the applicant of the requirement to furnish or apply for a SSN for each applying member of the household or for each member who receives assistance. Any individual who refuses to apply for or verify his/her SSN is ineligible. When an adult caretaker refuses to apply for or verify a child's SSN, both the child and the caretaker are ineligible for FA.
 - b. Non-applying household members whose needs and income are considered in determining the amount of assistance granted to the household must furnish or apply for an SSN as a condition of eligibility for the entire household. If such persons refuses to do so, the entire TA household is ineligible for assistance.
 - c. Districts must not deny, delay or discontinue assistance pending issuance or verification of a SSN if the applicant or recipient has complied with applying for and SSN.
 - d. For information on obtaining SSN's see [TASB Chapter 5, Section N](#).
4. **CHILD SUPPORT ENFORCEMENT PROGRAM** – The applicant shall be advised of the requirement of complying, when applicable, with the requirements of the Child Support Enforcement program. [LDSS- 4148A "What You Should Know About Your Rights and Responsibilities"](#) contains this information. See also [Section S](#) of this chapter.

5. **WORK REQUIREMENTS** – Districts must advise the applicant of the requirements of complying, when applicable, with work requirements. [LDSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) contains this information. For Temporary Assistance employment requirement information:
 - a. Refer to the Temporary Assistance and Supplemental Nutrition Assistance Program Employment Policy Manual or Contact your Employment Technical Advisor with employment/work requirement questions.
 - b. The Temporary Assistance and Supplemental Nutrition Assistance Program Employment Policy Manual is accessible via the Welfare To Work Caseload Management System and CentraPort.

6. **INDIVIDUALS INELIGIBLE TO RECEIVE FA**

The provisions below apply to individuals, not households. Treat persons found to be ineligible under the provisions below as sanctioned individuals. They are budgeted according to the incremental method, Office Regulation 352.30(d), and [TASB Chapter 13, Section M](#).

a. Teen Parent Education

This provision requires an unmarried teen parent, whose youngest child is at least 12 weeks of age, to participate in educational activities directed towards receiving a high school diploma or GED as a condition of TA eligibility. The individual's ineligibility will continue unless he or she participates in educational activities directed toward the attainment of a high school diploma or its equivalent or an alternative educational or training program directly related to employment approved by the local district. The remainder of the household continues to receive TA, if otherwise eligible.

- (1) A local district may exempt the minor parent from this requirement if it has been determined by a medical, psychiatric or other appropriate professional that the minor parent lacks the requisite capacity to successfully complete the course of study.
- (2) A minor parent is not subject to this requirement during any period that enrollment in required educational activities is not available.
- (3) Districts may use the "[School Attendance Verification](#)" form, [LDSS-3708](#) to verify attendance in school.

b. Persons in Receipt of Simultaneous Benefits

Persons previously convicted in a federal or State court of making a fraudulent statement or representation regarding his or her place of residence in order to receive TA, MA, or SNAP simultaneously from two or more states, or Supplemental Security Income (SSI) in two or more states are ineligible for TA. This ineligibility extends for a period of ten years, beginning on the date of the individual's conviction. This does not apply to any month beginning after the President of the United States

grants a pardon to the individual. The remainder of the household may receive TA, if otherwise eligible.

c. Fleeing Felons/Probation/Parole/Violators

Person(s) fleeing to avoid prosecution or custody, or conviction under the laws of the place from where they are fleeing, for a crime or for an attempt to commit a crime, are ineligible to receive FA. The crime must be a felony, under the laws of the place from where they are fleeing, which in the case with the State of New Jersey fleeing to avoid prosecution is a high misdemeanor. This makes the person(s) ineligible for TA and SNAP.

- (1) In addition, any individual who is violating a condition of probation or parole imposed under federal or State law is not eligible for FA or SNAP. The remainder of the household may receive TA and SNAP, if otherwise eligible.
- (2) A person is violating a condition of probation or parole only if:
 - (a) The person is currently an absconder from probation or parole supervision and a warrant alleging such a violation is outstanding, or
 - (b) The person has been found by judicial determination to have violated probation or by administrative adjudication by the division of parole to have violated parole, or
 - (c) The person is violating a condition of probation or parole imposed under federal law.
- (3) An individual who is identified as being a probation/parole violator is considered as such until it is verified that he or she has been restored to probation or parole supervision or released from custody, or until the person's maximum period of imprisonment or supervision has expired.

Note: Probation or parole includes conditional release.

d. Absence of Minor

- (1) The district must sanction the parent/caretaker relative if he/ she does not notify the local district within 5 days of when it becomes clear that the minor will be absent for 45 consecutive days or more.
- (2) A district must not sanction a minor member of the household if he/she is expected to be absent without good cause for 45 consecutive days or more.
- (3) Minor children who are absent from the home for less than 45 days are not subject to the good cause provisions as long as it is determined that the parent or relative retains full responsibility for control of the child.
- (4) Good cause for purposes of this provision includes:

- (a) Absence for placement in foster care – if the goal stated in the child service plan is the return of the child to a member of the household and return is expected within a reasonable time.
 - (b) Attendance at school – if it is in the best interests of the child to return home and return is expected within a reasonable time.
 - (c) Hospitalization – if it is in the best interests of the child to return home and return is expected within a reasonable time.
 - (d) Attendance at camp.
 - (e) Visits to friends or relatives if the child will return within a reasonable time.
5. "Reasonable time" is not being defined in order to allow workers to use professional judgement in making a determination of what constitutes reasonable time in individual case circumstances. Eligibility workers are strongly urged to consult with services workers for foster care cases and other cases in which services is involved.
6. When the local district learns that a minor is, or is expected, to be absent from a TA household, the local district must determine whether the minor is expected to be absent from the household 45 consecutive days, or more, without good cause. If so, the local district must:
- (a) Provide timely and adequate notice to the household that the absent child is being removed from the TA household.
 - (b) Remove the child from the case budget effective with the first semi-monthly payment due to the household following the expiration of the 10 day notice period.
 - (c) Determine if an overpayment has been made in accordance with [TASB Chapter 13, Section A-8](#) and initiate recoupment, if appropriate, in accordance with [TASB Chapter 22](#).
 - (d) Change case category, if appropriate.
 - (e) Determine whether the child's parent or caretaker relative notified the district within 5 days of the date it became clear to that individual that the absent child would be absent for 45 consecutive days, or more. If the parent or caretaker relative did not inform the local district within the required 5-day period, the local district must:
 - (i) Provide timely and adequate notice to the parent or caretaker relative (usually the case head) that that person is being removed from the TA household for a period equal to the number of calendar months (a partial month counts as a whole month) the temporarily absent child was absent before the district was informed.

- (ii) Remove the parent or caretaker relative from the TA household for the appropriate sanction period noted above;
- (iii) Determine if an overpayment has been made in accordance with [TASB Chapter 13, Section A-8](#) and initiate recoupment, if appropriate, in accordance with [TASB Chapter 22](#); and
- (iv) Change case category, if appropriate
- (v) In order to end the specified sanction period, the sanctioned parent or caretaker relative must request the local district to add them back onto the TA case.

E. FINANCIAL NEED

FINANCIAL NEED – Shall be determined in accordance with the approved standards of assistance.

1. **CHILD LIVING WITH ONE OR BOTH PARENTS** – The needs of a child living with one or both parents shall be determined for the family unit in accordance with temporary assistance (TA) standards.

“18 NYCRR 352.30(a) provides that when an applicant or recipient parent resides in the same dwelling unit with his or her minor dependent children (under age 18), the minor dependent children must be included in the application or case. In addition, any other dwelling unit members who are birth or adoptive siblings or parents of the applying children must also be included. Once the filing unit is determined, all the income and resources of all members is considered to determine eligibility and the degree of need is determined using the income and resources of all filing unit members. Unless exempt from filing unit rules, all required individuals must apply.”

2. **CHILD LIVING WITH ANOTHER RELATIVE**

- a. **DEPENDENT RELATIVE** – When the child is living with an eligible relative, other than a parent, and the eligible relative is without adequate means of support, financial need will be determined in accordance with TA standards.
- b. **SELF-MAINTAINING, NON-LEGALLY RESPONSIBLE RELATIVE** – If the applicant is a non- legally responsible relative who is self-maintaining or who is supported by a spouse or other person who is not a legally responsible relative, an FA grant may be made for the needy child, according to applicable TA standards.

3. **CHILD OR APPLICANT HAS SUFFICIENT RESOURCES FOR HIS OWN MAINTENANCE**

- a. A child or minor who has sufficient financial income to meet the expenses of his own maintenance shall be considered categorically eligible for FA if the parent or eligible relative with whom he is living and who is essential to his needs has insufficient means for self-support.
- b. A child or minor is categorically eligible for FA if the parent or eligible relative with whom he is living has sufficient means to maintain himself but not enough to maintain the child or minor and no other resources are available.

4. **AVAILABILITY OF ALL SUPPORT OBLIGATIONS** - The local district official shall determine the availability of, and seek enforcement and collection of, all support obligations owed to recipients of FA and foster care pursuant to the requirements and procedures set out in Part 347 of Office Regulations.

F. AGE

1. A child is eligible for FA if under 18 years of age; or if under age 19 if he/she is a full time student in a secondary school, or in the equivalent level of vocational or technical training.
2. The district must establish the age of each applying child or minor . Districts must not deny FA to children who are obviously below the age limit solely because the date of birth cannot be determined immediately. The district must establish age as soon as possible.
3. The district must establish the fact that a child 18 years of age is a full-time student in a secondary school or in the equivalent level of vocational or technical training. The following considerations shall apply to establishing such facts:
 - a. Secondary school or the equivalent level of vocational or technical training shall mean attending public, private or parochial school with a source of study leading to a high school diploma or its equivalent whose curriculum is approved by the Education Department.
 - b. Full-time attendance, provided it represents a program of education or training as above defined, shall be in accordance with what the individual institution considers full-time for academic institutions;
 - c. Notwithstanding item b above, a child is considered in full-time attendance while:
 - (1) a resident pupil temporarily absent from home, when the primary purpose is to secure educational, vocational or technical training and the parent retains full responsibility for and control of such minor;
 - (2) enrolled in school, but on vacation; or
 - (3) receiving instruction in the home conducted by the board of education or while in any course leading to a high school equivalency certificate [369.2(c)].
 - d. **CONTINUING ELIGIBILITY** – Districts must confirm attendance in high school or the equivalent level of vocational or technical training of a minor who is at least age 18 at each regular contact with the family. If such a minor fails to resume attendance at the next regular term following vacation, he is ineligible for FA [369.4(e)].
 - e. Districts may mail the [LDSS-3708: "School Attendance Verification"](#) directly to the school at the time of application, recertification, and when circumstances demand such verification.

G. WELFARE OF CHILD OR MINOR

1. A child or minor shall be eligible for FA if his home situation is one in which his physical, mental and moral well-being will be safeguarded.
2. **CONCERN FOR CHILD'S WELFARE** - Where there is concern for a child's welfare, referral shall be made to Children's Services for assessment of the child's home situation.

Note: Local district workers are required to report cases of suspected child abuse or maltreatment in accordance with Social Services Law, Section 413.

3. DETERMINING PARENTAL ABILITY

- a. In determining the ability of a parent or relative to care for the child, the home shall be judged by the same standards as are applied to self-maintaining families in the community.
- b. If, at the time of application, a home does not meet the usual standards of health and decency, but the welfare of the child is not endangered, FA will be granted and services provided in an effort to improve the situation. Where appropriate, consultation and direct service shall be requested from Children's Services.
- c. The mother or other caretaker relative may be considered available for employment. (Office regulation Part 385). See the [Temporary Assistance](#) and [Supplemental Nutrition Assistance Program](#) and [Employment Policy](#) Manual.

H. RESIDENCE WITHIN STATE

1. A child or minor, to be eligible for FA, shall live within the State at the time of application. His residence shall be established.
2. To establish residence a [LDSS-3668: "Shelter Verification"](#) may be mailed directly to a landlord at the time of application, recertification and when a change occurs.

I. LIVING ARRANGEMENTS

1. OWN HOME

- a. A child or minor, to be categorically eligible for FA, shall be living in his own home, i.e., with his parent(s) or another eligible relative.
- b. A child is considered to be living in his own home as long as the relative takes responsibility for the care and control of the child even though circumstances may require temporary absence of either the child or the relative.
- c. A child is considered to be living in his own home (the home of the caretaker relative) if the child has been placed in the home of such relative by a court, except when placement is pursuant to foster care with a plan for supervision, control, and a goal of discharge to a member of the household by the Office of Children and Family Services through its children's services program.

2. MINOR PARENT LIVING ARRANGEMENTS

- a. An individual who is a pregnant minor, or a minor residing with and providing care for his or her dependent child, must live with a parent, legal guardian or adult relative if he or she is:
 - (1) Under the age of 18; and
 - (2) Not married
- b. **EXCEPTIONS** - The individual (and minor child) will not be required to live in the household of a parent, legal guardian, or other adult relative when:
 - (1) The individual has no living parent, legal guardian, or other appropriate adult relative whose whereabouts is known; or
 - (2) The individual has no parent, legal guardian, or other adult relative who will allow the individual (and child) to live in his or her home; or
 - (3) The individual (or child) has been subjected to serious physical or emotional harm, sexual abuse or exploitation in the residence of the parent, guardian or relative; or
 - (4) Substantial evidence exists of imminent or serious harm if the individual (or child) were to reside in the same residence with the individual's parent, guardian or relative; or
 - (5) It is in the best interest of the child to waive the requirement. Best interest will be determined by the local district on a case by case basis.
- c. **ALTERNATIVE LIVING ARRANGEMENTS** – When an exception applies to the requirement that an individual (and child) live with a parent, guardian or adult

relative, and unless the individual's current living arrangement is appropriate, the local district must locate or assist the individual in locating an adult supervised supportive living arrangement. An adult supervised supportive living arrangement are those that meet the standard as stated in paragraph below. These include but are not limited to:

- (1) Maternity homes; and,
- (2) Second Chance Homes – Second chance homes are defined as a facility which provides teen parents with a supportive and supervised living arrangement in which they are required to learn parenting skills, including child development, family budgeting, health and nutrition and other skills to promote long-term economic independence and well-being of their children.

d. INDIVIDUAL'S CURRENT LIVING ARRANGEMENT

- (1) The local district may determine if the individual's current living arrangement is appropriate by considering such factors as:
 - (a) The individual's involvement in educational activities;
 - (b) The availability, at or near the individuals residence, of child care which enables the individual to take part in educational activities;
 - (c) The individual's ability to properly manage his or her grant; and
 - (d) Other persons living in the dwelling unit with the individual.
- (2) These and other factors specific to the individual and child will be viewed together and support the decision that the individual's behavior appears to be responsible and would justify a continuation of that living arrangement.
- (3) When the local district determines that factors exist which prevent the current living arrangement from being considered appropriate, the local district may offer the individual the opportunity to locate a more appropriate arrangement and may assist the individual with expenses related to the move.
- (4) When no appropriate arrangement is located by the individual the local district will then require the individual to live in an adult supervised supportive arrangement, the arrangement must meet the standard stated below. Only when the individual will not live in such an arrangement can the local district deny assistance to the individual.

e. **STANDARDS** – In the case of formal adult supervised supportive living arrangements such as maternity homes and second chance homes, the arrangements must meet the appropriate licensing or certification requirements set by the Office of Family and Children Services for that kind of facility.

f. **GRANT RESTRICTION** – The individual's grant should be paid to the adult in an adult supervised living arrangement, if possible.

- g. **REFERRAL TO CHILD PROTECTIVE SERVICES (CPS)** – If the individual alleges that one of the circumstances in paragraph above, I-2.b exists, the local district cannot deny assistance to the minor for refusing to live with the parent, guardian or adult relative unless a CPS investigation is conducted under Section 432 of Office Regulation and resulted in a contrary finding.
- (1) The local district can explore whether or not the individual (and child) should live in an alternative adult supervised supportive living arrangement and CAN deny assistance to the individual for refusal to live in an appropriate alternative arrangement.
- (2) If, after a CPS investigation and determination that the report is unfounded, the individual (and child) will be required to return to the home of the parent, guardian or relative whose home was the subject of the investigation.
- (3) The individual (but not the individual's child) may be denied assistance for still refusing to live there. In such an instance, the individual is entitled to a fair hearing within 30 days if the request is made timely.
- h. **PENALTY FOR NON-COMPLIANCE** – The individual is ineligible. The individual's minor child may receive assistance.

3. **INFANTS IN PRISON** ([95 ADM-04](#), [12 INF-03](#))

- a. Infants, born to mothers serving prison sentences, may live in the prison nursery for up to eighteen months. This includes a stay for a period that would not extend past the child's first birthday unless there is reasonable probability that the mother is to be paroled shortly after the child becomes one year of age.
- b. In no case may the child remain past age 18 months.
- c. Such children, who are otherwise eligible for FA, are eligible for FA in this living situation. The child is considered to be living in the home of a FA relative since the mother of an infant in a correctional facility nursery is involved in the day-to-day care of the child and in the decision making for the child.
- d. An inmate mother with a child in the facility nursery may apply for TA and MA for the child. The most recent local district of legal residence of the mother will be the district of fiscal responsibility (DFR).
- e. The DFR of a woman who is an inmate and whose infant is residing in the correctional facility nursery must accept and process the application and determine the eligibility for TA and/or MA for the infant.
- f. The State correctional facility from which districts may receive applications is:

Bedford Hills Correctional Facility
247 Harris Road
Bedford Hills, New York 10507-2400

- (1) Districts are no longer required to negotiate a Memorandum of Understanding (MOU) with the Department of Corrections and Community Supervision (DOCCS) allowing DOCCS staff to conduct eligibility interviews on behalf of the district. Rather, districts should work with DOCCS staff to coordinate the application and eligibility determination process. If necessary, district staff may interview the incarcerated parent by phone or arrange for teleconferencing.
 - (2) The designated person(s) may be a local district employee. The local district Commissioner may also approve a DOCCS employee, chosen by the Superintendent of the facility, as the designated person.
 - (3) When the infant of the incarcerated inmate needs to apply for assistance, the mother of the infant, with the assistance of a DOCCS counselor, must complete an application of behalf of such infant. DOCCS staff will provide Books 1, 2 and 3 to the parent. Normal TA application, eligibility and documentation guidelines apply to these applications. However, since the child and mother are in the care and custody of DOCCS, many eligibility variables may be easier to verify than normal.
- g. The application date is the date that the district receives the signed, completed application form from the designated person at the correctional facility.
 - h. The application and accompanying documentation, including the child support enforcement referral, proof of the child's birth, a signed confidentiality release, the social security number or proof that an application for a social security number for the child has been made in accordance with [GIS 14/TADC027](#), will be forwarded by the designated person at the correctional facility to the district. The district must accept and file the application, review the documentation and then determine eligibility for the child. If documentation is missing, the district will notify DOCCS and DOCCS will obtain the documentation that is needed to complete the application process.
 - i. In the rare instance that there is a delay in obtaining verification of birth, a statement from DOCCS as to the date of birth and relationship of the child to mother will constitute verification of age, citizenship and relationship until documentation may be obtained by the district. This is because in all instances, the child will be in the care of DOCCS or another penal institution at the time of birth. This is consistent with previously established OTDA alternative verification procedures (see 00 INF-6).
 - j. The district must determine if the incarcerated mother has reached her State 60-month time limit and is no longer eligible for FA. In such a case, the infant will be in the SNA-FNP category (case type 17).
 - k. Assigned authorization and certification periods on the Welfare Management System (WMS) will be 12 months. Recertification for the child while residing in the prison nursery will not be required unless the child is there beyond the 12 months. This will be a very small percentage of cases in the nursery. Most newborns will be in DOCCS care for 12 months or less.

- l. The mother of the child is not eligible to receive TA benefits for herself because she is incarcerated. The standard of need for the child will be based on a not-for-profit negotiated room and board rate plus the \$45 personal needs allowance (PNA). It is suggested that the room and board maximum (the total of the one person Basic, Home Energy Allowance, Supplemental Home Energy Allowance and Shelter maximum (with child rate)) for the district the facility is located within should be the rate set. Only the child should be included for the household (HH) and case count (CA) in ABEL.
- m. Since inmates are normally paid less than the standard \$90 work disregard, districts must enter \$90 in the earnings field on ABEL and then exempt it with the standard disregard. It is not necessary to obtain verification of these wages unless DOCCS notifies the district that there has been an increase over the \$90.
- n. Coordination between the local district and the corrections facility is as follows:
 - (1) The room and board payment must be made to the DOCCS facility and the PNA must be paid into the inmates account. The PNA must be provided to the inmate on behalf of the child for the child's incidental needs. The child support pass-through, when one is appropriate, will be paid to the inmate.
 - (2) Copies of client notices of case action, request for information, etc. that are sent to the mother must also be provided by the local district to the designated person in the correctional facility.
 - (3) DOCCS will be responsible for notifying the district whenever there is a change in the parent's or child's circumstances including the date the child is discharged from the nursery.
 - (4) The child support enforcement unit in the DFR may contact DOCCS to provide assistance in contacting the inmate regarding the referral and information about putative father's/noncustodial parents and, if necessary, to coordinate telephonic testimony in court paternity and support proceedings.
- o. The infant's district of residence is considered to be the mother's local district of residence at the time of her sentencing. At the time of application, DOCCS will verify the mother's district of residence on behalf of the district.
 - (1) In the event that the mother has no legal residence at the time that she is sentenced, the where-found district (the sentencing local district), is the district of fiscal responsibility.
 - (2) Even though the child may have been born in the local district where the correctional facility is located, that local district will not be the DFR unless it is the local district where the mother resided at the time of her sentencing.
- p. In the event of an unresolved inter-jurisdictional dispute, the local district where the facility is located must accept and process the application. The local district may request a hearing to resolve the dispute.

4. **JOINT CUSTODY ([94 INF-45](#))**

- a. **DETERMINING PARENT WITH PRIMARY RESPONSIBILITY** – Joint custody awards in divorce proceedings are common. FA eligibility must be looked at on a case-by-case basis to determine who is the primary caretaker. Shared responsibility means there is no primary caretaker.

- (1) Joint custody exists when two parents reside apart, but share physical custody of a common child. This can occur when a court has awarded joint custody, or can be based on informal arrangements between separated parents.
- (2) When a child applying for TA has continued contact with parents that live apart, the local district must review the case specific circumstances to establish whether one or both parents take an active and continuing responsibility for the upbringing of the child.
- (3) If one parent is making most of the decisions regarding the day-to-day upbringing and future of the child, then that parent is the primary caretaker and the child is considered to be living with that parent.
- (4) If both parents share equally in the upbringing of the child, then the parents share responsibility and the child is considered to be living in each parents home.

The following questions are guidelines for joint custody cases and all other cases in which the child has substantial and continual contact with both parents and may help in establishing the parent's primary responsibility for the child:

- (a) If the parent and absence parent reside in different school districts, where does the child attend school? Who selects the child's school?
- (b) Who assists the child with homework or school-related tasks? Who attends school conferences, such as parent-teacher conferences?
- (c) Are there any tuition costs related to the child's education? If so, who pays these costs?
- (d) If the child is in day care, who makes the arrangements and pays the costs?
- (e) Who takes the child to and from school or day care?
- (f) Which parent is listed as the contact for emergencies at the child's school or day care centers?
- (g) Who arranges medical and dental care for the child? Who selects the doctor or dentist who provide medical and dental care for the child?
- (h) Who initiates and makes decisions regarding the child's future?
- (i) Who responds to emergencies involving the child (i.e., medical and/or law enforcement emergencies)?

- (j) Who spends money on food and/or clothing for the child when the child visits the other parent?
 - (k) Who disciplines the child?
 - (l) Who plays with the child and arranges recreational activities?
 - (m) Does one parent have visitation rights? This may suggest that the other parent is the custodial parent.
 - (n) An income tax claim may be an indicator of the primary caretaker, but the decision must take into account all the circumstances of the case.
 - (o) If one parent pays child support, it may be an indication of no shared responsibility. However, each case will still need to be reviewed on an individual basis.
- b. The legal court order regarding custody of the child is not the determining factor in deciding whether the child is in a primary caretaker or shared responsibility situation.
- c. The primary source of the information regarding the family's circumstances should be the applying parent. Collateral sources need only be contacted if the information provided by the applicant is contradictory or insufficient to establish joint custody.
- d. **DETERMINING CATEGORY**
 - (1) **PRIMARY CARETAKER SITUATIONS** – When one parent is determined to be the primary caretaker, the child is considered to be living with that parent. In these instances the child and primary caretaker are categorically eligible for FA.
 - (2) **SHARED RESPONSIBILITY SITUATIONS** – When both parents are involved in the daily upbringing of the child, the applying parent is categorically eligible for FA.
- e. **BOTH PARENTS ON TA OR SSI** – When both parents are on TA or SSI and applying for the child in a shared responsibility situation, both parents are entitled to a shelter allowance. The basic allowance, HEA, and SHEA are computed by using the \$4.00 per day visitor's allowance for each day the child is with that parent. Both parents can be categorically eligible for FA.

For example: If the child spends 10 days with mother and 20 days with father, mother would get $\$4.00 \times 10 = \40.00 and the father would get $\$4.00 \times 20 = \80.00 . These pro-rated basic allowances are in addition to the shelter allowances for the child to each parent in shared responsibility situations. If both parents are working, and sharing responsibility, both are entitled to the various income disregards.
- f. **CHILD TEMPORARY ABSENT FROM HOME** – When the child is temporarily absent from the home of the primary caretaker, the primary caretaker is still entitled to the child's TA benefit.

- g. If the child is away from home for more than 45 days without good cause, and is the only FA eligible child, then the category must be changed to SNA. If a SNA mother is to have the child for a one month visit in the summer, the case remains SNA if the other parent continues to be the primary caretaker.

h. **CHILD'S VISITS**

- (1) When one parent is the primary caretaker, the non-custodial parent in receipt of TA may request and receive a visitor's allowance. The visitor's allowance is \$4.00 per day for each day the child visits the non-custodial parent. The non-custodial parent does not receive a shelter allowance for the child.
- (2) Generally, a statement by the client is sufficient verification of visits made by the child. If the local district has reason to doubt the statements made by the client, the local district should check with the other parent. If the child is receiving foster care benefits, the foster care caseworker should be contacted. Collateral sources need only be contacted if the local district has reason to believe that the parent's statement is inaccurate.
- (3) There is no time limit on the length of time that a parent can receive the regular visitor's allowance of \$4.00 per day for the non-custodial parent before it becomes a shared responsibility situation. However, if the child spends a great deal of time with the non-custodial parent, the case should be re-evaluated for shared responsibility. For further information on the visitor's allowance see [TASB Chapter 13, Section M](#).

- i. **CHILD CHANGES DISTRICTS** – When a child goes from one local district to another, the local districts must work together to determine if there is a primary caretaker or a shared responsibility situation. The general budgeting rules then follow.

5. **EXAMPLES**

a. Example #1 in Which Legal Court Order Has No Bearing

Burt and Lonnie Jones were divorced in January of 1996. At the time, the judge ordered joint custody of their nine year old daughter, Margaret. Under the order, Margaret was to spend alternating two weeks with each parent.

In August of 2002, Lonnie comes into her local district to apply for herself and Margaret. At that time, Lonnie explains to her worker that Margaret now spends ten months a year with her, since Burt has returned to college. Margaret spends the summer months of July and August with her father.

During the eligibility interview, the worker asks Lonnie the questions about which parent is providing for the day-to-day upbringing of Margaret. From answers to these questions, the worker is able to establish that Lonnie is the primary caretaker of Margaret.

Since Lonnie and her daughter are eligible for assistance, the worker provides a full FA grant for two. The case is also referred to CSEU so that child support can be sought from Burt.

b. Example #2 of Absent Parent Applying

Continuing with the example above, Burt Jones leaves college in February of 2003. However, he cannot find a job.

In April of 2003, Burt applies for TA. At that time, Burt explains to his worker that his daughter will be spending the months of July and August with him.

During the eligibility interview, the worker asks Burt the questions about who is providing for the day-to-day upbringing of his daughter. From the answers, the worker is able to establish that Lonnie is still the primary caretaker.

Since Burt is otherwise eligible for TA, the worker authorizes an SNA grant in mid-May for full TA.

In July and August, Burt will get a visitor's allowance of \$120 per month (\$4 allowance X 30 days) since Margaret will be visiting her father for these two months.

c. Example #3 of Shared Responsibility

Mark and Sharon Stafford are informally separated. When they separated, both parents agreed that their two common children would spend two weeks at a time with each parent until their divorce was final.

Sharon has just started part-time work as a mechanic for Sears Roebuck Corporation and is self-supporting. Mark is receiving Unemployment Insurance Benefits.

When Mark's UIB ends in May of 2002, Mark applies for assistance for himself and the two children.

During the eligibility interview, Mark's worker explores with him who is responsible for the day-to-day upbringing of the children. From the answers Mark provides, the worker establishes that Mark and his wife share responsibility for the upbringing of the children.

The worker next determines the FA grant amount. Mark and the children can receive:

- (1) Shelter for three up to the maximum;
- (2) Fuel for three (if appropriate);
- (3) Full basic for one; and

(4) Prorated basic for the two children of \$120 (2 children X 15 days (½ month) X \$4 per day).

The worker also refers Mark to the Child Support Enforcement Unit (CSEU) so that child support can be sought from Sharon.

6. WMS IMPLICATIONS

- a. **PRIMARY CARETAKER** – When one parent has been determined to be the primary caretaker, the child is included in the household and case counts for that parent's TA ABEL budgets.
- b. **NON-PRIMARY CARETAKER** – When budgeting TA for the parent who is not the primary caretaker, the "visitor's allowance" paid to an absent parent is not part of the TA Needs for eligibility and therefore, is not part of the WMS/ABEL budget.
- c. **SHARED RESPONSIBILITY** – The "Prorated basic Allowance" is part of the TA needs for eligibility along with a shelter (and, if applicable, fuel) allowance which includes the child. As such, it is included in the WMS/ABEL budget.

J. RELATIONSHIP OF CHILD TO RELATIVE

The district must establish, document and verify the specific relationship of the child or minor to the parent or other caretaker relative.

1. **ELIGIBLE CARETAKER RELATIVE** – A caretaker relative related to the child by any degree of blood marriage or adoption such as, but not limited to, the child's father, mother, brother, sister, grandparent, great-grandparent, great-great-grandparent, great-great-great grand-parent, uncle, great-uncle, great-great-uncle, aunt, great-aunt, great-great-aunt, of whole or half blood; the child's first cousin, first cousin once removed, nephew and niece, of whole or half blood.
2. The child's step-father, step-mother, step-brother, step-sister, but no other step-relative;
3. In the case of a child who has been surrendered to an authorized agency or who has been adopted:
 - a. Any of the blood or step-relatives listed above,
 - b. The child's adoptive parents, and
 - (1) The other children of the adoptive parents and the children of such children,
 - (2) The parents, grandparents and great-grandparents of the adoptive parents,
 - (3) The brothers and sisters of the adoptive parents and children of such brothers and sisters, and
 - (4) The aunts, uncles, great-aunts, and great-uncles of adoptive parents.
 - c. The spouse of any person described above, even though the marriage may have been terminated by death, divorce, or annulment.
 - d. In the case of a child born out-of-wedlock, any relative in the maternal line included in the preceding paragraphs, and, if paternity has been adjudicated or acknowledged in writing, any relative in the maternal or paternal lines included in the preceding paragraphs.

K. TIME LIMITS

1. **SIXTY MONTH LIFETIME LIMIT ON FEDERALLY-FUNDED TEMPORARY ASSISTANCE (FA, CAP, TANF-funded SNA – FP)**
 - a. Family assistance may not be granted to a family that includes a trackable adult who received a cumulative total of sixty months of assistance, whether or not such months are consecutive, from any combination of the following sources:
 - (1) Family Assistance, case type 11
 - (2) Child Assistance Program (CAP), case type 11 with WMS CAP Indicator (upstate) or Center 17 cases (NYC)
 - (3) Non-cash Safety Net Assistance/FP, case type 12
 - (4) Cash Safety Net Assistance, case type 16 (Including payments claimed under Refugee Assistance Program)
 - (5) TANF Assistance funded assistance received in other states or U.S. territories
 - b. There are no time limit counts for assistance issued through Non Cash SNA (case type 17), Emergency Assistance to Needy Families (case type 19) and emergency Assistance to Adults (case type 18).
 - c. TANF-funded assistance received as a minor child does not count toward the lifetime limit, unless received as a minor head of household or minor spouse of the head of household.
 - d. Some states have imposed time limits on federal assistance that are shorter than 60 months – for example, two years. If a trackable adult has exceeded a time limit in another state that is less than sixty months, that individual will remain eligible for federal assistance in New York State for the remaining months up to a lifetime total of sixty months.
 - e. In addition to the federal time limit on receipt of federally-funded assistance, the Welfare Reform Act of 1997 specifies that any months in which an adult receives cash assistance through the Safety Net Assistance (SNA) program will also be applied toward the State 60-month lifetime limit, even though the SNA is not funded through TANF.
 - f. Once a trackable adult in the assistance household reaches the State 60-month durational time limit, unless the household meets the criteria for a time limit exemption, any subsequent assistance to the household must be through the Safety Net Non-Cash Assistance (FNP) program (case type 17).
 - g. The trackable case member with the highest time limit count determines the time limit for the entire household. For example, if there are two parents in a household

the time limit of the parent with the highest time limit count will be the time limit count for the entire household.

- h. Recipients are advised of their time limit count at every case opening and at each case action to recertify, change case type or close the case.
- i. The WMS Tracking Function facilitates time limit monitoring and notification to the recipients.
- j. Local districts began changing FA, CAP and TANF-funded non-cash SNA cases to cash or non-cash SNA/ FNP with authorizations effective from December 1, 2001.

2. LOCAL DISTRICT RESPONSIBILITY

- a. At each application and recertification of ongoing assistance for FA, CAP, TANF-funded SNA, and for recurring cash assistance needs, local districts must identify individuals in the family who are adults or otherwise trackable and determine the time limit counts for the individual(s). Trackable individuals include:
 - (1) All adults receiving TANF funded assistance (Case type 11 and 12). Except Essential Persons and adults on an incremental sanction. Essential persons and adults on an incremental sanction are not tracked toward the TANF time limit but they are tracked toward the State 60 month time limit.
 - (2) All Adults and children receiving assistance through the cash SNA FNP (case type 16).
 - (3) The following three categories of minors are considered adults and are tracked for both the TANF time limit and the State 60 month time limit:
 - (a) A minor head of household
 - (b) A minor married to the head of household
 - (c) A minor parent with a child in common with the head of household
- b. The WMS records of assistance granted and the WMS Tracking Function shall be used to determine the number of months in which the individual received TANF-funded assistance or SNA cash assistance.
- c. If there is evidence that the individual has lived in another state since becoming eighteen years old, the local district must also determine whether any TANF-funded assistance was received by the individual in the other state.
- d. The local district worker must inform the TA applicant/recipient (A/R) of his or her time limit count, and explain what this means in terms of the State 60 month limit at every case opening, at each case action to recertify, change case type or close the case.

- e. When a trackable individual is near the State 60-month time limit for TANF-funded assistance the local district must reassess the individual's situation to know what the correct category of assistance would be after the State 60-month time count. Every trackable individual must have a face-to-face reassessment interview.
 - (1) At the reassessment interview the local district must make the following determinations:
 - (a) Are there services and interventions that would help this family achieve self-sufficiency?
 - (b) Does the individual qualify (and, therefore, the family) for a time limit exemption?
 - (c) Does the individual qualify for an employment exemption that would also exempt him or her (and, therefore, the family) from the twenty-four month time limit on cash Safety Net Assistance?
 - (d) What case processing changes are needed for the family to begin receiving Safety Net Assistance?
 - (2) Local districts must explore new self-sufficiency strategies for households reaching the State 60 month time limit. All avenues for these families to achieve self-sufficiency or alternative means of support should be considered before a time limit exemption is granted.
- f. The local district shall exempt a family from the State 60 month time limit on FA (Case type 11) and federally participating safety net (Case type 12) when a trackable adult household member meets any of the the time limit exemption criteria listed in [Section 3](#) below.
- g. When a family must move to Safety Net Assistance at the State 60- month time limit count local districts must complete the actions listed in [Section 13](#) below.

3. TIME LIMIT EXEMPTIONS

- a. The district shall exempt a family from the State 60 month time limit when:
 - (1) The adult family member is unable to work because of an independently verified physical or mental impairment that:
 - (a) Causes incapacity for a period of more than six months;
 - (b) Is the result of domestic violence and is anticipated to last three months or more;
 - (c) Is the result of domestic violence towards a child and the adult family member is needed in the home to care for the child;

- (d) Has happened to another household member and is so severe that the adult family member is needed in the home to provide full-time care; or
 - (e) The adult family member has applied for and is awaiting receipt of Supplemental Security Income payments (SSI) or additional State payments under section 209 of Social Services Law. While SSI eligibility is pending the physical or mental impairment must be medically verified and expected to last for a period more than six months.
 - (f) The adult family member qualifies for, or is in receipt, of Supplemental Security Income payments (SSI) or additional State payments under section 209 of social services Law.
- b. Identification of Potential Time Limit Exemptions. An integral part of local district time limit monitoring is the identification of cases with potential time limit exemptions. For ease of administration, OTDA regulations provide that recipients or inactive household members who may qualify for a time limit exemption are identified by certain employability codes.
- (1) The following employability codes alert local districts to cases that may have a trackable individual who would qualify for a time limit exemption.

Code Definition

- 36 Incapacitated/Disabled (More than 6 months)
- 38 Needed in the Home Full Time to Care for Incapacitated Household Member
- 43 Incapacitated (SSI Application Filed)

- (a) Individuals who currently have one of these employability codes do not automatically receive a time limit exemption. This is because recipients' employability status is dynamic and can change in a relatively short time. The district may not grant a time limit exemption until a recipient has received 60 months of cash assistance and the exemption has been verified.
- (b) Each recipient who nears the State 60-month time limit must have an individual evaluation to insure that his or her employability code is correct.
- (c) Recipients coded with one of the three employability codes above give districts an indication of their potential universe of recipients who may qualify for time limit exemption at any point in time. Employability codes now have significance for both employment purposes and time limit impact.
- (d) Local districts must keep employability codes current for each recipient so that local districts can gauge the number of cases that might qualify for a time limit exemption.

c. Applying Time Limit Exemption Criteria

- (1) Local districts must use the existing procedures in Office Regulation for obtaining medical verification of any physical or mental impairment that prevents the individual from working for at least six months.
- (2) Individuals with an exemption and their families will continue to receive TANF funded assistance (FA, CAP, non-cash SNA/FP) until the exemption condition no longer exists. Districts report time limit exemptions by the posting of a time limit indicator. Every individual granted a time limit exemption must have a time limit indicator entered on WMS.
- (3) Upstate WMS, a "T" indicator ("TANF funded assistance) is entered in the LMT EXM field on the individual's line on Screen 3. On NYS WMS an "X" time limit exemption indicator is entered either on the eligibility screen NCEM15 (individual data) or the undercare screen NUCMCL (unformatted screen).
- (4) Cases granted an exemption to the State 60-month time limit should generally be reviewed no less frequently than every six months to determine if the time limit exemption is still warranted.
- (5) The time limit status of inactive individuals in the household who would be on the case except for their sanction or ineligible status also affects families.

For example, State 60-month time limit count for a parent under an IPV penalty would send the family to non-cash SNA/FNP, unless a time limit exemption is granted to the inactive parent.

- (6) Whenever an individual is added to the household as an inactive member who would be an active member except for a sanction or ineligible condition, the local district must determine the individual's time limit status. If the individual has a State 60-month time limit count of 60-months or more, the district must make an exemption determination as if the inactive individual were a member of the case.

4. ALLOWABLE STATE SIXTY MONTH TIME LIMIT EXEMPTIONS

a. Incapacitated More Than Six Months

At the end of the time limit, trackable individuals who have a physical or mental health problem expected to last more than six-months that makes them unable to work qualify for a time limit exemption.

- (1) The medically verified health condition must exist when the individual is at the time limit
- (2) Individuals properly coded with Employability Code 36-Incapacitated More Than Six Months meet this criterion. Local districts must update the individual's employability code as necessary. (Medical documentation must be present in the case record)

- (3) When granting a time limit exemption, local districts must enter the time limit indicator "T" (TANF funded assistance) in the LMT EXM field on the individual's line on Screen 3 (upstate) or the "X" indicator on the NCEM15 eligibility screen or NUCMCL undercare screen (NYC).

b. Incapacity Expected to Last More than Six Months Due to Drug or Alcohol Abuse

Districts must not grant time limit exemptions to every individual who is unable to work due to drug or alcohol abuse. Local districts must individually review these cases when they are reaching the end of the State 60-month time limit.

- (1) Time limit exemptions can only be granted to individuals who have a mental or physical incapacity that independently of the drug or alcohol abuse also makes them unable to work and, is expected to last more than six months.
- (2) This policy is not a change to existing definition of the employability code (Code 63 Substance Abuser - In rehabilitation or Waiting Rehabilitation - Exempt). Local districts must review these cases and identify the subset of this population that qualifies for a time limit exemption (those individuals unable to work more than six months because of another definitive incapacity).
- (3) Local districts report time limit exemptions for these individuals not by the employability code but by the posting of the time limit exemption indicator. In upstate, local districts must enter the "T" indicator (TANF funded assistance) in the LMT EXM field on the individual's line on Screen 3 or the "X" indicator or the appropriate NYC WMS screen.

c. Incapacitated SSI Application Filed

- (1) Individuals who have an application filed for Supplemental Security Income (SSI) and are incapacitated at least to the same degree as individuals given Employability Code 36 may have a time limit exemption.
- (2) The incapacity must be medically verified and expected to last at least 6 months.
- (3) These individuals are identified with Employability Code 43-Incapacitated SSI Application filed.
- (4) An individual granted a time limit exemption under employability, Code 43, must have the time limit exemption indicator "T" (TANF funded assistance) placed on the LMT EXM field on individual's line on Screen 3 or the "X" indicator or the appropriate NYC WMS screen.

d. In Receipt of SSI

If the parent or caretaker is receiving SSI, he or she must be entered on the WMS Family Assistance Case as an inactive individual with time limit exemption indicator "T" (TANF funded assistance) in the LMT EXM field on the individual's line on Screen 3 (upstate) or the "X" indicator or the appropriate NYC WMS screen.

Note: If two parent household, both parents must be in receipt of SSI before a time limit exemption can be given.

e. Needed in the Home Full-Time to Care for Incapacitated Household Member

Trackable adults at the time limit who are unable to work because they are needed in the home to provide full-time care to an incapacitated household member qualify for a time limit exemption.

- (1) The incapacity of the household member and the need for full-time care must be medically verified. Individuals properly coded with Employability Code 38 – “Needed in Home Full Time to Care for Incapacitated/Disabled Household Member” meet this criterion.
- (2) Individuals granted a time limit exemption under this criterion must have the time limit exemption indicator “T” (TANF funded assistance) entered in the LMT EXM field on the individual's line in Screen 3 (upstate) or the “X” indicator or the appropriate NYC WMS screen.
- (3) The time limit exemption continues for as long as the individual is unable to work because he or she is needed to provide full-time care.

5. TIME LIMIT WAIVER FOR DOMESTIC VIOLENCE VICTIMS

Victims of domestic violence reaching the sixty-month time limit may qualify for a domestic violence good cause time limit waiver and time limit exemption due to domestic violence.

- a. A domestic violence victim qualifies for a good cause time limit waiver (and time limit exemption) if at the State 60-month time limit of Family Assistance the victim is unable to work or participate in a training program due to a physical or mental disability caused by domestic violence.
- b. The disability must be medically verified and be expected to last three months or more.
- c. Domestic violence victims' impairments do not have to be long-term (more than 6 months) for a time limit exemption to be granted. State law on time limit waivers allows domestic violence victims to have a time limit waiver for short-term disabilities (expected to last between 3 and 6 months) that were the result of the domestic violence.
- d. The law also allows a parent or caretaker to have a time limit waiver if she is unable to work because she needs to care for a child who was disabled by domestic violence. Letters sent to recipients approaching the time limit will include language advising them that they may be eligible for a good cause time limit waiver because of disabilities they or their children received because of domestic violence that precludes them from working or attending training programs.

- e. Before a good cause time limit waiver can be granted, the domestic liaison must establish credibility for the victim in accordance with the procedures in [98 ADM-3](#) (Family Violence Option under the Welfare Reform Act of 1997).
- f. A credible victim, who chooses to disclose that she or her children have disabilities caused by domestic violence that precludes her from working, must have her claim evaluated by the domestic violence liaison. The liaison must make this evaluation to keep the victims' confidence and protect their identity.
- g. Domestic violence victims disclosing that their or their children's disabilities were the result of domestic violence will do so by making a verbal attestation of facts to the domestic violence liaison.
- h. The liaison should inform the victim that anything disclosed will be kept confidential with the exception of child abuse and neglect. The victim's verbal attestation is sufficient evidence for the liaison to accept that the credible victim's or the child's disabilities were the result of domestic violence.
- i. The liaison needs to document the attestation in the domestic violence liaison's file and obtain medical verification that the victim is unable to work or participate in training program because of disabilities if the district does not already have such verification. The liaison should use the local district's standard procedure for requesting medical documentation.
- j. The only change to the standard procedure is that necessary medical forms will be given out by and returned to the domestic violence liaison. Medical documentation requested to verify disability does not need to state that the disability was caused by domestic violence.
- k. When reviewing the medical documentation, the liaison can consult as necessary with the staff normally responsible for reviewing medical documentation and determining employability status.
- l. The liaison must document the victim's file and enter the time limit waiver on the Domestic Violence Subsystem. The domestic violence liaison also must insure that an appropriate service plan is completed for every domestic violence victim granted a good cause time limit waiver.
- m. The continuing validity of domestic violence good cause time limit waivers must be reviewed no less frequently than every six months.
- n. Granting a good cause time limit waiver means that the local district must also grant a time limit exemption because they are defined the same in State Social Services Law. It is not necessary for local districts to do a separate determination of a time limit exemption for domestic violence victim granted a good cause time limit waiver.
- o. However, for time limit tracking, domestic violence victims with time limit waivers must also be identified as having a time limit exemption. They are identified through one of the following employability codes:

Code Definition

- 47 Incapacitated/Disabled Time Limit Exemption (more than 6 months)
- 48 Needed in the home to care for Incapacitated Child Time Limit Exemption
- 49 Incapacitated Time Limit exemption (3 to 6 months exemption)

- p. These employability codes are only used for identifying domestic violence victims who reached the sixty-month limit and were granted a time limit waiver. The codes do not include domestic violence as an identifying term to protect victim's confidentiality.
- q. Appropriate local district staff should be aware that Employability 49 is for reporting time exemptions for short-term disabilities (3-6 months) caused by domestic violence. The local district staff normally responsible for changing an employability code can change the employability code for an individual granted a time limit waiver.
- r. The domestic violence liaison only needs to advise the appropriate staff that an individual qualifies for time limit exemption and the employability code must be changed.
- s. The liaison should provide the specific code from the list above based on the medical documentation. Staff changing the employability code must also enter the time limit exemption indicator "T" (TANF funded assistance) in the LMT EXM field on the individual's line on Screen 3 (upstate) or the "X" indicator on the appropriate NYC WMS screen.
- t. When the victim no longer qualifies for a time limit waiver, the domestic violence liaison needs to remove the waiver from the Domestic Violence Subsystem. The liaison also needs to advise appropriate staff to change the individual's employability code, remove the time limit exemption indicator and change case category to cash or non-cash SNA.
- u. Local districts will have instances where a domestic violence victim receiving a time limit waiver had an employment waiver. Domestic violence victims were granted employment waivers for reasons of safety. They were also identified through employability codes.
- v. Employability Code 45 (Work Requirements Waivable Exempt) is used when a domestic violence victim could not participate in work or training activities because any public exposure would compromise the victim's safety.
- w. Employability Code 46 (Work Requirements Waivable Non-Exempt) is used when a domestic violence victim could participate in some work or training activities as long as the placement accommodated the victim's particular safety needs.
- x. Employment waivers are not applicable to domestic violence victims granted a time limit waiver. A domestic violence victim cannot have an employment waiver and a time limit waiver at the same time.

- y. A victim granted a time limit waiver meets the criteria for an exemption from work activities so the need for an employment waiver is moot.
- z. Individuals granted a time limit waiver and coded with either employability code 45 or 46 must have their employability codes changed to one of the new ones that would identify the individual as having a time limit exemption.
- aa. Disclosure of disabilities caused by domestic violence is strictly voluntary on the victim's part. However, the only way a domestic violence victim can obtain a time limit exemption for a short-term disability is to disclose that domestic violence was the cause of the disability.
- bb. When the victim does not disclose that her disability is the result of domestic violence, the domestic violence liaison is not involved and the determination of time limit exemption is made by district staff who normally evaluate client's claims that they are unable to work.
- cc. Time limit waivers must be entered on the Domestic Violence Subsystem because they may help the State avoid a federal fiscal penalty. In the event the State exceeds the twenty-percent limit for time limit exemptions and it can show that it was due to domestic violence good cause time limit waivers, the federal penalty for exceeding the twenty-percent limit on time limit exemptions will not be imposed.

6. TIMELY DELETION OF ABSENT INDIVIDUALS OR ESSENTIAL PERSONS AT THE TIME LIMIT

- a. Local districts must delete individuals who move out of the assistance household as soon as possible after discovering the change in household composition.
- b. This applies to individuals who are under sanction at the time of leaving the household, as well as non- sanctioned members of the case.
- c. Unless the individual is deleted in the month of the move, months of assistance may be incorrectly counted toward the State 60-Month limit for that individual.
- d. If the time limit for a household is reached solely upon the time limit count for an essential person, the essential person must be deleted from the case so that Family Assistance can continue for the rest of the household.
- e. The essential person must then receive assistance through non-cash SNA/FP (Case Type 17) or case SNA (case Type 16) if he or she is exempt from work requirements.

7. TWO-PARENT FAMILIES

- a. A two-parent family at the State 60-month time limit can only have a time limit exemption if both parents meet one of the exemption criteria.
- b. A family with a parent needed in the home full time to care for the second parent who has a long-term disability and is unable to work would be an example of a two-parent family where both parents would meet the time limit exemption criteria.

8. RECEIPT OF SSI AFTER THE STATE SIXTY MONTH CASH TIME LIMIT

Local districts will have trackable single FA parent or caretaker households reach the State 60-month time limit and transfer with their families to non-cash SNA because they do not have a physical or mental disability that qualifies for a time limit exemption.

- a. Subsequently, the parent or caretaker may begin receiving SSI. In these situations local districts must return the family to FA, if otherwise still eligible.
- b. State law on time limits specifically allows a time limit exemption for cases in which a parent or caretaker begins receiving SSI. The cases returned to FA will not be tracked for the time limit for there is no longer a trackable individual active on the case and they are not subject to time limit tracking.
- c. The trackable individual's Employability Code must be changed to 44-In Receipt of SSI. He or she also must be entered on the WMS Family Assistance case as an inactive individual with the exemption indicator of either "T" or "X" posted on WMS.

9. TIME LIMIT EXEMPTIONS FOR FAMILY CASES RECEIVING SAFETY NET ASSISTANCE

The ability to grant a time limit exemption does not end when a formerly TANF-funded case is receiving Safety Net Assistance. Cases in SNA because of the time limit are returned to TANF-funded assistance, if the time limit trackable adult develops a condition that meets the time limit exemption criteria.

- a. When returning these cases to TANF Assistance, local districts must appropriately update the adult's employability code and enter a time limit exemption indicator on WMS.
- b. Cases returned to Family Assistance or Non-Cash SNA/FP because of a time limit exemption should generally be reviewed no less frequently than every six months to determine if their condition still qualifies them for a time limit exemption.

10. EMERGENCY ASSISTANCE FOR FAMILIES (EAF) AFTER REACHING THE STATE SIXTY-MONTH TIME LIMIT

Families who are no longer receiving TANF-funded assistance because an adult family member has reached the State 60-month cash time limit can still receive EAF if they meet the eligibility criteria (Office Regulations Part 372).

EAF payments made to families beyond the State 60-month time limit can only be used for addressing a need created by a discrete crisis and cannot extend beyond four months. The families may receive EAF more than once but EAF cannot be used to meet an ongoing or recurring need.

Families that have passed the State 60-month time limit can still receive federally reimbursed EAF because EAF payments meet the federal definition of non-assistance.

There are no time limits on TANF-funded non-assistance payments. Non-assistance payments address one time or short time needs.

11. TANF FUNDED SERVICES AFTER REACHING THE STATE SIXTY- MONTH TIME LIMIT

Families who are no longer receiving TANF funded assistance because an adult trackable member has reached the State 60-month cash time limit can still receive TANF funded services as long as their income does not exceed 200% of poverty. TANF funded services meet the definition of non-assistance.

12. ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE

Under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), the only non-citizens who may receive TA are qualified aliens who were in the country as of the date of enactment of the law (August 22, 1996) and certain aliens who arrived in the country after that date. The listing of eligible groups of aliens is included on [TASB Chapter 24, Section B](#).

Aliens and their families admitted to the US on or after August 22, 1996 for permanent residence are barred by PRWORA from receiving TANF-funded benefits for five years from the date they were admitted to the country.

- a. Under State law these aliens are eligible for SNA. However, cash SNA received by alien adults counts toward the State 60-month time limit and is tracked accordingly.
- b. Therefore, after these alien families are no longer subject to the PRWORA five-year bar on federally funded benefits the amount of time they can receive FA will depend on what their time limit count is for cash SNA.

13. FAMILIES MOVING TO SAFETY NET ASSISTANCE

Families who reach the State 60-month time limit and do not meet the exemption criteria for remaining in FA must go to SNA. When a family must move to Safety Net Assistance at the State 60-month limit count, local districts must complete the following actions:

- a. Determine if the family will receive cash or non-cash SNA.
- b. Determine if one of the adults in the household is exempt from NON-CASH safety net (case type 17), because they qualify for a SNA time limit exemption . An adult meets the exemption criteria if they are:
 - (1) Exempt from work requirements or HIV positive and not required to participate in alcohol/drug rehabilitation.

If exempt, the case will receive cash SNA (Case Type 16), instead of non-cash SNA (Case Type 17) , as required by WRA and 18 NYCRR 370.4(b)(1)(ii). The family will continue to receive cash SNA as long as one adult in the household meets the exemption criteria.

- c. Adults who were essential persons in the FA case cannot be included in Safety Net Case Type 16 (cash SNA) or Case Type 17 (non-cash SNA). They must have their own separate SNA case.
- d. Families receiving non-cash SNA must have their benefits restricted following the procedures outlined in [97 ADM-7](#), [99 LCM-20](#) and [00 ADM-7](#).
- e. Bona fide loans: Consider if the family has such income, which was exempt under FA, but must be counted for SNA.
- f. Require the head-of-household to sign the Repayment Agreement ([LDSS-4529](#)) and Assignment of Future Earnings ([LDSS-4530](#)).
- g. Send the family an adequate notice on the change in assistance category or a timely and adequate notice if the family's benefits or method of payment change.
- h. Be prepared to explain the Interim Assistance Agreement if a family member is pending SSI.
- i. Co-op cases have to be recombined if any family member was TANF eligible; i.e., TANF ineligible alien receiving Safety Net Assistance.
- j. Identify Family Assistance cases moving to Safety Net Assistance as eligible for Maintenance of Effort (MOE) claiming by using federal/State change code 63 or 64, for both upstate and NYC cases.

14. SYSTEMS SUPPORT

Upstate WMS Screen 03 (item #393 in NYC WMS) has an Exemption Indicator field. When a recipient or inactive individual is given a time limit exemption from the State 60-month time limit, the local district must enter one of the following codes in the LMT EXM field on the individual's line. In NYC the time limit indicator is entered either on eligibility screen NCEM15 (individual data) or the undercare screen NUCMCL (unformatted screen).

a. Upstate WMS

"T" (TANF) – Signifies that a FA, CAP, or non-cash SNA/FP case continues to receive TANF-funded assistance after the time limit because a time exemption has been granted.

"A" – Indicates that Family Assistance continues beyond the time limit because of pending fair hearing on the time limit count.

b. NYC WMS

An “X” in the exemption field on the appropriate screen will establish a time limit exemption for a FA or non-cash SNA/FP case.

An “A” in the exemption field will indicate the case continues to receive Family Assistance beyond the time limit as aid continuing while pending a fair hearing.

c. The WMS Tracking Function

(1) The WMS Tracking Function is available to districts and provides system support for tracking recipient time limit counts. Local district staff can utilize the Tracking Functions Individual Tracking Summary (Screen WTRK 11) to identify current cases exempted from the time limit.

(2) If a time limit exemption indicator has been entered on WMS Screen 03 (item #398 in NYC WMS) the Individual Tracking Summary will display the Time Limit Exemption Indicator Code in the Exemption field.

15. REPORTS

The WMS Milestone Report (WINR 8112 upstate) reports cases reaching the FA time counts of 58, 59, 60 and 60+ month intervals. Safety Net time limits counts are reported at 22, 23, 24 and 24+ month intervals. The report also indicated whether the case has been exempted from the time limit and is sorted by office, unit and worker.

The TA Caseload Tracking Report (WINR 8113) is another report, which can be helpful to districts in managing cases approaching the time limit. For all active cases (FA and SNA) the WINR 8113 displays time limit counts and the number of months remaining before the end of the time limit for the individual code with Relationship Code "01 - Applicant Payee" as entered on the case record. The following supporting information is included with the time limit counts:

- a. Case Type – the Case Type of the case on which the information is based
- b. Case Name – Self-explanatory
- c. Case Number – Self-explanatory
- d. TA/SNAP – the TA/SNAP Indicator Code as entered on the case record
- e. PAR IND – the number of parents in the case (0, 1 or 2) as previously calculated by WMS
- f. 60 CT – the number of months used toward the State Sixty-Month Time Limit
- g. 24 CT – the number of months used toward the Safety Net Twenty-Four Month Cash Time Limit

- h. EXEMPT – the Time Limit Exempt Indicator (S, T, or A), if present
- i. EMPL Code – the Employability Code of the individual
- j. INDIV REASON – the TA Individual Reason Code, if present
- k. INDIV STATUS – the Individual Status Code
- l. HRS WORKED – the Number of Hours Worked per Month (if any) as entered on the TA ABEL Budget

Months Left – the number of months remaining before the case reaches the State Sixty-Month Time Limit or Safety Net Twenty-Four Month Cash Time Limit.

Citz – The WMS citizenship/alien indicator of the applicant/payee

Shelt – The shelter type for the household

Report totals are provided showing, by Case Type, the total number of cases for each number of months remaining; e.g., "Case Types 12" - 10 cases with 0 months remaining, 100 cases with 1 month remaining, 250 cases with 2 months remaining, etc.

The WINR 8113 is available monthly through BICS and is sorted by Office/Unit/Worker and page broken down by worker. It is also available as a data file which districts can use to create customer variations of the report or on-the-demand ad hoc reports.

16. WMS INQUIRY

A recipient's current employability code can be viewed on Screen 3 of the Case Comprehensive Inquiry or by looking at the 3209. Local districts are reminded that an individual given an exemption from the State 60-month cash time limit must have one of the employability codes discussed. A complete description of the WMS Tracking Function is found in [99 ADM-7 Errata](#), [99 ADM-7](#).

17. OUT-OF-STATE CONTACTS FOR TANF-FUNDED ASSISTANCE

The attached numbered list of contacts (phone, fax, addresses) from other states is for use in the documentation of TANF-funded assistance.

- a. Under Office Regulation 369.4(d)(4), TANF-funded assistance from another state will count toward the State 60-month limit placed upon families (FA and TANF-funded SNA) in New York State. Local districts should use the attached list of contacts to document receipt of TANF-funded assistance from another state when the need arises.
- b. **For example**, if the applicant/recipient has lived in another state in 1996 or later and indicates that he or she received TA in that state, the period of calendar months should be documented through contact and retained in the case record. Factors to document include the period that the applicant/recipient received TA in the other state, and also the effective date of TANF-funded assistance in that state. Item #C -

"TANF START DATE" – in the following contact list provides the State's TANF start date.

- c. Time limit counts from other states must be entered for an adult on the WMS Tracking System.
- d. If a local district cannot document the out-of-state period of TANF-funded assistance by direct contact with the other state, the recipient's statement of the period and type of assistance should be used to make necessary updates to the tracking time limit counts for the individual(s).
- e. In using the contact list, local districts should use the specific medium requested by the other state, whether mail, phone, or FAX number, when one medium is specific.
- f. If local districts are contacted by other states for information on TANF-funded assistance paid to a former New York State recipient, they may direct these inquiries for response to OTDA at:

New York State Office of Temporary & Disability Assistance
Employment and Income Support Programs
Out of State Inquiry Unit
40 North Pearl Street
Albany, New York 12243-0001
FAX: 518-474-8090

- g. All inquiries from other states should be made on their official letterhead and contain the full name, date of birth, and social security number of the individual, with a brief statement of the reason for the request.

1. ALABAMA

TANF PROGRAM

- a. FAMILY ASSISTANCE
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 12/1/96
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. CONTACT: ASK FOR PA HELP DESK
- f. PHONE: (334) 242-1950
- g. FAX: (334) 242-0513
- h. E-MAIL: dhf_fad@dhf.alabama.gov
- i. PREFERRED METHOD TO CONTACT: E-MAIL
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SOCIAL SECURITY NUMBER (SSN), DATE OF BIRTH (DOB)

2. ALASKA

TANF PROGRAMS

- a. DIVISION OF PUBLIC ASSISTANCE
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. CONTACT: LYDIA LUCHINI, BENEFIT ISSUANCE & RECOVERY SPECIALIST
- f. ADDRESS: 350 MAIN STREET
ROOM 317 JUNEAU
ALASKA 99811-0601
- g. PHONE: (907) 465-6161
- h. FAX: (907) 465-3651
- i. PREFERRED METHOD TO CONTACT: PHONE / FAX / WRITE
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB

3. ARIZONA

TANF PROGRAMS

- a. TANF CASH ASSISTANCE
- b. JOBS EMPLOYMENT PROGRAM
- c. EMERGENCY ASSISTANCE
- d. TANF TIME LIMIT: 2 TO 5 YEARS FOR ADULTS; ALL MEMBERS 5 YEARS LIFETIME.
- e. TANF START DATE: 10/1/96
- f. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- g. CONTACT: CUSTOMER SERVICE UNIT
- h. PHONE: (602) 542-3451 (Customer Service Calls)
- i. FAX: (623) 873-4278
- j. PREFERRED METHOD TO CONTACT: PHONE/FAX
- k. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB

4. ARKANSAS

TANF PROGRAMS

- a. TRANSITION EMPLOYMENT ASSISTANCE (TEA)
- b. TANF TIME LIMIT: 24 MONTHS
- c. TANF START DATE JULY 1, 1997
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: CUSTOMER SECRETARY [(501) 682-8993 OR 1-800-482-8988]
- f. ADDRESS: P.O. BOX 1437, SLOT S341, LITTLE ROCK, AR 72203
- g. FAX: (501) 682-8978
- h. PREFERRED METHOD TO CONTACT: PHONE / FAX
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB

5. CALIFORNIA

TANF PROGRAMS

- a. CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO KIDS (CALWORKS) PROGRAM
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 1/1/98
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE RECORDS MAINTAINED – COUNTY LEVEL
- e. ADDRESS: CALWORKS – 744 P STREET, MAIL STATION 6-23, SACRAMENTO, CA 95814
- f. CONTACT: RECORDS MAINTAINED AT COUNTY LEVEL: CALL FOR INFORMATION, PUBLIC INQUIRY LINE 1-800-952-5253
- g. FAX: (916) 651-8866
- h. PREFERRED METHOD TO CONTACT: FAX OR MAIL, EITHER ON LETTERHEAD WITH YOUR SIGNATURE. YOU WILL BE CONTACTED BACK, WITH COUNTY CONTACT NUMBER.
- i. NECESSARY DATA FOR INDIVIDUAL: CLIENT NAME, SEX, SSN, DOB
- j. FOR POLICY: EMPLOYMENT ELIGIBILITY & TANF PROGRAM: (916) 657-2128

6. COLORADO

TANF PROGRAMS

- a. TANF COLORADO WORKS PROGRAM
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: OUT OF STATE (OoS) INQUIRY LINE
- f. PHONE (800) 536-5298
- g. FAX (303) 866-5488
- h. PREFERRED METHOD TO CONTACT: PHONE (with case number if available)/ FAX
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB, OLD CASE NUMBER IF AVAILABLE

7. CONNECTICUT

TANF PROGRAMS

- a. TEMPORARY FAMILY ASSISTANCE
- b. TANF TIME LIMIT: 21 MONTHS WITH POSSIBLE 6 MONTH EXTENSIONS
- c. TANF START DATE: 10/1/96
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE DISTRICT: YES
- e. ADDRESS:
CONNECTICUT DEPT. OF SOCIAL SERVICES
PUBLIC & GOVERNMENT RELATIONS, INFO & REFERRAL
25 SIGOURNEY STREET
HARTFORD, CT 06106
- f. PHONE: (860) 424-5970
- g. FAX: (860) 424-4960
- h. PREFERRED METHOD TO CONTACT: PHONE / FAX
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB
- j. INFORMATION AVAILABLE FROM CONNECTICUT: SPECIFIC MONTHS

8. DELAWARE

TANF PROGRAMS

- a. CASH ASSISTANCE
- b. EMERGENCY ASSISTANCE
- c. TANF TIME LIMIT: 48 MONTHS
- d. TANF START DATE: 3/10/97
- e. CENTRAL DATA SOURCE EXISTS FOR ENTIRE DISTRICT: NO
- f. ADDRESS:
DELAWARE HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
P.O. BOX 906
NEW CASTLE, DELAWARE 19720
- g. PHONE: (302) 255-9605
- h. FAX: (302) 255-4425
- i. E-MAIL DHSS_DSS_Save@state.de.us
- j. PREFERRED METHOD TO CONTACT: E-MAIL
- k. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB
- l. INFORMATION AVAILABLE FROM DELAWARE: NOT SPECIFIED

9. DISTRICT OF COLUMBIA

TANF PROGRAMS

- a. TANF TIME LIMIT: 60 MONTHS
- b. TANF START DATE: 3/1/97
- c. CENTRAL DATA SOURCE EXISTS FOR ENTIRE DISTRICT: YES
- d. CONTACT: OUT OF STATE (OoS) INQUIRY LINE
- e. ADDRESS:

- D.C.DHS/IMA
645 H STREET, NE, 5th FLOOR
WASHINGTON, D.C. 20002
- f. OoS INQUIRY LINE: (202) 724-2000
 - g. FAX: (202) 724-2041
 - h. E-MAIL: dctanf60month.hotline@dc.gov
 - i. PREFERRED METHOD TO CONTACT: CALL / E-MAIL
 - j. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, AND SSN, DOB
 - k. INFORMATION AVAILABLE FROM DISTRICT OF COLUMBIA: SPECIFIC MONTHS

10. FLORIDA

TANF PROGRAMS

- a. WAGES – CASH ASSISTANCE
- b. TANF TIME LIMIT: 48 MONTHS
- c. TANF START DATE: OCTOBER 1996
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE DISTRICT: YES
- f. ADDRESS:
ACCESS FLORIDA QUALITY ASSURANCE
FLORIDA DEPT. OF CHILDREN AND FAMILIES
1317 WINEWOOD BLVD. BLDG 3 ROOM 427A
TALLAHASSEE, FL. 32399-0700
- g. PHONE: 1-866-762-2237 (Call Center)
- h. FAX: (850) 488-0770
- i. PREFERRED METHOD TO CONTACT: PHONE / FAX OR WRITE
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN
- k. INFORMATION AVAILABLE FROM FLORIDA: SPECIFIC MONTHS

11. GEORGIA

TANF PROGRAMS

- a. TANF TIME LIMIT: 48 MONTHS
- b. TANF START DATE: 01/01/97
- c. CENTRAL DATA SOURCE EXISTS FOR ENTIRE DISTRICT: YES
- d. CONTACT: CUSTOMER SERVICE
GEORGIA DEPT. OF HUMAN RESOURCES
TANF/SNAP UNIT
TWO PEACHTREE STREET, N.W., SUITE 14-416
ATLANTA, GEORGIA 30303
- e. PHONE: (404) 657-3433
- f. FAX: (404) 657-9703
- g. E-MAIL: ga.paris@dhs.ga.gov
(*NOTE: ALL INFORMATION ALSO AVAILABLE FROM LOCAL COUNTY OFFICES.)
- h. PREFERRED METHOD TO CONTACT: E-MAIL
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB
- j. INFORMATION AVAILABLE FROM GEORGIA: SPECIFIC MONTHS

12. HAWAII

TANF PROGRAM

- a. TANF CASH ASSISTANCE PROGRAM
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 12/1/96
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. PREFERRED METHOD TO CONTACT: E-MAIL
- f. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SNN, DOB
- g. ADDRESS:
DEPARTMENT OF HUMAN SERVICES
820 MILILANI ST., SUITE 606
HONOLULU, HAWAII 96813-2036
- h. TELEPHONE: (808) 586-5735
- i. FAX: (808) 586-5744

13. IDAHO

TANF PROGRAMS

- a. TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)
- b. TANF TIME LIMIT: 24 MONTHS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. ADDRESS:
ADMINISTRATIVE SUPPORT UNIT
BENEFIT VERIFICATION
DIVISION OF WELFARE
IDAHO DEPT. OF HEALTH AND WELFARE
450 WEST STATE STREET
BOISE, IDAHO 83720
- f. PHONE: (208) 334-5815
- g. FAX: (208) 334-5817
- h. PREFERRED METHOD TO CONTACT: CALL
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- j. INFORMATION AVAILABLE FROM IDAHO: SPECIFIC MONTH COUNT

14. ILLINOIS

TANF PROGRAMS

- a. TANF TIME LIMIT: 5 YEARS
- b. TANF START DATE: 7/1/97
- c. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- d. PHONE: 1-844-453-7283
- e. FAX: (217) 557-1370
- f. E-MAIL: dhs.webbits@illinois.gov
- g. PREFERRED METHOD TO CONTACT: E-MAIL / FAX

- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- i. INFORMATION AVAILABLE FROM ILLINOIS: SPECIFIC MONTH COUNT

15. INDIANA

TANF PROGRAMS

- a. TANF CASH ASSISTANCE
- b. TANF EMERGENCY ASSISTANCE
- c. PROJECT RESPECT - INDIANA STATE DEPARTMENT OF HEALTH
- d. TEEN PARENT PROGRAM – INDIANA DEPARTMENT OF EDUCATION
- e. TANF TIME LIMIT: 24 MONTHS CASH ASSISTANCE FOR ADULTS IN MANDATORY EMPLOYMENT STATUS; 60 MONTH LIMIT IS IN ADDITION TO 24 MONTH LIMIT, WITH CHILDREN ALSO SUBJECT TO 60 MONTH LIMIT.
- f. TANF START DATE: 10/1/97
- g. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- h. ADDRESS:
INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION
DOCUMENT CENTER
PO BOX 1810
MARION, IN 46952
- i. PHONE: (800) 403-0864
- j. FAX: (800) 403-0864
- k. PREFERRED METHOD TO CONTACT :FAX / WRITE
- l. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- m. INFORMATION AVAILABLE FROM INDIANA: SPECIFIC MONTH COUNT

16. IOWA

TANF PROGRAMS

- a. FAMILY INVESTMENT PROGRAM
- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. ADDRESS:
DEPT. OF HUMAN SERVICES
HOOVER STATE OFFICE BUILDING
DES MOINES, IOWA 50319-0114
- f. PHONE: 1-877-855-0021
- g. FAX:
- h. PREFERRED METHOD TO CONTACT: PHONE
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- j. INFORMATION AVAILABLE FROM IOWA: SPECIFIC MONTH COUNT

17. KANSAS

TANF PROGRAMS

- a. TANF TIME LIMIT: 5 YEARS
- b. TANF START DATE: 10/1/96
- c. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- d. CONTACT: (785) 296-2152
- e. FAX: (785) 296-6960
- f. PREFERRED METHOD TO CONTACT: CALL
- g. NECESSARY DATA FOR INDIVIDUAL: NAME, DOB, SSN OF EVERY APPLICANT

18. KENTUCKY

TANF PROGRAMS

- a. K-TAP
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 10/18/96
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. CONTACT PERSON:
- f. PHONE: (502) 564-3440
- g. FAX: (502) 564-4021
- h. E-MAIL: outofstateinquiry@ky.gov
- i. PREFERRED METHOD TO CONTACT: E-MAIL / FAX
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- k. INFORMATION AVAILABLE FROM KENTUCKY: SPECIFIC MONTH COUNT

19. LOUISIANA

TANF PROGRAMS

- a. FITAP
- b. TANF TIME LIMIT: 24 MONTHS OUT OF 60 MONTHS
- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. CONTACT: CARA SHIELDS
- f. INQUIRY SERVICE
STATE OF LOUISIANA DEPT. OF SOCIAL SERVICES
755 THIRD STREET, 3RD FLOOR
BATON ROUGE, LOUISIANA 70804
- g. PHONE: (225) 342-2342
- h. FAX: (225) 342-6996
- i. E-MAIL: cara.shields@la.gov
- j. PREFERRED METHOD TO CONTACT: CALL / E-MAIL
- k. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN
- l. INFORMATION AVAILABLE FROM LOUISIANA: SPECIFIC MONTH COUNT

20. MAINE

TANF PROGRAMS

- a. TANF

- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 11/1/96
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. PHONE: (207) 624-4168
- f. FAX: (207) 287-5096
- g. PREFERRED METHOD TO CONTACT: FAX / CALL OR WRITE
- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN,DOB
- i. INFORMATION AVAILABLE FROM MAINE: NOT SPECIFIED

21. MARYLAND

TANF PROGRAMS

- a. TEMPORARY CASH ASSISTANCE
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES: CLIENT INFORMATION SYSTEM (CIS)
- e. CONTACT: MICHELE GREEN
- f. MARYLAND DEPT. OF HUMAN RESOURCES
POLICY & TRAINING, 6TH FLOOR
311 WEST SARATOGA STREET
BALTIMORE, MD 21201
- g. PHONE: (410) 767-7944
- h. FAX: (410) 333-6581
- i. PREFERRED METHOD TO CONTACT: WRITE OR FAX
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN,DOB
- k. INFORMATION AVAILABLE FROM MARYLAND: SPECIFIC CALENDAR MONTHS

22. MASSACHUSETTS

TANF PROGRAMS

- a. TAFDC, EA, CHILD CARE, EMPLOYMENT SERVICES
- b. TANF TIME LIMIT: 24 MONTHS UNLESS EXEMPTED
- c. TANF START DATE: 9/30/96
- e. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: NO
- f. CONTACT: RECIPIENT SERVICES 1-800-445-6604 OR (617) 348-5502
HOURS 7:30 AM TO 5:00 PM
- g. PREFERRED METHOD TO CONTACT: PHONE, FOLLOW BY FAX REQUEST
- h. FAX: (617) 348-5479
- i. NECESSARY DATA FOR INDIVIDUAL: NAME AND SSN

23. MICHIGAN

TANF PROGRAMS

- a. CONTACT: CUSTOMER SERVICE
- b. PHONE: (517) 373-3908
- c. FAX: (517) 335-6054

- d. E-MAIL: mdhss-icu-customer-services@michigan.gov
- e. PREFERRED METHOD OF CONTACT: PHONE / E-MAIL
- f. NECESSARY DATA FOR INFO: NAME, SSN AND DOB

24. MINNESOTA

TANF PROGRAMS

- a. MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP)
- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. CONTACT: JOVON PERRY
- f. PHONE: (651) 431-4006
- g. PREFERRED METHOD TO CONTACT: PHONE
- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB
- i. INFORMATION AVAILABLE FROM MINNESOTA: CASE AUTHORIZATION DATES

25. MISSISSIPPI

TANF PROGRAMS

- a. TANF TIME LIMIT: 60 MONTHS
- b. TANF START DATE: 10/1/96
- c. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- d. CONTACT: CLIENT SUPPORT SERVICES
- e. ADDRESS:
DIVISION OF ECONOMIC ASSISTANCE - POLICY UNIT
MISSISSIPPI DEPARTMENT OF HUMAN SERVICES
P.O. BOX 352
JACKSON, MS 39205
- f. PHONE: (601) 359-4811
- g. FAX: (601) 359-4550
- h. E-MAIL: ea.CustomerService@mdhs.state.ms.us
- i. PREFERRED METHOD TO CONTACT: FAX / E-MAIL
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB / (YOUR ADDRESS, FAX, PHONE)
- k. INFORMATION AVAILABLE FROM MISSISSIPPI: SPECIFIC MONTHS

26. MISSOURI

TANF PROGRAMS

- a. TEMPORARY ASSISTANCE - FAMILY SUPPORT DIVISION
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE DISTRICT: NO
- e. CONTACT: SHAUNA HILLEN – DIVISION OF FAMILY SERVICES
- f. PHONE: (573) 751-8959
- g. FAX: (573) 751-3677

- h. E-MAIL: fsd.cru@dss.mo.gov
- i. PREFERRED METHOD TO CONTACT: PHONE / E-MAIL
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- k. INFORMATION AVAILABLE FROM MISSOURI: NOT SPECIFIED

27. MONTANA

TANF PROGRAMS

- a. FAMILIES ACHIEVING INDEPENDENCE IN MONTANA (FAIM)
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 2/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: MARIA JIMENZ-GONZALEZ
MONTANA DEPT. OF PUBLIC HEALTH AND HUMAN SERVICES
P.O. BOX 8005
COGSWELL BUILDING
HELENA, MT 59604-8005
- f. PHONE: (460) 444-0675
- g. FAX: (406) 444-2547
- h. E-MAIL: mjimenzgonzalez@mt.gov
- i. PREFERRED METHOD TO CONTACT: CALL / E-MAIL
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN
- k. INFORMATION AVAILABLE FROM MONTANA: SPECIFIC MONTHS

28. NEBRASKA

TANF PROGRAMS

- a. EMERGENCY ASSISTANCE
- b. TANF TIME LIMIT: 24 OUT OF 48 MONTHS
- c. TANF START DATE: 10/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. ADDRESS:
ECONOMIC ASSISTANCE UNIT
DEPARTMENT OF HEALTH AND HUMAN SERVICES
BOX 95026
LINCOLN, NEBRASKA 68509
- f. PHONE: (402) 471-9243
- g. FAX: (402) 471-9597
- h. PREFERRED METHOD TO CONTACT: PHONE
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- j. INFORMATION AVAILABLE FROM NEBRASKA: SPECIFIC MONTHS

29. NEVADA

TANF PROGRAMS

- a. EMERGENCY ASSISTANCE
- b. TANF TIME LIMIT: 24 ON, 12 OFF; 24 ON, 12 OFF, UNTIL 60 MONTHS USED

- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. PHONE: (775) 684-0615
- f. FAX: (775) 684-0681
- g. PREFERRED METHOD TO CONTACT: PHONE
- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN
- i. INFORMATION AVAILABLE FROM NEVADA: SPECIFIC MONTHS

30. NEW HAMPSHIRE

TANF PROGRAMS

- a. FINANCIAL GRANTS
- b. EMERGENCY ASSISTANCE
- c. TANF TIME LIMIT: 60 MONTHS
- d. TANF START DATE: 10/1/97
- e. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- f. ADDRESS: DIVISION OF FAMILY ASSISTANCE
DEPT. OF HEALTH AND HUMAN SERVICES
6 HAZEN DRIVE
CONCORD, NH 03301
- g. PHONE: (603) 271-9700
- h. FAX: (603) 271-4637
- i. PREFERRED METHOD TO CONTACT: PHONE, FAX (NEED CLIENT CONSENT TO FAX)
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- k. INFORMATION AVAILABLE FROM NEW HAMPSHIRE: SPECIFIC MONTHS

31. NEW JERSEY

TANF PROGRAMS

- a. WORK FIRST NEW JERSEY
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 4/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES – IN DEVELOPMENT
- e. CONTACT: JOYCE OTTAUNICK – CALL OUT OF STATE VERIFICATION PROGRAM
- f. PHONE: (609) 588-2931
- g. FAX: (609) 631-4507
- h. PREFERRED METHOD TO CONTACT: PHONE. OR FAX
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- j. INFORMATION AVAILABLE FROM NEW JERSEY: NOT SPECIFIED

32. NEW MEXICO

TANF PROGRAMS

- a. NEW MEXICO WORKS
- b. TANF TIME LIMIT: 60 MONTHS

- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. CONTACT: FLORA MARTINEZ
- f. NEW MEXICO HUMAN SERVICES DEPARTMENT
INCOME SUPPORT DIVISION
P.O. BOX 2348 POLLON PLAZA
SANTA FE, NM 87504-2348
- g. PHONE: (505) 827-63
- h. FAX: (505) 827-7203
- i. PREFERRED METHOD TO CONTACT: PHONE / WRITE
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB
- k. INFORMATION AVAILABLE FROM NEW MEXICO: SPECIFIC CALENDAR MONTHS

33. NEW YORK

TANF PROGRAMS

- a. FAMILY ASSISTANCE
- b. SAFETY NET NON CASH ASSISTANCE/ FP EMERGENCY ASSISTANCE TO NEEDY FAMILIES (EAF): AS SHORT-TERM, ONCE ONLY EMERGENCY ASSISTANCE, EAF IS NOT COUNTED TOWARD TIME LIMIT.
- c. TANF TIME LIMIT: 60 MONTHS
- d. TANF START DATE: 12/3/96
- e. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- f. NEW YORK STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
CENTER FOR EMPLOYMENT AND ECONOMIC SUPPORTS
OUT OF STATE INQUIRY UNIT
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001
- g. FAX: (518) 474-8090
- h. PHONE: (518) 486-3460
- i. PREFERRED METHOD TO CONTACT: FAX ON STATE/COUNTY LETTERHEAD
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, BRIEF STATEMENT OF REASON FOR REQUEST
- k. INFORMATION AVAILABLE FROM NEW YORK: AUTHORIZATION DATES, UNTIL TRACKING SYSTEM IS IN PLACE

34. NORTH CAROLINA

TANF PROGRAMS

- a. WORK FIRST
- b. TANF TIME LIMIT: 24 MONTHS (FAMILIES MAY REQUEST EXTENSIONS FOR UNUSUAL CIRCUMSTANCES. ONCE A FAMILY HAS BEEN OFF 36 MONTHS, IT CAN RECEIVE ASSISTANCE AGAIN.)
- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: NO (ONLY CUMULATIVES)
- e. CONTACT: HELP DESK

- f. NORTH CAROLINA DEPT. OF HEALTH AND HUMAN SERVICES
325 N. SALISBURY STREET
P.O. BOX 2348 POLLON PLAZA
RALEIGH, NC 27603-5905
- g. PHONE: (919) 733-3055
- h. FAX: (919) 715-5457
- i. PREFERRED METHOD TO CONTACT: CALL
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN,DOB
- k. INFORMATION AVAILABLE FROM NORTH CAROLINA: SPECIFIC CALENDAR MONTHS

35. NORTH DAKOTA

TANF PROGRAMS

- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- e. ADDRESS:
NORTH DAKOTA DEPT. OF HUMAN RESOURCES
600 E. BOULEVARD
BISMARCK, ND 58505
- f. PHONE: (701) 328-4008 / 1-800-755-2716 X: 4008
- g. FAX: (701) 328-1060
- h. PREFERRED METHOD TO CONTACT: CALL OR FAX
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN,DOB
- j. INFORMATION AVAILABLE FROM NORTH DAKOTA: SPECIFIC CALENDAR MONTHS

36. OHIO

TANF PROGRAMS

- a. OHIO WORKS FIRST (OWF)
- b. PREVENTION, RETENTION, AND CONTINGENCY (PRC) PROGRAMS - PRC DOES NOT MEET FEDERAL DEFINITION OF COUNTABLE ASSISTANCE, PROVIDING SERVICES THROUGH TANF - FUNDING.
- c. TANF TIME LIMIT: 36 MONTHS WITH 24 ADDITIONAL MONTHS WITH "GOOD CAUSE" AND IF OFF OF OWF FOR AT LEAST 24 CONSECUTIVE MONTHS.
- d. TANF START DATE: 10/1/96
- e. CENTRAL DATA SOURCE EXISTS FOR ENTIRE STATE: YES
- f. CONTACT: OFFICE OF FAMILY STABILITY OHIO DEPARTMENT OF HUMAN SERVICES
- g. PHONE: (614) 466-4815 – OFFICE OF FAMILY STABILITY – STAFF WILL DIRECT CALL
- h. FAX: (614) 446-1767
- i. PREFERRED METHOD TO CONTACT: PHONE
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SSN, DOB, LAST OHIO COUNTY*

- k. INFORMATION AVAILABLE FROM OHIO: SPECIFIC CALENDAR MONTHS FOR ADULTS AND MINOR HEADS OF HOUSEHOLDS AND SPOUSES OF HEAD OF HOUSEHOLD.*
(* MINOR HEAD OF HOUSEHOLD IN OHIO LAW IS MINOR CHILD WHO IS THE PARENT OF A CHILD INCLUDED IN THE SAME ASSISTANCE GROUP THAT DOES NOT INCLUDE AN ADULT.)

37. OKLAHOMA

TANF PROGRAMS

- a. TANF TIME LIMIT: 60 MONTHS
- b. TANF START DATE: 10/1/96
- c. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- d. ADDRESS:
FAMILY SUPPORT SERVICES
PO BOX 25352
OKLAHOMA CITY, OK 73125
- e. PHONE: (405) 521-4391
- f. FAX: (405) 521-4158
- g. REFERRED METHOD TO CONTACT: CALL FAX
- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- i. INFORMATION AVAILABLE FROM OKLAHOMA: SPECIFIC MONTHS

38. OREGON

TANF PROGRAMS

- a. TANF TIME LIMIT: 24 MONTHS (OUT OF ANY PERIOD OF 84 CONSECUTIVE MONTHS)
- b. TANF START DATE: 10/1/97
- c. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- d. CONTACT: ADULT AND FAMILY SERVICES RECEPTION
- e. PHONE: (503) 945-5600 (IF NECESSARY)
- f. FAX: (503) 373-7032
- g. PREFERRED METHOD TO CONTACT: FAX, PHONE (IF NECESSARY)
- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB - ON STATE LETTERHEAD
- i. INFORMATION AVAILABLE FROM OREGON: SPECIFIC MONTHS

39. PENNSYLVANIA

TANF PROGRAMS

- a. TANF TIME LIMIT: 60 MONTHS
- b. TANF START DATE: 3/3/97
- c. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- d. CONTACT: PUBLIC WELFARE HELPLINE
- e. OIM - BUREAU OF OPERATIONS – HELPLINE
P.O. BOX 2675, 5TH FL. BERTOLINO BLDG.

- HARRISBURG, PA. 17105-2675
- f. PHONE: 1-800-692-7462
 - g. FAX: (717) 772-4702
 - h. PREFERRED METHOD TO CONTACT: PHONE / FAX
 - i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
 - j. INFORMATION AVAILABLE FROM PENNSYLVANIA: SPECIFIC MONTHS

40. PUERTO RICO

TANF PROGRAMS

- a. TANF TIME LIMIT: 60 MONTHS
- b. TANF START DATE: 7/1/97
- c. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- d. CONTACT: AIDA KARMAN, SUPERVISOR, COMMUNITY AFFAIRS OFFICE
SOCIOECONOMIC DEVELOPMENT ADMINISTRATION
P.O. BOX 8000
SAN JUAN, P.R. 00910
- e. PHONE: (787) 289-7600, EXT. 2609 **(NY – SEE BELOW)
- f. FAX: (787) 289-7614
- g. FOR NY CASES ONLY CONTACT: MIGUEL DE JESUS
- h. PHONE: (787) 289-2613 (OR Extensions 2610, 2638)
- i. PREFERRED METHOD TO CONTACT: WRITING OR PHONE
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, PUERTO RICO ADDRESS,
STATEMENT OF REASON FOR REQUEST.
- k. INFORMATION AVAILABLE FROM PUERTO RICO: DATES OF CASE
AUTHORIZATION

41. RHODE ISLAND

TANF PROGRAMS

- a. FAMILY INDEPENDENCE PROGRAM
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 5/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT PERSON: LYNN SABOURIN
- f. ADDRESS: THE RI DEPARTMENT OF HUMAN SERVICES,
ADMINISTRATOR OF FIELD OPERATIONS,
600 NEW LONDON AVENUE
CRANSTON, RI 02920
- g. TELEPHONE: (401) 415-8526
- h. FAX: (401) 415-8563
- i. E-MAIL: lynn.sabourin@dsh.ri.gov
- j. PREFERRED METHOD TO CONTACT: FAX / PHONE
- k. NECESSARY DATA FOR INDIVIDUAL: NAME, SEX, SNN, DOB

42. SOUTH CAROLINA

TANF PROGRAMS

- a. FAMILY INDEPENDENCE
- b. TANF TIME LIMIT: 24 MONTHS IN 120 MONTHS
- c. TANF START DATE: 10/1/96
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: CUSTOMER SERVICE HOTLINE FOR TANF & SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM
- f. ADDRESS: SOUTH CAROLINA DEPT. OF SOCIAL SERVICES
P.O. BOX 1520
COLUMBIA, SC 29202-1520
- g. PHONE: 1-800-768-5700 (FOLLOW PROMPTS)
- h. FAX: (803) 898-7156 TANF/SNAP OR (803) 898-7102 TANF POLICY
- i. PREFERRED METHOD TO CONTACT: PHONE / FAX
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- k. INFORMATION AVAILABLE FROM SOUTH CAROLINA: PERIODS OF CASE AUTHORIZATION, WITH SOME INDIVIDUAL INFORMATION

43. SOUTH DAKOTA

TANF PROGRAMS

- a. TANF WORK
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 12/1/96
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. ADDRESS:
SOUTH DAKOTA DEPARTMENT OF SOCIAL SERVICES
700 GOVERNORS DRIVE
KNEIP BUILDING
PIERRE, SD 57501
- f. PHONE: (605) 773-4678
- g. FAX: (605) 773-7183
- h. E-MAIL: TANF@DSS.STATE.SD.US
- i. PREFERRED METHOD TO CONTACT: E-MAIL OR PHONE
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SOCIAL SSN, DOB
- k. INFORMATION AVAILABLE FROM SOUTH DAKOTA: COUNT BY CALENDAR MONTH

44. TENNESSEE

TANF PROGRAMS

- a. FAMILIES FIRST
- b. TANF TIME LIMIT: 18 AND 60 MONTHS
- c. TANF START DATE: 9/1/96
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: TENESSEE STATE SERVICE CENTER
- f. PHONE: (866) 311-4287
- g. FAX: 866) 876-7552
- h. PREFERRED METHOD TO CONTACT: FAX (PHONE IF NECESSARY)

- i. REQUIRED (ON STATE LETTERHEAD) WITH RETURN PHONE NUMBER
- j. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, CONTACT INFORMATION
- k. INFORMATION AVAILABLE FROM TENNESSEE: COUNT BY CALENDAR MONTH

45. TEXAS

TANF PROGRAMS

- a. TANF-UP
- b. TANF TIME LIMIT: 12, 24, OR 36 COUNTABLE MONTHS, CONNECTED TO AVAILABILITY OF EMPLOYMENT SERVICES; THEN, A FIVE YEAR INELIGIBILITY PERIOD, WITH EXEMPTIONS. THIS IS A STATE TIME LIMIT; TEXAS HAD A WAIVER FROM FEDERAL TIME LIMITS UNTIL APRIL 2002.
- c. TANF START DATE: 11/1/96
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: OFFICE OF THE CLIENT RESOLUTIONS ON BUDSMAN TEXAS DEPARTMENT OF HUMAN SERVICES INFORMATION AND REFERRAL UNIT (MCW-231)
P.O. BOX 149030
AUSTIN, TEXAS 78714-9030
- f. PHONE: (877) 787-8999
- g. FAX: (512) 491-1967 (ON STATE LETTERHEAD)
- h. PREFERRED METHOD TO CONTACT: FAX, PHONE IF UNDER 5 INQUIRIES
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- j. INFORMATION AVAILABLE FROM TEXAS: COUNT BY SPECIFIC CALENDAR MONTH

46. UTAH

TANF PROGRAMS

- a. CASH ASSISTANCE, EMERGENCY ASSISTANCE
- b. TANF TIME LIMIT: 36 MONTHS
- c. TANF START UP DATE: 10/1/96
- d. CONTACT: HELP DESK
- e. ADDRESS:
DEPARTMENT OF WORKFORCE SERVICE
140 EAST 3 THIRD SOUTH
SALT LAKE CITY, UTAH 84111
- f. TELEPHONE: (801) 526-9675 (FOLLOW PROMPTS)
- g. FAX: (801) 526-9239
- h. PREFERRED METHOD TO CONTACT: FAXj. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, SEX, DOB
- i. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES

47. VERMONT

TANF PROGRAMS

- a. AID TO NEEDY FAMILIES WITH CHILDREN/REACH UP

- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 9/20/96
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. ADDRESS: FAMILY SERVICES DIVISION
DEPT. OF SOCIAL WELFARE
103 SOUTH MAIN STREET
WATERBURY, VT 05671-1201
- f. PHONE: 1-800-479-6151 (FOLLOW PROMPTS)
- g. FAX: (802) 241-2235
- h. PREFERRED METHOD TO CONTACT: PHONE
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- j. INFORMATION AVAILABLE FROM VERMONT: COUNT BY CALENDAR MONTH

48. VIRGINIA

TANF PROGRAMS

- a. TANF TIME LIMIT: 60 MONTHS
- b. TANF START DATE: 10/1997
- c. CENTRAL SOURCE FOR ENTIRE STATE: YES
- d. CONTACT: NANCY HEWITT
- e. BENEFIT PROGRAMS
VA DEPARTMENT OF SOCIAL SERVICES
7 NORTH EIGHTH ST.
RICHMOND, VA 23219-3301
- f. PHONE: (804) 726-7000
- g. PREFERRED METHOD TO CONTACT: PHONE
- h. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN (YOUR PHONE NUMBER – RETURN CALL)

49. VIRGIN ISLANDS (best information we have as of 9/30/07)

TANF PROGRAMS

- a. TANF BLOCK GRANT
- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 7/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: MS. CHRISTOPHER - DEPARTMENT OF HUMAN SERVICES
FINANCIAL PROGRAMS DIVISION
ST. THOMAS, US VI 00802
- f. PHONE: (340) 774-2399 OR 774-7125
- g. FAX: (340) 774-5449
- h. PREFERRED METHOD TO CONTACT: WRITE TO PROGRAM ADMINISTRATOR
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- j. INFORMATION AVAILABLE FROM VIRGIN ISLANDS: COUNT BY CALENDAR MONTH

50. WASHINGTON

TANF PROGRAMS

- a. WORK FIRST
- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 8/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. ADDRESS:
COMMUNITY SERVICES
- f. CONSTITUENT RELATIONS, CUSTOMER SERVICES DIVISION
STATE OF WASHINGTON, DEPT. OF SOCIAL AND HEALTH SERVICES
OLYMPIA, WA 98504-5000
- g. PHONE: 1-800-865-7801 OR (360) 725-4763
- h. PREFERRED METHOD TO CONTACT: PHONE
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- j. INFORMATION AVAILABLE FROM STATE OF WASHINGTON: PERIODS OF
CASE AUTHORIZATION

51. WEST VIRGINIA

TANF PROGRAMS

- a. WV WORKS – EMERGENCY ASSISTANCE - DIVERSIONARY CASH
ASSISTANCE
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: CLIENT SERVICES
- f. PHONE: (304) 558-2400
- g. FAX: (304) 558-4501
- h. PREFERRED METHOD TO CONTACT: PHONE
- i. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- j. INFORMATION AVAILABLE FROM STATE OF WEST VIRGINIA: NOT SPECIFIED

52. WISCONSIN

TANF PROGRAMS

- a. WISCONSIN WORKS (W-2)
- b. TANF TIME LIMIT: 60 MONTHS
- c. TANF START DATE: 9/30/96
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: DWD CALL CENTER
- f. PHONE: (608) 261-6317 (TANF CONTACT)
- g. FAX: (608) 267-0484
- h. OR CONTACT: CARES HELPDESK
- i. PHONE: (608) 261-6378 OPT #1 CARES CENTER (FOR SUPPLEMENTAL
NUTRITION ASSISTANCE PROGRAM/MA)
- j. FAX: (608) 267-2269
- k. E-MAIL: DCF2TANFVerify@wisconsin.gov
- l. PREFERRED METHOD TO CONTACT: FAX OR E-MAIL

- m. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB, SEX
- n. INFORMATION AVAILABLE FROM STATE OF WISCONSIN: SPECIFIC MONTH

53. WYOMING

TANF PROGRAMS

- a. POWER
- b. TANF TIME LIMIT: 5 YEARS
- c. TANF START DATE: 1/1/97
- d. CENTRAL DATA SOURCE FOR ENTIRE STATE: YES
- e. CONTACT: ANNETTE JONES
- f. STATE OF WYOMING
DEPARTMENT OF FAMILY SERVICES - CENTRAL OFFICE
HATHAWAY BLDG., 3RD FLOOR
CHEYENNE, WY 82002
- g. PHONE: (307) 777- 5846
- h. FAX: (307) 777-6276
- i. E-MAIL: AJONES@STATE.WY.US
- j. PREFERRED METHOD TO CONTACT: PHONE (FAX/E-MAIL AS NECESSARY)
- k. NECESSARY DATA FOR INDIVIDUAL: NAME, SSN, DOB
- l. INFORMATION AVAILABLE FROM STATE OF WYOMING: SPECIFIC MONTH
COUNT

L. PREGNANCY

A woman with a medically verified pregnancy is categorically eligible for FA, regardless of the expected date of delivery. Unless she is ineligible for FA due to reaching the State 60 month time limit or immigration status. The recipient becomes eligible for the pregnancy allowance beginning in the fourth month of pregnancy, or the month the she verifies the pregnancy, whichever is later.

For Example: Mr. and Mrs. Arthur are applying for temporary assistance (TA). Mrs. Arthur has presented medical verification that she is in her second month of pregnancy. If the Arthur's are determined to be eligible for TA and have not reached their State 60-month time limit, they will be eligible for FA immediately. The pregnancy allowance may not be provided prior to the 4th month. In this example, the 4th month of the pregnancy is considered to be March 16. The pregnancy allowance must begin on March 1st.

Note: A father's written acknowledgement of paternity is sufficient to verify FA realationship but the household must still be referred for paternity adjudication.

M. GRANTEE

1. DEFINITION

A grantee is a parent or other specified relative to whom an FA grant is made for the benefit of a child or minor in one of the following living situations:

- a. Child living with one or both parents
- b. Child living with other relatives
- c. Children of different parentage

2. CHILD LIVING WITH ONE OR BOTH PARENTS

- a. When a child or minor is living with one parent, that parent is the grantee.
- b. When a child or minor is living with both parents, either parent may be designated the grantee.

3. CHILD LIVING WITH OTHER RELATIVES

If the relative, who is the grantee, is without adequate means of support his/her needs shall be included in the FA grant. The spouse of such relative may not be included in the grant or recipient count.

4. CHILDREN OF DIFFERENT PARENTAGE

- a. If children of different parentage are living with the same eligible relative, a single grant shall be issued to meet the needs of all children in the household receiving FA.
- b. If two or more dependent children live with two persons who are not married to each other, the following shall apply:
 - (1) If one person is the parent of all of the dependent children, that person shall be the grantee for all of the children.
 - (2) If neither person is the parent of all of the children and each is an eligible relative of some of the children, a separate FA grant shall be issued to each grantee.

5. GRANTS TO MINORS

- a. A minor 16 years of age or over may be designated as grantee in behalf of his own child or of his younger brothers and sisters.
- b. A child under 16 shall not be designated the grantee.
- c. Subject to the provision of Section 1, Living Arrangements, above:

- (1) When pregnancy is verified, a minor recipient of FA over 16 may be designated as grantee in her own behalf from the beginning of the month of medically verified pregnancy.
- (2) When a dependent child in receipt of FA gives birth to an out-of-wedlock child and remains in the same household:
 - (a) If the mother is under 16 years of age, her needs shall be included in the FA grant and the needs of the infant shall be added to the FA budget, if the grantee is an eligible relative of the baby.
 - (b) If the mother is at least 16 years of age but under 18 years of age, (or if under age 19, if she is a full-time student in a secondary school, or in the equivalent level of vocational or technical training), her needs and those of her infant may be included in the active FA case or the mother may be the grantee with her own case.
- d. For infants born to female residents placed with the Division for Youth (DFY) in youth centers, schools and centers, the following rules for grantees apply:
 - (1) If the mother is 16 years of age or over, she may be designated as grantee in behalf of the infant and can receive the TA and/or personal needs allowance directly. However, the agency should consider issuing two-party temporary assistance and/or personal needs allowance checks to the mother and the DFY.
 - (2) If the mother is under 16, she shall not be designated the grantee. The local district must issue two-party temporary assistance and/or personal needs allowance checks to the mother and the DFY.

Note: In no event shall the check go directly to the DFY or an employee of the DFY.

N. CHANGE OF GRANTEE

1. When a child or minor has been living with one parent and it becomes necessary for him to move permanently to the home of the other parent or to the home of an eligible relative, or from the home of one eligible relative to that of another eligible relative, a new application shall be required. The other parent or eligible relative is designated as grantee, provided the other conditions of eligibility are met. The former case is closed and a new case opened under a new or different case number.
2. When a grantee is temporarily absent from the home and when another eligible relative cares for the child either in the same or in a different home, the grant may be continued with such eligible relative designated as grantee provided the other conditions of eligibility are met. If the temporary change of grantee becomes permanent, a new application is required.

O. UTILIZING FEDERAL CATEGORIES OF ASSISTANCE

1. **FULL UTILIZATION OF FEDERAL CATEGORICAL ASSISTANCE** - FA shall be granted to persons eligible (or presumptively eligible) in compliance with Office Regulations.
2. **UTILIZATION OF FEDERAL SUPPLEMENTAL SECURITY INCOME PROGRAM (SSI)**
 - a. Any applicant for or recipient of FA who, based on a medical statement documenting or indicating the existence of a physical or mental impairment, reasonably appears to qualify for SSI, or who otherwise appears to be eligible for SSI benefits must, as a condition of eligibility or of continuing eligibility:
 - (1) Cooperate in applying for SSI benefits
 - (2) Appeal a SSI eligibility denial when the district determines such appeal is required
 - (3) Accept SSI benefits
 - b. When an applicant or recipient refuses without good cause to cooperate in applying for SSI, appealing a SSI denial if required by the local district, or accepting benefits for himself or herself or for a child in his or her care the following penalty applies:
 - (1) The non cooperative adult must be removed from the budget (incremental sanction). This is true unless the Rice budgeting methodology is used then the penalty is a prorata reduction. The sanction is effective until compliance.
 - (2) **Adult caretaker A/R refuses to comply on behalf of a child** – The non-cooperative adult must be removed from the budget (incremental sanction) until the individual cooperates. This is true even if the adult caretaker is not a legally responsible relative. If the adult caretaker is not in receipt of temporary assistance, no sanction is imposed.
 - c. An applicant or recipient who is referred to the SSA to apply for SSI must be provided by the local district with any available medical documentation that may have been used to establish potential eligibility for SSI and any other medical information available at the time of referral.
 - d. An entry must be made in the local district's SSI tracking system with respect to each referral.
 - e. Chapter 53 of the Laws of 1992 require local districts to have enhanced procedures in place for assisting TA applicants/recipients who appear to be disabled to apply for, appeal and receive SSI benefits.
 - f. Local district plans must develop procedures for early identification, assessment, referral with medical information, tracking and assisting clients in the SSI application

and appeals process for more information see [08-ADM-05 "SSI- Screening/ Identification, Referral and Tracking Requirements"](#), [Attachment A](#), [Attachment B](#), [Attachment C](#), [Attachment D](#), [Attachment E](#), [Attachment F](#), [Attachment G](#).

- g. When the only remaining child in an FA household becomes eligible for SSI benefits, the needs of the dependent relative who is otherwise eligible shall be provided as FA until the child would no longer be FA categorically eligible.
- h. When an individual in the FA household becomes eligible to receive SSI benefits, and no FA-eligible individual remains in the household, FA shall not be provided.
- i. If a parent or eligible relative providing care for a minor child applies for SSI benefits, FA shall be granted while the SSI eligibility determination is pending.
- j. **THE FOLLOWING QUALIFIED ALIENS ARE ELIGIBLE, OR POTENTIALLY ELIGIBLE, FOR SSI BENEFITS**

- (1) Aliens lawfully residing in the U.S. on 8/22/96 and who are blind or disabled, or who were receiving SSI on 8/22/96.
- (2) Refugees admitted into the U.S under section 207, are potentially eligible for SSI within the first seven years after the date of admission.
- (3) Asylees granted asylum under Section 208 of the INA, are potentially eligible for SSI for the first seven years after the date status was granted.
- (4) Cuban or Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, are potentially eligible for SSI for the first seven years after the date status was granted.
- (5) An alien lawfully admitted for permanent residence, who has been credited with 40 work credits from the alien's work, or from work done by a parent or spouse of the alien, and who entered the U.S on or after 8/22/96, must be a qualified alien for five years to be potentially eligible for SSI.
- (6) An alien whose deportation was withheld under section 243(h) of INA, or removal was withheld under section 241(b)(3) of INA, is potentially eligible to receive SSI for seven years beginning with the date deportation or removal was withheld.
- (7) Qualified aliens who are active duty members, or who are honorably discharged veterans, of the veterans, of the U.S. armed forces, their spouses and unmarried dependent children. The un-remarried spouse and unmarried dependent child of a deceased veteran who are qualified aliens are also eligible.
- (8) American Indians born outside the US, who are under section 289 of the INA, or who are members of a federally recognized Indian tribe, (under section 4c of the Indian Self-Determination and Education Assistance Act) can receive SSI if they meet SSI eligibility criteria.

- (9) Certain aliens who meet the requirements of the Trafficking Victims Protection Act of 2000.

Note: Local districts should track cases not eligible for SSI and require appropriate cases to apply for SSI within three months before the end of the disqualification period

3. **UTILIZATION OF FA CATEGORY FOR PREGNANT WOMEN** – FA must be granted to a needy pregnant woman beginning with the month of medically verified pregnancy, unless she is ineligible for FA due to reaching the State 60 month time limit, or immigration status.
4. **UTILIZATION OF FA CATEGORY FOR A CHILD OR MINOR WHO BECOMES CATEGORICALLY INELIGIBLE**
 - a. **ONE MONTH ELIGIBILITY** – In situations where need continues but the ineligibility of the child or minor is the result of no eligible grantee available or a minor 18 years of age or older leaves school, FA eligibility should be continued for one month after the month in which the child or minor becomes ineligible.
 - b. **MEDICAID** – Cash assistance cases that close after they have received this extension are entitled to continued MA coverage until a separate MA determination is made.

P. UTILIZING THE FA ESSENTIAL PERSON (EP) CATEGORY

1. **DEFINITIONS** – For the purpose of determining Essential Person status, the following definitions apply:
 - a. **ESSENTIAL PERSON** – An essential person is an individual(s) who has applied for and is eligible to receive TA other than FA and SNA-FP (case type 12), who is living in the same home as an FA or SNA-FP dependent child(ren) who is an applicant/recipient, and the individual's presence is essential to the applicant or recipient's well-being. This definition includes but is not limited to step-parents, and step-siblings, and siblings over the age of 18 who are themselves no longer categorically eligible for FA or SNA-FP.
 - b. **HEAD OF HOUSEHOLD** – The head of household is the caretaker relative who is either:
 - (1) **The FA (SNA-FP)** applicant/recipient who will receive or receives the FA or SNA-FP benefits in his/her name; or
 - (2) The adult payee for FA or SNA-FP minor child(ren) and the essential person(s); for example, a Non-TA grandmother who is payee for a grandchild.
2. **REQUIREMENTS FOR ESSENTIAL PERSONS** – Any adult age 18 or older who is included in the FA or SNA-FP grant as an EP must comply with all eligibility requirements.

The EP must also:

 - a. Sign an application unless the EP is in receipt of assistance;
 - b. Sign all subsequent recertification applications unless there is a good reason for not signing, for example the worker failed to notify the EP of that requirement;
 - c. Appear for the face-to-face eligibility interview and recertification interviews, unless there is a good reason for not appearing; for example the EP is working or in school.
 - d. If an EP fails, without good cause, to comply with employment requirements, the appropriate employment sanction must be applied.
 - e. When a sanction is imposed because of the EP. The EP must be deleted from the FA or SNA-FP household. The sanction is then imposed on the EP outside of the FA or SNA-FP case.
 - f. The Safety Net Assistance 45 day application period applies; and,
 - g. The presence of an EP cannot negatively impact the FA or SNA-FP household.
3. **EP STATUS NOT DESIGNATED** – The local district cannot designate an applicant/recipient to be an EP:

- a. If the head of household does not agree that the individual is essential; or
 - b. If the individual designated as the EP indicates that he or she does not wish to be designated as essential; or
 - c. If it would reduce the total household grant or cause ineligibility.
4. **NOT FA (SNA-FP) ELIGIBLE** – The local district must apply the designation of essential person only to individuals not categorically eligible for FA or SNA-FP. Only when an individual has been determined ineligible for FA or SNA-FP can EP status be considered.
5. **INDIVIDUAL MAY REFUSE ESSENTIAL PERSON STATUS** – An individual who is designated as an essential person may choose at any time not to be included as an essential person in an FA or SNA-FP case. Upon such notification, the local district will immediately take appropriate action to cancel the essential person status of the individual.
6. **SEPARATE GRANT** – The local district must:

Send the EP's portion of the FA or SNA-FP grant (after any restrictions) to the EP, if requested by the EP, and if the FA (SNA-FP) head of household agrees to the restriction. This agreement by the head of household must be in writing and documented in the case record. If the head of household does not agree, the EP designation must be removed.

Note: When an essential person in a case with restricted rent requests a separate grant, the rent shall remain restricted. This includes the essential person's share that is included in his/her separate grant. ("All Commissioner" Letter - 12/13/85.)

7. **CHANGE OF CATEGORY** – In most cases, the essential person's (EP's) categorical change from SNA to FA will not have a negative impact on the recipients involved. However, there may be situations where such a change might be construed as negatively affecting a recipient. If such a situation should arise, the categorical change from SNA to FA or SNA-FP must not be made.

Note: For procedures on budgeting an Essential Person case in which a recoupment was being applied see [TASB Chapter 22, Section E](#).

8. **FA REQUIREMENTS** – All requirements that apply to FA or SNA-FP applicants/recipients also apply to - essential persons, (e.g., documentation, verification, employment requirements as appropriate, etc.) Since this individual is eligible to become an essential person only when he/she has been determined SNA (FNP) eligible, the 45-day application period for SNA applies. Once essential person status is determined, the essential person is treated like any other FA or SNA-FP recipient in terms of eligibility and degree of need.

“DANKS” CASES:

- a. FA (SNA-FP) households living as a separate economic unit and containing an essential person who is neither a legally responsible relative nor a dependent child under the age of 21 of another member of the case, must receive a monthly assistance grant at least equal to the amount the household would have received if the essential person were budgeted as a separate cooperative case. The Basic Allowance, Home Energy Allowance, Supplemental Home Energy Allowance and Shelter Allowance, are not prorated in such cases. Fuel and water allowances reflect the total number in the FA (SNA-FP) case, including the essential person(s).
- b. Cases must be budgeted using Danks v. Perales rules if any of the following are true:
 - (1) The Essential Persons do not pool essentially all income and resources with the other FA (SNA-FP) case members;
 - (2) The Essential Persons purchase and prepare food separately from the other FA (SNA-FP) case members and,
 - (3) The Essential Persons and the other case members do not share the cost of other major household expenses such as utilities, fuel, insurance and car maintenance.

Q. WMS FOR ESSENTIAL PERSON INSTRUCTIONS

1. **GENERAL** – Workers must code the individual as EP with the Relationship Code (12).
2. **SEPARATE GRANT** – If a "Danks" Essential Person requests that his/her portion of the FA or SNA-FP grant be paid as a separate payment and if the EP applies for and is found eligible for a separate SNAP allotment, workers may, at local district option, open a separate PA/SNAP case for the EP.
 - a. In these instances, the Case Type would be FA (Case Type 11) or SNA-FP (Case Type 12),
 - b. Relationship Code must be 12 (Essential Person),
 - c. The TA budget would be calculated according to [TASB Chapter 13, Section D](#).
 - d. The EP's TA grant, after appropriate restrictions, should be issued using Payment Type Code "05 - Case Recurring Grant". Do not use "E1 - Grant to Essential Person".
 - e. If the local district opts to establish a separate case for the "Danks" EP, in order to ensure case integrity and to avoid categorical/financial eligibility problems, local districts should establish the SAME recertification dates for the EP's case and its associated FA or SNA-FP case and both cases should use the cooperative case indicator field. In addition the case records should be kept together and handled by the same worker to ensure that both cases would be reviewed together if either case were audited.

Note: The presence of a "Danks Essential Person" in a TA case does not alter the method for determining Supplemental Nutrition Assistance Program household composition. See SNAPSB, Section 5.

3. BUDGETING ACCORDING TO DANKS V. PERALES RULES

- a. **TWO SEPARATE ECONOMIC UNITS** – When budgeting FA Essential Persons cases in which Danks v. Perales rules apply the ABEL budget will represent the entire household's needs [including the EP(s)] and degree of eligibility even though the EP is a separate economic unit. To properly budget Danks v. Perales cases the following steps shall be taken:
 - (1) Include the FA Essential Person (s) in the number in the ABEL household and the number in the Case "CA" field along with the other case members.
 - (2) Enter the number of Essential Persons (1-9) in the ABEL "PRO" proration indicator field to indicate separate economic units with no legal responsibility.
 - (3) Enter the household's expenses as usual. When the budget is transmitted, the Basic Allowance, Home Energy Allowance, Supplemental Home Energy Allowance and Shelter Allowance will equal the unprorated allowances for the

number of people in the case excluding the Essential Persons plus the unprorated allowances for the Essential Persons (see Example "A"). The water and fuel allowances and PA Additional Needs type 14 (Other Shelter Needs), will be computed including the Essential Persons along with the other FA (SNA-FP) recipients as one unit.

- b. **MORE THAN TWO DANKS ECONOMIC UNITS** – Bottom Line budgets will be required for those cases in which there is more than one Danks Essential Person when there is no legal responsibility between the Essential Persons. In such cases, each Essential Person is entitled to the entire Basic Allowance, Home Energy Allowance, Supplemental Home Energy Allowance and Shelter Allowance for one. (see [Example "C"](#) below).
- 4. **NON-DANKS ESSENTIAL PERSONS** – The Shelter Proration Indicator ABEL "PRO" is left blank to indicate Essential Persons when legal responsibility exists between the Essential Persons and other members of the case. These budgets should be computed as "straight" FA or SNA-FP cases (see [Example "D"](#) below).

Note: For further information on use of the Shelter Proration Indicator see [TASB Chapter 13, Section D](#).

5. EXAMPLES

- a. **MORE THAN ONE DANKS ESSENTIAL PERSON (no lines of legal responsibility)** – Tom and Mary Jones and their daughter are FA eligible. The Jones family shares an apartment with Tom's brother-in-law, Bob, and Bob's wife, Lucy Smith, who are SNA-FNP eligible. The two families have no lines of legal responsibility between them and do not share living expenses or income (separate economic units). Bob and Lucy Smith are deemed to be FA Essential Persons on the Jones Case.

Since Bob and Lucy are legally responsible for each other, the district enters a "2" in the Shelter Proration field. ABEL will calculate the needs as follows and the district does not need to complete a bottom-line budget: (Lewis County)

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WBGTPA      ** PA BUDGET **      VERSION      DIST LEWI 01/18/2008
CASE NAME      CASE NO.      OFC UNIT      WORKER TRAN CASE IVD
EXAMPLE A      SCRATCHPAD      02      10      11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
05 05      2      # LN 30I 30M SRC FRQ D HRS CCR
TY R      ACTUAL      ALLOW      1:
      BASIC      41700      2:
      ENRGY      5250      **** OTHER INCOME ****      0 GROSS      0
      SPMNT      4000      LN SRC F AMOUNT EXEMPT      0 TAXES      0
01 SHEL 60000 47600      0 0      0 NYS DIS      0
      WATER      0      0 0      0 WORK EXP      0
0 FUEL      0      0 0      0 EXEMPT      0
      OTHER      0      0 TOTAL NET      0 0 CH CARE      0
      OTHER      0      0 $$$$ PA GRANT $$$$      0 CH CARE      0
      OTHER      0      0 TOTAL NEEDS 98500      0 CH CARE      0
      TOTAL NEEDS 98500      TOTAL INC      0 0 DISREGARD      0
***** RECOUPMENT ***** CD / AMT D 98500      0 TOT DED      0
TY BALANCE % MO AMT REM RECOUPMENT      0 0 UNAVAIL      0
      0 00.0      0 0 UTIL/RES      0 0 NET INC      0
      0 00.0      0 0 SHEL/RES      0
      0 00.0      0 0 RESTRICTED      0 * EFFECTIVE DATE *
RECALC      00.0      0 SEMI CASH 49250 010108 TO 013108
SNAP CASE NO.      SEMI N-CASH      0 DATE STORED / /

```

- b. **DANKS FA ESSENTIAL PERSONS REQUEST A SEPARATE CHECK** – When a Danks Essential Person requests his/her portion of the TANF grant be paid as a separate check, the worker must manually calculate the EP's share of the grant. ABEL will only calculate the grant for the entire TANF case. To issue the EP's share of the grant, the worker must write a payment line using payment type "E1". BICS will generate a worker advisory because the ABEL budget amount does not match the amount of the case's regular recurring grant (Payment type 05).

The Smiths in Example "a" want a separate check for their share of the grant. Their share is computed as follows:

Basic	\$166.00	Allowances for 2
Energy	21.00	Allowances for 2
SPMNT	16.00	Allowances for 2
Shelter with (Children)	\$190.00	
Total Needs (rounded)	\$393.00	

- c. **MORE THAN TWO DANKS ECONOMIC UNITS** – Kathy Young and her two children rent a home in Albany County with two roommates. There is no legal responsibility between the roommates and Kathy's family nor between the two roommates. Both of the roommates are TA eligible. Kathy's family is FA eligible. The roommates have been deemed FA Essential Persons.

The household members do not share income or living expenses (separate economic units) other than rent. The total actual shelter for the household is \$600.00 with heat.. Since there are no legal lines of responsibility between the roommates and more than one co-op case exists, the actual rent is prorated between the cases (case of 3, case of 1, case of 1) based on the number of recipients in each case (3/5 of 600.00 = \$360.00, 1/5 of 600.00 = \$120.00, 1/5 of \$600.00 = \$120.00 respectively).

Since the maximum shelter allowance with children (\$309.00) for Kathy and her two children is less than her prorated share (\$360.00), and the maximum shelter allowance for each of the two remaining households (\$214.00 each) is less than their prorated share of the actual rent, the remaining balance of the actual rent is split between the two remaining households up to the maximum shelter allowance with children for each household. In this case, the shelter allowance with children for each of the two remaining households is \$145.50. The total shelter allowance for the household must not exceed the actual rent as paid for the entire household.

Since there are no legal lines of responsibility and the households reside as separate economic units, and because there are more than two cooperatively budgeted cases, the district must enter the following information into a bottom line budget. If there were only two cooperatively budgeted households, the district would enter the information directly in ABEL as in Example A above.

	Allowances for 3 +			Allowances for 1 +			Allowances for 1 =			Total
BASIC	\$238.00	+		\$112.00	+		\$112.00	=	\$	462.00
ENERGY	30.00	+		14.10	+		14.10	=		58.20
SPMNT	23.00	+		11.00	+		11.00	=		45.00
SHELTER	309.00	+		145.50	+		145.50	=		600.00
Total Needs (Rounded)	600.00	+		282.00	+		282.00	=		\$1,164.00

- d. **NON-DANKS ESSENTIAL PERSON** – Ms. Walters and her three minor children are in receipt of FA. Ms. Walters' daughter Ginger turns 18 and graduates from high school, but continues to live in her mother's household. Ginger is no longer considered an eligible child for FA, but can remain on the FA case as an essential person. Since legal lines of responsibility exist between Ms. Walters and her daughter until her daughter turns 21 years old, the district does not use the ABEL Shelter Proration Indicator to indicate Ginger as an Essential Person on ABEL. On WMS, Ginger should receive a Relationship Code of "12- Essential Person", not "05- Daughter". The budget should be computed as a straight FA case. There is no 45-day application period for Ginger because she has remained in continuous receipt of FA up until this point.

ABEL will calculate the needs as follows: (Albany County)


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WBGTPA      ** PA BUDGET **      VERSION      DIST ALBA 01/22/200
CASE NAME      CASE NO.      OFC UNIT  WORKER  TRAN CASE IVD
EXAMPLE D      SCRATCHPAD      02      06      11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
05 05
TY R      ACTUAL      ALLOW      1:
      BASIC      37900      2:
      ENRGY      4770      **** OTHER INCOME ****      0 GROSS
      SPMNT      3700      LN SRC F  AMOUNT EXEMPT      0 TAXES
01  SHEL  40000  38600      0      0      0 NYS DIS
      WATER      0      0      0      0      0 WORK EXP
0   FUEL      0      0      0      0      0 EXEMPT
      OTHER      0      0      TOTAL NET      0      0 CH CARE
      OTHER      0      0      $$$$ PA GRANT $$$$      0 CH CARE
      OTHER      0      0      TOTAL NEEDS  84900      0 CH CARE
      TOTAL NEEDS  84900      TOTAL INC      0      0 DISREGARD
***** RECOUPMENT *****      CD / AMT D  84900      0 TOT DED
TY BALANCE % MO AMT REM RECOUPMENT      0      0 UNAVAIL
      0 00.0      0      0 UTIL/RES      0      0 NET INC
      0 00.0      0      0 SHEL/RES      0
      0 00.0      0      0 RESTRICTED      0 * EFFECTIVE DATE *
RECALC      00.0      0      SEMI CASH  42450  010108 TO 013108
SNAP CASE NO.      SEMI N-CASH      0      DATE STORED  /  /

```

Note: In no case would the income of a case member be applied against the needs of other case members where there are no legal lines of responsibility and filing unit provisions do not apply.

R. DETERMINATION OF CONTINUING ELIGIBILITY

Continuing eligibility for FA will be determined according to the policies and procedures generally applicable in Temporary Assistance. Personal contacts and redetermination of eligibility will be made in accordance with department regulations as described in [TASB 6 "Continuing Eligibility"](#). The determination of continuing eligibility shall include reconsideration of all variable factors, including:

1. **FINANCIAL NEED** – The needs and resources of the child and parents or other relative shall be reevaluated. Extent of need shall be determined in accordance with agency policy for the family group each time a member of the household is temporarily out of the home. The part of the grant which is necessary to retain the child's home shall be provided.
2. **RECONSIDERATION OF THE WELFARE OF THE CHILD** – A reevaluation of the welfare of the child shall be part of the periodic redetermination of eligibility. Where there is concern for a child's welfare, referral must be made to Children's Services for assessment of the child's home situation.
3. **LIVING WITH A PARENT OR OTHER RELATIVE**
 - a. Temporary absence from the home or from the district of a child, a grantee, or both, shall not affect a previous determination that the child is living with an eligible relative when it is determined that the parent or relative retains full responsibility for control of the child and that the absence cannot be interpreted as a change in the child's home.
 - b. Such absence may include visits to friends or relatives, attendance at camp, enrollment as a residence pupil, or temporary foster care either in a family home or in an institution. The costs of tuition and maintenance in a residence school or of foster care shall not be met through the regular FA grant to the household.
4. **CHANGE OF PARENTAL STATUS** – Those changes of parental status which may affect financial eligibility shall be under continuous review, including:
 - a. remarriage,
 - b. recovery from physical or mental illness,
 - c. return to the home of a child or absent parent,
 - d. return to employment,
 - e. abandonment or desertion, and
 - f. Acknowledgement or adjudication of paternity of children already receiving FA.
5. **CONTINUED SCHOOL ATTENDANCE** – High School attendance or attendance at an equivalent level of vocational or technical training shall be confirmed for children who are

age 18 at each regular contact with the family when needed to determine categorical eligibility. A child who is age 18 will lose categorical eligibility when he or she is no longer regularly attending full time secondary school (or the equivalent) or reached age 19, whichever comes first.

6. **CHANGE OF RESIDENCE OR ABSENCE FROM THE DISTRICT OF ADMINISTRATION** – When the recipient leaves the district of administration, the agency shall determine if the absence is temporary, a continuing responsibility of the district of administration, or a permanent change of residence.

S. COMPLIANCE WITH CHILD SUPPORT ENFORCEMENT PROGRAM

1. GLOSSARY

- a. **60 DAY POSTPARTUM PERIOD:** The 60 days following the end of the pregnancy and the remainder of the month in which the 60th day occurs
- b. **ABSENT PARENT:** The biological parent, stepparent or adoptive parent of a child who is not residing with the child. For a child in foster care, "absent parent" also includes a biological parent, stepparent or adoptive parent who was present in the household when the child entered foster care.
- c. **ARREARS:** Unpaid child support for past months owed by a parent who is under court order to pay.
- d. **ASSIGNMENT:** Transfer of support rights
- e. **COURT-ORDERED SUPPORT:** Legal obligation of a non-custodial parent to pay a support amount for his or her child.
- f. **CURRENT SUPPORT:** Payment collected, as determined by its date of collection, toward the obligation amount for that month.
- g. **CUSTODIAL PARENT:** Person with whom a child lives; may be a parent, relative or guardian.
- h. **FORMER CUSTODIAL PARENT (for foster care):** The parent to whom a court order granted legal custody, including joint custody, of the child if such order was in effect when the child entered foster care or will be entering foster care, or, where no court order granting legal custody exists, the parent who had physical custody of the child immediately prior to the child's entering foster care.
- i. **NON-CUSTODIAL PARENT:** Parent who does not live with a child, but is legally responsible for providing financial and medical support.
- j. **NON-CUSTODIAL PARENT (for foster care):** The parent who has had legal custody of the child transferred from him or her by court order prior to the child's entering foster care, or, where no court order granting legal custody exists, the parent who lived separate and apart from the child when the child entered foster care.
- k. **PATERNITY ESTABLISHMENT:** Legal determination of fatherhood
- l. **TEMPORARY ASSISTANCE:** Cash assistance programs including Family Assistance, Safety Net Assistance and Emergency Assistance to Needy Families with Children.
- m. **PUTATIVE FATHER:** Man alleged to be the biological father of a child

n. **RESPONDENT:** Person against whom a petition is filed

2. **BACKGROUND** – Title 6-A of Article 3 of the Social Services Law (SSL) requires applicants for and recipients of FA to assign their rights to support and directs TA eligibility staff to refer certain FA applicants and recipients to the Child Support Enforcement Unit (CSEU) for child support enforcement services, including paternity establishment.

a. SSL Section 101 establishes the legal responsibility for :

(1) spouses to support spouses

(2) parents and step-parents to support children under the age of 21

- b. SSL 132-a and 352-a requires all TA applicants and recipients, including SNA to cooperate with local districts to establish the paternity of their children, and SSL 158 and 352 require their cooperation to obtain support.

By cooperating with the child support enforcement process, TA applicants/recipients may benefit in several ways, including:

(1) Legally establishing their children's paternity may enable their children to gain rights to medical insurance, life insurance and inheritance, and Social Security, Veterans or other government benefits;

(2) Up to \$50 per month of current support collected by the CSEU on behalf of their children will be paid to them; and

(3) Support payments could help to eliminate their need for TA, supplement their earnings, and assist them to remain self-sufficient and enjoy a higher standard of living

3. **CHILD SUPPORT COOPERATION** ([99-ADM-5](#))

a. Federal and state laws and regulations require individuals who apply for TA on behalf of a minor child to cooperate with efforts to identify and locate the parent of the child, establish the paternity of a child born out-of-wedlock and obtain support payments and any other payments or property due the applicant/recipient and/or the child.

b. In addition, state law requires a TA applicant or recipient who is pregnant with or is the mother of an out-of- wedlock child to cooperate with efforts to establish paternity and pursue support for that child. This requirement applies so long as the child lives with the applicant/recipient, regardless of whether the child is included in the application for assistance. By assisting the CSEU to establish paternity and obtain support for the non-TA child, the parent can help to provide a more secure future for the child.

c. TA applicants must demonstrate prior to their eligibility determination , that they have met the child support cooperation criteria.

- d. TA recipients have an ongoing requirement to cooperate with establishing paternity and securing support.

4. REFERRING APPLICANTS AND RECIPIENTS TO THE CSEU

- a. TA must refer to the CSEU each TA applicant household (includes FA and SNA) which includes, and each recipient household which has gained, any of the following:

- (1) An under age 21 child or minor caretaker relative who has a continuously absent, living parent.
- (2) A minor child or minor caretaker relative whose paternity has not been legally established (i.e., adjudicated in court), including a minor whose putative father resides with the household.
- (3) A pregnant woman, unless she is married, living with her husband and at least 21 years old.

Note: A putative father's written acknowledgment of paternity is sufficient to verify relationship for TA purposes, but the household must still be referred for paternity adjudication.

- (4) Certain child(ren) not in receipt of FA. See [TASB Chapter 13, Section I](#).
- b. TA applicants or recipients must complete a [LDSS-4882](#), [B](#) or [C](#) as per [12 ADM-03](#).
- c. TA must notify the Child Support Enforcement Unit (CSEU) of non-applying household members (such as step parents) whose needs and income are considered in determining the amount of assistance granted to the household, as well as that person's Social Security Number, when it is known.
- d. To differentiate between a referral of a non-applying household member and an absent parent referral, local districts may use a general referral form or a local equivalent for this notification instead of the [LDSS-4882](#), "Information about Child Support Services and Application/Referral for Child Support Services" form.

5. ASSIGNMENT OF RIGHTS

- a. By signing the application ([LDSS-2921](#)) and recertification ([LDSS-3174](#)) forms, TA applicants/recipients assign to the local district and the Office, their rights to all court-ordered and other support paid and payable on behalf of themselves and all children for whom they apply. Upon assignment, the CSEU takes necessary action to redirect support payments to the Office by changing the beneficiary of an order already payable through the Support Collection Unit (SCU), or modifying the order to be made payable the SCU based on the assignment.
- b. By signing the application ([LDSS-2921](#)) and recertification ([LDSS-3174](#)) forms, TA applicants/recipients assign to the local district and the Office any rights to payment

for medical care from a third party, and rights to support specified by a court or administrative order to be used for medical care.

6. **COOPERATION STANDARD** – Cooperation includes the following actions that a TA applicant or recipient must take:
- a. Complete the [LDSS-4882](#). All of the following information is required:
 - (1) Name of the absent parent or putative father
 - (2) Social security number of the absent parent or putative father
 - (3) Date of birth of the absent parent or putative father
 - (4) Telephone number of the absent parent or putative father
 - (5) Address of the absent parent or putative father
 - (6) Employer name and address of the absent parent/putative father
 - (7) Other information (e.g., name and address of relatives, friends) which can lead to the identity and location of the absent parent/putative father
 - b. If any required information listed in “a” above is not entered on the [LDSS-4882](#), the TA applicant/recipient must complete a [LDSS-4281: “Attestation to Lack of Information”](#);
 - c. Assign rights to cash support to the local district;
 - d. Assign rights to medical support(s) to the local district;
 - e. Cooperate to establish paternity;
 - f. Provide verifiable information sufficient to identify and locate the absent parent or putative father including:
 - (1) The full name and social security number of the absent parent or putative father;
or
 - (2) The full name of the absent parent or putative father and at least two of the following concerning such parent or father:
 - (a) date of birth;
 - (b) residential and, if different, mailing address;
 - (c) telephone number; and
 - (d) name and address of employer; or

- (3) The full name and any additional information equivalent to the information required by '6. f.' above, that leads to establishment of the absent parent's or putative father's identity and location; or
- (4) Attest, under penalty of perjury, to the lack of information, by completing and signing the [LDSS- 4281 "Attestation to Lack of Information"](#).
- g. Appear at court or other hearings as necessary to achieve the objectives of establishing paternity or securing support;
- h. Cooperate to establish, modify and enforce cash support orders;
- i. Cooperate to establish, modify, and enforce medical support orders;
- j. Submit self and child to genetic testing if required by judicial order or administrative direction;
- k. Pay assigned medical support to the SCU that are received directly by the TA household;
- l. Pay to the SCU any payments received directly from the absent parent which are covered by the support assignment if the SCU has the ability to accept and record the payment. If the SCU does not have the ability to accept and record the assigned payment received directly by the TA recipient then the assigned child support received directly from the absent parent to the TA recipient must be budgeted as unearned income "06 – Child Support Payments". Once the SCU begins to receive the assigned support directly on behalf of the recipient, the local district must immediately change the unearned income source code "06 – Child Support Payments" to unearned income source code "13 – Child/spousal Support Assigned to Agency".
- m. Appear at the local CSEU, as required by the CSEU to be interviewed and cooperate with the CSEU prior to the TA eligibility determination unless good cause not to cooperate exists.

7. OPPORTUNITY TO CLAIM GOOD CAUSE

- a. Applicants and recipients must be informed of their responsibility to cooperate with the paternity establishment and support enforcement process, and of their right to claim Good Cause for refusing to cooperate.
- b. While the validity of a Good Cause claim is pending final determination, the applicant/recipient who claims Good Cause is excused from cooperating with the CSEU.
- c. Good Cause can be claimed at any time during the TA/CSEU process.

For example: A recipient may claim Good Cause due to recent potentially harmful events or circumstances which did not exist when the individual was initially referred to the CSEU.

8. TEMPORARY ASSISTANCE CLIENT RESPONSIBILITIES

- a. Cooperate in good faith with the State and the social services district to:
 - (1) establish the paternity of a child born out of wedlock,
 - (2) locate any absent parent or putative father, and
 - (3) establish, modify and enforce support orders.
- b. The term "cooperation", as defined in [Section 6](#) above, includes appearing at the local CSEU, as required by the CSEU, to be interviewed and cooperate with the CSEU prior to the TA eligibility determination. Most, but not all, applicants will be required to participate in person in a CSEU intake interview.
- c. Examples of situations which may not require a face-to-face CSEU interview include the case of an applicant who already has an active (non-TA) CSEU cases or an applicant whom the CSEU can interview by telephone in accordance with district procedures.
- d. Applicants for whom the TA face-to-face eligibility requirement is waived will be subject to alternative arrangements for their CSEU interview as well.
- e. Cooperation with the CSEU is required as long as the family receives TA.

9. TA WORKER RESPONSIBILITIES – TA worker must complete all of the following:

- a. Inform TA applicants and recipients of their rights, responsibilities and benefits of their cooperation with the child support enforcement process by providing the TA applicant/recipient with the [LDSS- 4148B "What You Should Know About Social Services Programs"](#), and the [LDSS-4279 "Notice of Rights and Responsibilities for Support"](#)
- b. The [LDSS-4279 "Notice of Rights and Responsibilities for Support"](#) must be given at:
 - (1) Application
 - (2) When there is a need for a new referral to child support, such as, a parent left the household, pregnancy verified, child joins the household.
 - (3) Whenever an individual wants to claim good cause.
 - (4) At recertification if there is a change in household composition (see b (2) above), or a recipient wants to claim good cause or no longer wants to claim good cause.
- c. The TA worker must ask the client to indicate on the [LDSS-4279 "Notice of Rights and Responsibilities for Support"](#) form, if he/she does, or does not, claim good cause. The TA client must sign and date the form. A copy of the form must be given to the TA applicant/recipient and a copy must be maintained in the case record.

- d. Provide domestic violence notification and conduct screening of all A/Rs. Refer self-identified victims of domestic violence to the district's domestic violence liaison, as described in [98 ADM-3.Errata](#), [98 ADM-3](#).
- e. Determine whether an A/R who claims to have good cause for refusing to cooperate actually does have good cause.
- f. Refer applicants to the CSEU prior to their TA eligibility interview. If this is not logistically possible in a district, then refer applicants to the CSEU as soon as practicable after their eligibility interview but prior to the eligibility determination, to afford them the opportunity to comply with CSEU requirements prior to their TA eligibility determination.
- g. Provide the [LDSS-4882](#) "Information about Child Support Services and Application/Referral for Child Support Services" form to applicants who are required to appear in the CSEU and inform them that they must bring the completed [LDSS-4882](#) to their CSEU interview.
- h. Safety Net Assistance (SNA) category cases also must bring to the CSEU a completed [LDSS-4882](#) form. The TA worker must sign the [LDSS-4882](#) on behalf of the SNA client because the A/R has assigned support rights to the district.
- i. Obtain necessary documentation from applicants and recipients which they have not already provided in their CSEU intake interview and, according to local district procedures, forward or make documentation available to the CSEU.
- j. When notified by the CSEU that an A/R has failed to cooperate, impose appropriate sanction, as described in [section 12](#) below.
- k. Take appropriate action in TA cases reported in the IV-D/IV-A Interface Report and in [LDSS-2859](#) "Information Transmittal" referrals from the CSEU. The weekly IV-D/IV-A Interface Report provides information to TA workers about status changes in child support cases, including location of absent parents, paternity establishment, support order actions and third party health insurance coverage.
- l. Respond to CSEU requests for TA eligibility and payment information, including TA payment history necessary for the CSEU to update total unreimbursed TA amounts.
- m. Use support collection information and reports to redetermine recipients continued eligibility for TA.
- n. Ask recipients for new and changed information about absent parents and putative fathers and forward all such information, via the [LDSS-2859](#) "Information Transmittal" form to the CSEU.
- o. Resolve child support pass-through mass rebudgeting/ authorization (IV-D MRB/A) WMS "exceptions" and manually authorize pass-through payments, when necessary. Resolution of pass-through payments must be completed by the 20th calendar day of each month.

- p. Resolve client(s) pass-through questions and complaints if possible.
- q. Inform A/Rs of the pass-through desk review procedures.
- r. When recouping or recovering TA overpayment amounts, do not include amounts of TA already reimbursed by support collected on behalf of the family.

Example #1:

Dave Davis and his daughter, Maeve, received \$500 TA in November. During November, \$350 current support was collected for the Davises. In January, the TA worker learns that Mr. Davis also received, but failed to report, \$100 unemployment benefits (UIB) in November. The worker uses the UIB and support amounts to determine that the Davises were still eligible for TA in November, but should have received \$400 TA, a \$100 overpayment for November. The worker also determines that the \$350 support was applied toward reimbursement of the \$400 TA the Davis should have received. The \$100 TA overpayment is unreimbursed and recoverable.

Example #2:

The same Davis family received \$500 TA again in December, but failed to report that they also received \$300 UIB that month. During December, \$350 current support was collected for the Davises. The worker used the UIB and support amounts to determine that the Davises are no longer eligible for TA. The TA worker also determines that, of the \$500 TA overpayment for December, \$150 is unreimbursed and recoverable. The remaining \$350 of the TA for the month is already reimbursed by support collections and is not subject to recovery from Mr. Davis.

10. CHILD SUPPORT WORKER RESPONSIBILITIES – Child Support workers must complete all of the following:

- a. Review the CSMS for any information about the applicant/recipient and the absent parent/putative father.
- b. Affirm that the [LDSS-4882](#) and supporting documentation is complete and determine if the information is sufficient to identify and locate the absent parent/ putative father. At a minimum, the information must include: the absent parent/ putative father's name and social security number or name and at least two of the following; date of birth, mailing and if different, residential address, telephone number, name and address of employer or other information which can lead to the identity and location of the absent parent/putative father.
- c. Interview the A/R for information if the data obtained pursuant to a and b above, is insufficient to identify and locate the absent parent/putative father.
- d. Determine A/R cooperation, ensure that the [LDSS-4882](#) has been completed, and provide notice of cooperation/non-cooperation to the A/R and to TA, as appropriate, via the [LDSS-2859](#) form. Note: such notification of cooperation determination must be made promptly to ensure that TA is aware of the cooperation determination prior

to an applicant's eligibility interview. In districts which refer applicants to the CSEU after the eligibility interview, the CSEU must provide cooperation notification prior to the eligibility determination.

- e. If, after the CSEU investigative interview, an A/R disavows knowledge of information necessary to identify and locate the absent parent/putative father, explain the attestation form and penalties for concealing facts about the absent parent/putative father. Require the A/R to complete the [LDSS- 4281](#), "Attestation to Lack of Information" and provide a copy to the A/R.
- f. Review the CSMS Daily Interface Report for TA case openings and review the CSMS Daily Interface Report for IV-E FC, Non-IV-E FC and Medicaid case openings.
- g. Review the IVDRSP for completeness.
- h. Build the CSMS case and initiate next appropriate action.
- i. Supplement the weekly IV-D/IV-A Interface Report with [LDSS-2859](#) referrals as needed.
- j. Review client cooperation periodically and at the request of TA staff, and notify the appropriate staff of recipient's cooperation/non-cooperation.
- k. When a TA A/R indicates the presence of domestic violence, refer the individual to the district's domestic violence liaison for screening and assessment and, as described in [98 ADM-3 Errata](#), [98 ADM-3](#), cease location, paternity establishment and support enforcement activities while the A/R undergoes screening and assessment.
- l. Refer to TA any A/R who claims good cause for refusing to cooperate. Refer to TA any case where the CSEU is aware of circumstances which could jeopardize the health, safety or welfare of the family if the CSEU were to proceed, and suspend activities on that case.
- m. On a case for which good cause has been claimed, take no further action to establish paternity or establish, modify or enforce child support until notified by TA that child support activities may continue.
- n. Review and comment as appropriate on good cause findings made by TA.
- o. In a case where TA has determined that child support enforcement actions may not continue, cease all paternity and support activities.
- p. Provide any A/R with an opportunity to cooperate at any time upon contact by such A/R or the TA program.
- q. After the CSEU makes a determination of non-cooperation, if the A/R cooperates, the CSEU must promptly notify TA.

- r. CSEU staff must review and resolve IV-D exceptions in the monthly IV-D MRB/A, indicating the amounts of pass-through payments due, for referral to TA. CSEU must respond to and, to the extent possible, resolve TA workers' pass-through inquiries concerning dates and amounts of support collections. When a recipient or former recipient disagrees with the CSEU/SCU's support collection records on which pass-through payment amounts are based, the individual must be referred to the desk review process. The form for requesting a desk review may be obtained at the local district Support Collection Enforcement Unit or by referring the client to the Child Support Helpline at 1-888-208-4485.

11. EXCEPTIONS TO COOPERATION REQUIREMENTS

- a. The establishment of paternity and a support order are not required when the child has been surrendered for adoption or, for a period of up to ninety days after the child's birth, when the application is being assisted by a public or licensed private social services agency to decide whether to surrender the child for adoption.
- b. When a petition for the establishment of paternity has been filed but the putative father denies paternity, state law requires that further paternity proceedings be deferred until sixty days after the child's birth. For TA, this deferral applies only to paternity proceedings for the newborn child. Paternity and support proceedings for the applicant/recipient and other children in the TA household are not deferred.

Note: The TA worker must refer a TA applicant/recipient to the CSEU, with a [LDSS-4882](#), immediately upon learning that she is pregnant or has a newborn child and paternity and/or support establishment services will be required. The CSEU should initiate paternity and/or support proceedings, and the applicant/recipient should be encouraged to participate early in efforts to locate the putative father and to establish paternity and a support order.

Where a proceeding to establish paternity has been filed, however, and the allegation of paternity has been denied by the respondent, the district must stay all paternity proceedings until 60 days after the birth of the child. A/Rs must be informed that TA will not be denied or reduced during the stay on the basis of her refusal to cooperate with child support activities with respect to the unborn child.

If she fails to cooperate, a sanction cannot be imposed until after the child has been born and, if appropriate, added to the TA grant. Her MA eligibility must be continued for 60 days after the birth of the child.

- c. The applicant is excused from cooperating with efforts to establish paternity and secure support if such cooperation would be against the best interests of the child; i.e., "good cause" exists for refusing to cooperate. However, the local district may proceed without the applicant's cooperation if it has determined that its actions would not risk harm to the applicant or child. Good cause determinations are addressed in [Section 13](#) below.

- d. The CSEU will not pursue paternity establishment or support enforcement in the case of a TA individual who has been granted a waiver of child support requirements on the basis of domestic violence, unless the domestic violence liaison has determined that the CSEU may proceed without risk to the victim or the victim's family. Refer to [98 ADM-3 Errata](#), [98 ADM-3](#) for more information concerning domestic violence policy and procedures.

12. REFUSAL OR FAILURE TO COOPERATE

a. PENALTY FOR NON-COOPERATION

- (1) Failure of a TA A/R to cooperate to establish paternity or secure support on behalf of a household member results in a penalty equal to a 25 percent reduction in the household's TA standard of need for each non-cooperating individual. The non-cooperating individuals are included in the household member count and all of their non-exempt income continues to be applied in calculations of the household's TA eligibility and benefit amount as appropriate.
- (2) In the case of an individual who applies for or receives TA on behalf of a child but is not included in the grant; e.g., a person in receipt of SSI or sanctioned for an Intentional Program Violation, the individual's failure to comply with child support requirements results in the 25 percent reduction in the household's TA standard of need.

b. SANCTION NOTIFICATION

- (1) For a TA applicant who is sanctioned at case opening, use Individual Reason Code V30 "Failure to comply with IV-D Support Requirements" to identify a non-compliant individual and to produce the correct acceptance (or denial) notice which explains why the standard of need, on which the family's eligibility was determined, was reduced. The specific reason for the sanction must be given. The reason should be stated as explicitly as possible; e.g., "You refused to cooperate in obtaining child support. You refused to attend a November 2, 2006 meeting with a child support enforcement worker. You were told about that meeting in advance". In addition, the notice must state that the sanction will be lifted if the individual will comply by completing the action(s) required by the Child Support Enforcement Unit.
- (2) The TA notice also must indicate the MA acceptance for those individuals opened on TA and the MA denial, if appropriate, and reason for denial of the sanctioned individual.
- (3) For a TA recipient whom the TA worker proposes to sanction, timely and adequate notice must be provided. Use TA Individual Reason Code V30 "Failure to Comply with IV-D Support Requirements" to identify a IV-D non-compliant individual and to produce the correct CNS notice. The specific reasons must be included.

c. TERMINATING A NON-COOPERATION SANCTION

Non-cooperation sanction durations are open-ended, i.e., until compliance. A sanctioned individual who indicates a willingness to cooperate must be informed by TA of the specific action(s) that must be taken to have assistance provided or reinstated. When the individual cooperates, the sanction must be ended. For example, a recipient who was sanctioned for refusing to testify in court, but who now agrees to testify, will not have assistance reinstated only upon so agreeing. The sanction must be continued until the individual actually testifies.

13. DETERMINING GOOD CAUSE

- a. **DEFINITION OF GOOD CAUSE** – A TA parent, caretaker relative, applicant or recipient may refuse, without penalty, to cooperate with paternity establishment and child support enforcement requirements when such cooperation would be against the best interests of the child. Following are the only circumstances under which "good cause" for non-cooperation may be found to exist:
 - (1) Cooperation is expected to result in physical or emotional harm of a serious nature to the child for whom support is sought;
 - (2) Cooperation is expected to result in physical or emotional harm of a serious nature to the parent/caretaker relative/grantee, sufficient to impair the caretaker's ability to care for the child;
 - (3) The child was conceived as a result of incest or rape, and establishing paternity or seeking support would be detrimental to the child;
 - (4) Adoption of the child is pending before a court, or the caretaker is receiving pre-adoption counseling services (for up to three months after the child's birth).
- b. Special considerations apply with respect to a good cause claim based on emotional harm. In order for TA to find good cause for refusal to cooperate due to the expectation of emotional harm, the applicant/recipient must demonstrate that the emotional harm would have a substantial effect on the individual's ability to function. When evaluating emotional harm good cause claims, TA workers must consider:
 - (1) The present emotional state of the individual subject to emotional harm;
 - (2) The individual's emotional health history;
 - (3) Intensity and probable duration of the emotional impairment;
 - (4) The extent of cooperation with the child support enforcement process which would be required; and
 - (5) With respect to emotional harm to the child, the extent to which the child would be involved in the paternity establishment and support enforcement activities.
- c. **PROCEDURES FOR DETERMINING GOOD CAUSE** - An applicant/recipient (A/R) must be provided with the [LDSS-4279 - "Notice of Responsibilities and Rights for Support"](#) and the A/R must indicate on the form if they do, or do not, claim good

cause. When the A/R claims good cause the good cause claimant has the burden of proving that good cause exists, by specifying the circumstances which the claimant believes constitute good cause, providing corroborative evidence, and cooperating with TA's investigation of the claim.

- d. TA must determine whether good cause exists based on the claimant's evidence, its own investigation, if needed, and recommendations from the CSEU. For TA A/Rs, the TA worker's good cause determination will apply to the individual's Medicaid and Child Care eligibility. Specific steps of the good cause determination process are:
 - (1) TA must notify the CSEU that an applicant has claimed good cause at the same time that TA refers the case to CSEU. An applicant who claims good cause is not referred in person to the CSEU while the good cause determination is pending.
 - (2) TA must report an applicant or recipient's good cause claim to the CSEU within two days of the claim. TA may notify CSEU of good cause claims by completing the good cause information in Section II of the [LDSS-2859 - "Information Transmittal"](#) referral form.
 - (3) The good cause claimant has 20 days from the day the [LDSS-4279](#) is signed in which to provide corroborative evidence. The TA worker must, upon supervisory approval, allow a reasonable additional period of time if the worker determines it to be necessary because the evidence is difficult to obtain.
 - (4) Good cause may be corroborated with the following types of evidence:
 - (a) A birth certificate or medical or law enforcement record indicating that the child was conceived as the result of incest or forcible rape;
 - (b) Court or other documents indicating that legal adoption proceedings are pending;
 - (c) A written statement from a public or licensed private social agency that it is assisting the parent to decide whether to release the child for adoption;
 - (d) Court, medical, criminal, law enforcement, child protective services, social services or psychological records indicating that the putative father or absent parent might inflict physical or emotional harm on the child or the caretaker;
 - (e) Medical records indicating the child's or caretaker's emotional health history and present state, or written statements from a mental health professional licensed to practice in New York State indicating a diagnosis or prognosis of the child's or caretaker's emotional health; and/or
 - (f) Sworn statements from individuals (other than the claimant) with knowledge of the good cause circumstances. A "sworn" statement is signed before, and witnessed and signed by, a person who is empowered to administer an oath to the testifier. Persons authorized to administer oaths include notaries public, commissioners of deeds, judges, town justices and justices of the peace.

- (5) TA must examine the evidence submitted by the claimant and, if additional evidence is needed to make a good cause determination, promptly notify the claimant of what specific type of evidence is needed.
- (6) If requested, TA must advise the claimant how to obtain needed documents, and attempt to obtain any documents which the claimant is not reasonably able to obtain without assistance.
- (7) When no corroborative evidence is submitted or available, but the claim is based on anticipated physical harm, TA must investigate the claim if TA believes that, even without corroboration, the claim is credible.
- (8) TA may further investigate and verify any good cause claim when the claimant's statement and evidence are insufficient to make a determination, (i.e., the local district is not satisfied that it has adequate information to decide whether or not good cause exists).
- (9) If TA conducts an investigation it will, if necessary to its determination and approved by a supervisor, contact the putative father or absent parent. Before contacting the putative father/absent parent, TA should consider whether the necessary information could be obtained from another source, and whether the absent parent is likely to be the most appropriate and objective source.

Also, before making such contact, TA must notify and give the claimant the opportunity to:

- (a) Submit additional evidence or information to make contact with the putative/absent parent unnecessary;
- (b) withdraw the application for assistance or request that the case be closed; or
- (c) have the good cause claim denied.

For example: If a claimant alleges that an absent father has threatened to physically harm her, it is not reasonable to expect the absent father to corroborate her claim.

- (10) Prior to making a determination, TA must afford the CSEU an opportunity to review and comment on the findings and proposed determination. Districts must take into consideration recommendations, if any, from the CSEU. If a written referral is necessary, TA may use the [LDSS-2859](#) referral form.
- (11) Pending determination, the CSEU must suspend all paternity establishment and support enforcement activities (including the intake interview of an applicant) for the children to whom the good cause claim pertains. However, child support services for the caretaker's other children should not be suspended.
- (12) The CSEU must update the CSMS IVDJSI screen to reflect that good cause has been claimed by entering the appropriate status code, (e.g., G001, G002, etc).

The CSEU must update the IVDJSI screen whenever the status of a good cause claim changes.

- (13) TA cannot delay, deny, reduce or discontinue assistance pending a determination of good cause for refusal to cooperate, as long as the claimant is complying by furnishing corroborative evidence and information needed for investigation of the claim.
- (14) TA's final determination must be made within 30 days after the claimant signs the [DSS-4279](#), unless the claimant was allowed additional time to provide verification. If additional time was allowed, the final determination must be made within 10 days following the extended due date.
- (15) The TA worker's final determination of whether good cause exists and the basis for the determination must be approved or disapproved by a supervisor, documented in the TA case record, and reported to the CSEU within two business days of supervisory approval. The [LDSS-2859](#) may be used to make the report to the CSEU.
- (16) TA's final determination will be one of the following:
 - (a) Good cause for refusal to cooperate exists and the CSEU cannot pursue paternity establishment or child support. When the basis for good cause is potential physical harm, the determination will be that the CSEU may not pursue paternity or support.
 - (b) Good cause for refusal to cooperate exists but CSEU's efforts to establish paternity and secure support without the individual's participation will not pose risk to the child or caretaker; or
 - (c) Good cause does not exist.
- (17) TA must provide the claimant with written notification of the final determination and the basis for the finding. The notice also must inform the individual that:
 - (a) If TA excuses cooperation, but determines that CSEU activities may proceed, the individual may choose to withdraw the application or request to have the TA case closed.
 - (b) If TA determines that good cause for refusal to cooperate does not exist, the individual may cooperate, withdraw the application, or request to have the TA case closed; but continued refusal to cooperate will result in a sanction.
 - (c) If the individual does not respond or cooperate within five business days, TA must provide notice of intent to impose a sanction as specified in section 11 above.
- (18) The local district's fair hearing officer must notify TA and CSEU of, and give both the opportunity to participate in, any hearing on an individual's appeal of TA's good cause determination and/or non- cooperation sanction. A recipient's timely

request for aid-to-continue pending a fair hearing decision requires the district to stay the proposed action; pending an appeal of a good cause decision, the CSEU must suspend all paternity and support actions.

- (19) TA must review at each recertification each case in which good cause has been determined based on circumstances subject to change.

For example: A good cause claim which was based on potential emotional harm to the caretaker and on caretaker's emotional state six months ago should be re-evaluated at recertification. Workers may use Anticipated Future Action Code 328: "Follow-up on Referral (Other)" as a reminder to review good cause determinations. TA workers must afford the CSEU with an opportunity to review and comment on a proposed redetermination of good cause, and must notify the CSEU within two business days of any change in a good cause decision.

- (20) Good Cause Record Keeping - TA must retain records and submit quarterly reports to the Office of all applicants and recipients who claim good cause and all determinations made. Instructions for completing the required report form ([LDSS-3343 - "Quarterly Roster of Good Cause Claims"](#)) are contained in [99 ADM-5](#).

14. TA's ON-GOING RESPONSIBILITIES

- a. **SUPPORT INCOME** – Upon assignment, the CSEU takes necessary action to redirect support payments to the LDSS by changing the beneficiary of an order already payable through the Support Collection Unit (SCU), or by modifying the order to be made payable to the SCU based upon the assignment. Subsequent to signing the TA application, any support payments received directly on behalf of an individual applying for or receiving TA must be remitted to the SCU (if the SCY has the ability to accept and account for the payment) . The address of the local district's SCU must be prominently posted in all TA and CSEU client reception and waiting areas.
- b. Assigned support is **not** applied to reduce the TA grant. However, assigned support is counted in the gross and net income eligibility tests (first \$100 or \$200 per month of total current support amount is disregarded as applicable). ABEL budgeting instructions and information on the IV-D Indicator are provided below.
- c. Assigned support which is received directly and retained by an TA recipient must be recouped as an overpayment. The overpayment amount is equal to the total amount of support payments retained, minus \$100 or \$200 per month of current support received by the household as applicable.
- d. In order to be characterized as current child support and thereby qualify for the \$100 or \$200 per month disregard as applicable, the money which was received by the household must be payments made pursuant to a court order or voluntary agreement for support which are paid through a child support collection unit (SCU) with verifiable dates of collection.
- e. SNA cases – TA's ongoing responsibilities found in this section also apply to SNA case. See [TASB Chapter 10, Section B](#).

- f. Support sources which cannot be paid directly to the SCU:
- (1) Military dependents' allotments which are paid voluntarily by a serviceperson to dependents generally are not payable to the SCU. If the serviceperson is not a member of the TA household which receives the allotment, the allotment is budgeted as support income. ABEL instructions for budgeting unassigned support and disregarding \$100 or \$200 per month as applicable are provided below. Court-ordered military allotments may be paid to the SCU and treated as assigned support. ABEL budgeting instructions are provided below.
 - (2) If there is no support order, just a voluntary agreement between the parties, or, the payee, the child support order must be established before the SCEU can collect the support payment.
 - (3) Spousal support or alimony is payable to the SCU only when an order for child support is also assigned. Spousal support payments which are received directly by a TA household must be budgeted as described below.

For Example: Patricia Booth applies for TA for herself, her four-year-old daughter, Linda, and Linda's adjudicated father, Bill Walters. Patricia receives \$40 per week alimony from her ex-husband. Patricia, Linda and Bill are determined eligible for FA. Patricia and Bill are both over 21 years of age. Patricia is not referred to the CSEU because her household does not include a minor who has an absent parent or whose paternity has not been established. Also, because no child support payments are assigned, the alimony cannot be collected directly by the SCU. Patricia's \$40 weekly income from alimony is budgeted against her needs.

g. **USE OF SUPPORT AMOUNTS IN DETERMINATIONS OF INITIAL AND ONGOING TA ELIGIBILITY**

- (1) Only current support is considered in TA eligibility determinations. Current support is the amount collected, as determined by its date of collection, which represents payment toward the obligor's court-ordered or voluntary current support obligation for that month. Support collections in excess of a month's obligation amount, e.g., payments on past-due obligation amounts for previous months, are not used in eligibility determinations.

For example: In a case where the court order for current support is \$100 per month, and \$125 is collected, only the \$100 current support is used in the TA eligibility calculation. The additional \$25 collection is applied to the past-due support ledger.

- (2) For the initial assistance month only, current support actually received by a TA household in the month of eligibility determination but prior to the date of eligibility determination, i.e., direct support, is counted as income. This calculation is accomplished in Upstate ABEL by entering the amount of current support received prior to the eligibility date as Other/Unearned Income Source Code "02 - Alimony/Spousal Support (Non-Arrears)" or "06 - Child Support

Payments", as appropriate. Assigned current support which is due after the eligibility determination date in the initial month is entered as source code "13 - Alimony/ Spousal/Child Support Assigned to Agency" ABEL will:

- (a) Disregard the first \$100 or \$200 per month of current support as applicable.
- (b) Apply the remaining direct support and assigned support in the gross income test. If ineligible, the application for TA should be denied, and separate determinations of eligibility for supplemental nutrition assistance program and medical assistance must be made. If eligible, ABEL will apply the countable direct support to reduce the TA deficit amount for the initial month.

Note: There are circumstances under which the Support Collection Unit (SCU) cannot accept and account for the support that is received directly by a family. When the support recipient has attempted to turn over the assigned support, but the SCU is unable to accept or account for it, the support must be budgeted against the TA needs until such time as the SCU can accept and account for the support collections. The \$100 or \$200 disregard must be given as applicable.

- (3) Except as noted in (b) above, beginning with the first full month for which the household receives TA, the TA worker must calculate and authorize a new ABEL budget with the amount of the current support obligation entered as assigned support: Upstate source code "13". A copy of the TA budget results screen must be provided to the recipient whenever an ABEL budget is recalculated and a notice is sent to the recipient.
- (4) In a TA case which includes an essential person (EP), the TA worker must ensure that support collected on behalf of the TA household members is not applied to the needs of the EP.

Conversely, support which is collected on behalf of an EP must not be applied against the needs of the TA household members.

This means that if the support collected is sufficient to meet the needs of the TA household on whose behalf support is collected, and the support will continue at that rate, the TA household must be closed. Change income source "13" to "06" to produce the correct excess income budget. This is done after the EP is removed from the FA case and opened on a SNA case.

If the support is collected on behalf of the EP, and is sufficient to meet the EP's needs, the EP must be removed from the FA case, and the EP's case closed due to excess income after appropriate, timely, and adequate notice is provided.

- (5) Subsequent to eligibility determination, any assigned support payments which the district verifies were received and retained by a TA recipient must be recouped (after disregarding the first \$100 or \$200 per month of current support as applicable) using Recoupment Type Code "5 - IV-D Payment".

In order to be characterized as current child support and thereby qualify for the \$100 or \$200 per month disregard as applicable, support which was received by the household but not reported, must be payments made pursuant to a court order or voluntary agreement for support which are paid through a support collection unit (SCU) with verifiable dates of collection.

- (6) A TA recipient who fails to cooperate with support enforcement, as evidenced by his or her continued acceptance and retention of assigned support payments, is subject to sanction until compliance.
- (7) For a TA household which is owed and receiving alimony/spousal support only, the support (current and arrears), will count as income. In this instance, the amount of current support actually received is entered in the ABEL budget as code "02 Alimony/ Child Support". The amount of payments on support arrears is entered in the ABEL budget as code "17 – Alimony/Spousal Support (Arrears)".

h. MONITORING RECIPIENTS' CONTINUED ELIGIBILITY TO RECEIVE TA VIA CSMS 8649 REPORT

- (1) TA workers must redetermine the ongoing TA financial eligibility of each household which is identified, in the following reports, as potentially ineligible due to assigned support amounts:
 - (a) ABEL budgets which include support amounts and generate a TA "Surplus" message, or a "Warning" message; or which include a monthly amount of assigned support which exceeds the TA deficit amount by at least \$100 or \$200 as applicable.
 - (b) Cases appearing in the monthly IV-D MRB/A (child support pass-through mass rebudgeting/authorization) "eligibles" and "exceptions" lists with a "TA WARNING" message, for which total current support collected from all respondents associated with the case in the previous month exceeds the TA deficit in the ABEL budget which is stored as of the date of the IV-D MRB/A.
 - (c) Cases included in the monthly CSMS 8649 Report: "Obligation and Collections Greater Than Assistance Granted". The CSMS 8649 report has been revised to identify only those TA cases for which the sum of all current support obligations and collections (minus tax offset amounts) for the month exceed the TA grant amount plus the support disregard amount. Section "A-1" of the CSMS 8649 Report is based on a four-weeks-per-month factor, and Section "A-2" is based on multiplying weekly support amounts by five and biweekly amounts by three.
 - (d) On both sections of the CSMS 8649 Report compare support amounts to both the TA deficit, for TA eligibility determinations; and to the TA deficit minus any recoupment amount, for excess support calculations.
 - (e) The CSMS 8649 Report is based on the ABEL budget which is stored/ authorized as of the date of the report pulldown, and is available by the first

Friday of every month. Upstate districts' BICS operators must print the monthly CSMS 8649 for immediate distribution to TA workers.

- (2) For each case identified in the above reports, TA workers must review the household's continued financial eligibility to receive TA, as follows:
- (a) Obtain from the district's support collection unit (SCU), for each support obligor associated with the TA case, the obligation amount and frequency for current support for the month in question, the amount of support collected from each of the obligors for the month and whether support continues to be collected. For cases listed in the CSMS 8649 report, the SCU will provide their information when the CSMS 8649 is processed.
 - (b) Recalculate the household's TA eligibility for the month in question, by entering the support collections up to the obligation amounts for each of the support obligations, in an ABEL budget using code "02" or "06" Upstate.
 - (c) Although the 8649 report is based on four- and five-week months, TA workers must use support amounts and frequencies as specified by the court orders and reported by the SCU; ABEL will convert weekly and biweekly amounts to monthly amounts using a $4 + \frac{1}{3}$ -weeks-per-month conversion factor.
 - (d) If the ABEL TA budget calculation results in a deficit, the household was eligible for the month and the test budget is not stored in ABEL. Check the current stored ABEL budget to ensure that the correct support obligation amounts are included as code "13". If the support obligation amounts have changed, send a copy of the new ABEL budget to the recipient with the appropriate notice.
 - (e) If the ABEL TA budget calculation using actual collection amounts with code "02"/"06" generates a "Surplus" message, the household was ineligible in the collection month. If the SCU has advised that support continues to be collected in the current month, the household continues to be ineligible for the second consecutive month and is reasonably assured of a stable income source for future months.
 - (f) For cases with continued ineligibility based on support collections, store the "Surplus" ABEL budget, send timely notice of intent to discontinue TA and initiate TA case closing action. The TA worker must take care to use closing reason code "E32: Excess Income - Support" in order to generate an automated client notice (in districts that are using CNS for PA closings and denials) and medical assistance (MA) extension.

Note: These reports must be reviewed and appropriate action taken when received. Failure to do so will result in recipients not receiving money they are entitled to receive, lead to time consuming desk reviews, and possibly cases remaining open on TA when they should be closed for excess income.

For Example: Rose Fleur receives TA for herself and her daughters Iris and Myrtle. Ms. Fleur's TA case is listed in Section A-2 of the CSMS 8649 report for July. The TA worker receives the report on August 5 and contacts the SCU worker for support obligation and collection information.

The SCU informs TA that Iris' father is court-ordered to pay \$20 per week for current support and had made five payments in July. Myrtle's father made three payments of \$50 each toward his \$50 biweekly obligation for July's support. The TA worker recalculates the July TA budget by entering the support collections as code "06", in the amounts of \$20 weekly and \$50 biweekly. ABEL converts the collections to monthly amounts based on 4-1/3 weeks per month and calculates eligibility/deficit or ineligibility/surplus.

i. CALCULATING, ISSUING AND BUDGETING EXCESS SUPPORT PAYMENTS

- (1) Each month, after the disregard and pass-through of the first \$100 or \$200 per month of court-ordered current support as applicable, the remaining current support is applied toward reimbursement of assistance granted to the TA household on whose behalf the support is collected. If the amount of current support which is collected in a month, up to the court-ordered obligation amount, exceeds the disregard plus the TA payment for that month, the excess current support must be paid to the TA household.

Instances in which excess current support payments must be issued are rare, but could occur in the following circumstances:

- (a) The household is ineligible for TA but the case has not yet been closed. A household which is receiving aid-continuing pending a fair hearing on any issue, however, is not entitled to receive their excess support payments until after a hearing determination is made.
 - (b) The household was ineligible for TA in the collection month but, due to changed circumstances, the household is again eligible and the case remains open.
 - (c) The household is eligible, based on 4-1/3 weeks per month, but current support collected in a five-week month exceeds the amount of the pass-through and the TA grant.
 - (d) The household is eligible but, due to subtraction of a recoupment amount, the TA grant is less than the current support collected (minus the pass-through).
- (2) The CSMS 8649 report, "Obligation and Collections Greater Than Assistance Granted", assists in identifying cases which potentially are owed excess current support. The CSMS 8649 must be printed by Upstate districts' BICS operators by the first Friday of each month and immediately distributed to TA.

TA must annotate Sections "A-1" and "A-2" of the CSMS 8649 with the actual amount of TA paid to each listed case during the collection month to which the

report applies, and provide the annotated report to the SCU within three days, but no later than the 10th day of the month.

Include the following:

- (a) Direct assistance payment amounts issued in the calendar month (Upstate BICS LCRDP2 or NYC Benefit Issuance - TA), i.e., grant amounts after subtraction of recoupments. Include benefits which were available to the recipient, regardless of whether the benefits were redeemed and regardless of the period covered by the payments.
 - (b) Indirect assistance payment issued (BICS LCRIP3/Benefit Issuance – TA), regardless of the period covered by the payments.
- (3) The SCU must calculate the amount of excess support, if any, which is owed to the TA households listed in the annotated 8649, write in the amounts and return the CSMS 8649 to TA. The SCU must return the 8649 to TA by the 12th day of the month, annotated with the following information:
- (a) For each case, the amount and frequency of the obligation for current support (e.g., "\$30 per week") and whether support continues to be collected. TA will use this information to evaluate continued TA eligibility; and
 - (b) for cases with excess support, the amount of excess current support and excess support arrears, if any, to be paid.
- (4) TA must issue the excess current support and excess support arrears payments in the amounts indicated in the annotated CSMS 8649. TA's authorization of the payments must be completed in WMS by the 15th day of the month. The following codes will be used:

Upstate WMS

TA payment type "D3 - Excess Current Support", Special Claiming Category Code "N - Non-reimbursable" is required.

If the TA case has already been closed, TA workers should issue the excess support payments in Upstate WMS using closed case maintenance (WMS transaction type '14'). For Upstate cases which are clocking down to closing, TA workers should use transaction type "05 – undercare maintenance" and reason code "966 - other clockdown closing change" on screen one and enter the single issue payment lines on screen six.

NYC

TA single issuance code "71 – Excess Current Support"

- (5) For each TA case which receives an excess support payment. TA must calculate a new TA budget for the month following the month of issuance, with the payment included as Upstate other/unearned income source code "24 –

Excess Support Payment" or NYC income source code "71 – "Excess Support Payment".

If a decrease in the grant or surplus results, provide timely notice to the household.

For cases which are not closed, TA must change or remove the excess support income from the TA budget for the second month after excess support payment issuance, to correspond to a new or zero amount of excess support paid in the preceding month.

15. EXCESS SUPPORT PAYMENTS

Since November 2005 the calculation and issuance of excess support payments has been automated. The following explains the automated process and required worker action. **The automated process measures child support collected against countable assistance over the life of the TA case. It does not calculate and issue excess current support as discussed above in [Section 14-g](#).**

- a. The automated process runs monthly at the end of the IV-D accounting month. New York State used the IV-D accounting month which ends on the last Friday of each month except for December when it ends on the last day of the month.
- b. The automated process identified assistance paid to or on behalf of the family that is eligible to be offset by support collections. The automated process identification of assistance paid to or on behalf of the family is from the date the case first opened or the date of birth of the oldest child, whichever date is later.
- c. The automated process will identify lottery winnings of the TA family which, as a result of the lottery match, have been used to repay TA.
- d. Repayments not considered in the automated process such as collections on liens, lawsuit settlements, etc., must be accounted for in reducing the total amount of assistance which has not yet been repaid.
- e. While not included in the amount of unreimbursed assistance picked up through the automated matches with WMS, assistance paid to or on behalf of the family while the mother was pregnant is also eligible to be offset by support.
- f. Any additions or reductions will be added manually upon notification of NYS DCSE by local district staff.
- g. When support collected and retained by the LDSS exceeds the unreimbursed assistance, the excess is issued within two business days following the month in which the excess was collected.
- h. The general process for the identification and distribution of an excess support payment is as follows:

- (1) When, as part of the automated process, the individual who is owed the excess support is found to have an active TA case in the district that owes the support, the payment will automatically be issued to the individual's Electronic Benefit Transfer (EBT) account and a notice will be sent to the recipient. (See section (1) below).
- (2) When an individual who is owed excess support is inactive for TA in the district that owes the support, CSMS will pass the CSMS address to WMS and a check will be issued to the individual if the address is determined to be a reliable address. An address will be considered reliable when the individual was sent support through the Support Collection Unit (SCU) within the two prior months and there is no evidence that the payment was undeliverable or not received. (See section (3) below).
- (3) When no active TA case is found in the district which owes the excess support, and no child support has been sent to the family within the two previous months by the district's SCU, an address verification letter will be sent to the Child Support Management System (CSMS) address. (See section (4) below)

16. CASES FOUND ACTIVE FOR TEMPORARY ASSISTANCE IN THE DISTRICT THAT OWES THE EXCESS SUPPORT

a. Payment

When an active TA case is identified as being entitled to an excess support payment, the payment will be authorized on WMS and issued to the individual's EBT account unless it is an exception case (See [section E below](#)).

For those cases that appear on the exception report, the LDSS will resolve the exception and write a single issue pay line for deposit in the case's EBT account in the amount of the excess support payment. Use the appropriate pay type: Upstate, "D4 - Excess Support Arrears" (with special claiming code "N"), or NYC, "72 - Excess Support Arrears". The amount of the payment will be found on the most recently issued "Excess Child support – Exception Report".

b. Upstate

If the payment is issued systematically, the individual will receive the notice "Excess Support (Sys. Gen.) Active Case" (CNS Reason Code J65).

When manually issuing the excess support payment to an active TA case that was an exception to the mass reauthorization (MRA), LDSS workers must provide the notice "Excess Support (Worker Authorized) Active Case" (CNS Reason Code L65).

c. NYC

If the payment is issued systematically, the individual will receive the notice "Excess Support (Sys. Gen.) Active Case" laser letter

When manually issuing the excess support payment to an active TA case that was an exception to the mass reauthorization (MRA), LDSS workers must provide the manual notice “Excess Support (Worker Authorized) Active Case” ([LDSS-4864](#)).

17. TA CASE CLOSED – RELIABLE ADDRESS FOUND IN CSMS

a. Payment

When a reliable address is found in CSMS, the address will be passed to WMS and a check will be issued systematically through the closed TA case in the district which owes the support. A CSMS address will be considered reliable when a support payment was issued to the individual at that address within the prior two months and there is no evidence that the payment was undeliverable or not received.

Upstate, if the closed case has been migrated, it will appear on the exception list and the local district which owes the excess support must do an open/closed to issue the check. The local district must be sure to use the same TA case number as is associated with the child support account or the disbursement will not be accounted for, and the case will continue to show that excess support is due and owing to the individual. If the TA worker responsible for issuing the payment is unsure about the appropriate case number to use, the worker must confer with the district IV-D unit.

b. Notices

(1) Upstate

The individual will receive the system generated notice: “Excess Support – Payment Auth. (Sys. Gen.) – Closed Case” (CNS Reason Code A66).

If the case has been migrated, a manual notice must be issued.

(2) NYC

The individual will receive the “Excess Support (Sys. Gen.) Closed Case” laser letter. The text is the same as is found on the notice: “Excess Support - Worker Authorized - Closed Case (NYC)”. ([LDSS-4865](#))

18. ADDRESS VERIFICATION LETTERS

a. Initial Address Verification Letter

The letter, “Excess Support Address Verification (Sys. Gen.) Closed Case” will be sent by OTDA via the Client Notices System (CNS) (Reason Code A65) upstate and by laser letter in NYC. The letter will go to individuals, whose cases are not currently active for TA in the district which owes the support, unless CSMS in that district has a reliable address. A reliable address is assumed when support payments are made to the individual within the two prior months, and there is no evidence that the payment was undelivered or not received. The address to which the letter will be sent is the last known address on the CSMS. The address verification letter will inform the individual that a payment is due to them, and why, but will not specify an

amount. The individual is asked to sign and enter certain information, including his or her social security number (SSN), and mail back the second page of the address verification letter.

Upstate, the address verification letter also asks for the individual's date of birth as this is a required data element necessary to get a clearance report if a closed case has been migrated. The first page of the letter is intended to be retained for the individual's records.

b. Address Verification Letter Received – Complete

When the letter verifying the individual's address is received by the LDSS designated TA unit or worker, the worker must check to be sure that the client signed the letter and entered his or her Social Security Number (SSN). The worker must verify that the SSN given by the client on the address verification letter matches the individual's SSN on WMS. If the SSN matches, the LDSS must update the address. If the address on WMS is different from the verified address and issue a check using standard Benefit Issuance and Control System (BICS) procedures for issuing manual checks. The pay type must be: Upstate "D4 – Excess Support Arrears" (with special claiming code "N"). In NYC, pay type "72 – Excess Support Arrears" is used. The payment FROM date is the 1st of the Month of the CSMS file run and a TO date is the last day of the month of the CSMS file run. The payment amount, and payline dates will be found on the "Excess Child Support – Exception Report".

Although the month is which the address verification letter was sent will be found on the address verification form that the individual returns to the LDSS, the district must use the most current exception report because the amount due may have changed. The amount may have changed due to additional support collections, or the identification of additional payments eligible to be offset by support, or repayments from sources not identified in the automated process.

WMS edits have been revised to allow the excess support payment to be made by closed case maintenance, no matter how long the case has been closed. For upstate cases, if the closed case has been migrated, it will appear on the exception list and the local district which owes the excess support must do an open/close to issue the check. The local district must be sure to use the same TA case number as is associated with the child support account or the disbursement will not be accounted for and the case will continue to show that excess support is due and owing for the individual. If the TA worker responsible for issuing the payment is unsure about the appropriate case number to use, the worker must confer with the district IV-D unit.

In addition to updating the verified address on WMS, the verified new address must be updated on the CSMS, if there is still an active CSMS case, and the verified address is different than the one on CSMS. This address change will not be systematically updated on CSMS via the IV-A/IV-D daily Interface Report. Local district and NYC TA units must determine how CSMS will get the information.

For example: TA may batch all address verification letters received and processed, and send the batch to IV- D for them to determine which cases are active and for them to update the addresses on CSMS.

c. Address Verification Received – Incomplete

If the address verification letter is received by the LDSS, but the letter is not signed by the individual, and/or the SSN is not given or is incorrect, the district must contact the individual to inform him or her that the necessary missing information must be provided. If there is any doubt about the identify of the individual, the LDSS must ask the individual for additional verification necessary to document the individual's identity to the district's satisfaction.

Note: The individual must provide the correct SSN

d. Address Verification Not Received

In the event that the address verification letter is not received from the individual, no further action is required by the local district at that time. CSMS will pass the case to WMS every month until a disbursement is issued. However, no additional address verification letter will be sent unless the CSMS address is different from the address to which the first address verification letter was sent.

e. Follow-up Address Verification Letter

Closed Case Exceptions that fail to respond to their initial contact letter are matched to the WMS data base statewide (including NYC), twice yearly, provided the case is still owed an excess support payment. This match is to identify if there are any TA, SNAP, MA or HEAP cases on WMS with a more recent address that can be used to send an address verification letter or the excess child support payment to the Custodial Parent/Caretaker. If the match is to an active TA or SNAP case, the address will be automatically entered on CSMS and marked as "Validated". The case will then go through the Excess Child Support payment process again, as described above. Cases identified as Non-Migrated WMS Closed Cases with a "Validated" CSMS Address will then be automatically processed to receive their excess child support payment, in accordance with procedures describe above for such cases. Cases identified as Migrated WMS Closed Cases with a "Validated" CSMS Address will appear on the EXCEPTION Report with exception reason "MIGRATED WKRK DO BENF" and must be issued their excess child support payment in accordance with procedures described above for such cases. If the case match is other than an active TA or SNAP case, an automated address verification letter will be sent.

f. Notices

Upstate

The heading on the address verification letter is the usual CNS notice heading. The heading has a unique office/unit/worker identification; EXS/CHILD/SUPPT. The name and telephone number associated with that identification is the contact person for excess support as determined by the LDSS and that person's telephone number. If there is no TA default, the district default number will be referenced.

When a valid address is found and the payment will be issued, LDSS workers must produce the appropriate notice when issuing the excess support payment by using CNS reason code K65. That code will produce the “Excess Support (Worker Authorized) Closed Case” notice.

If the case has been migrated, a manual notice must be issued.

NYC

The address verification letter is a laser letter and has the standard laser letter heading. The second page of the address verification letter that the individual will return has the designated identification.

When a valid address is found and the payment will be issued, NYC workers must produce the appropriate manual notice when issuing the excess support payment. This notice is “Excess Support – Worker Authorized – Closed Case.” ([LDSS-4865](#)).

19. Client Inquiries Including Requests for an Excess Support Review

- a. LDSSs must identify a contact unit or individual for handling inquiries regarding excess support. The contact unit or individual must, at minimum, be able to refer and monitor inquiries.

Note: Districts should include the contact person’s name and telephone number in the CNS contact table for EXS/CHILD/SUPPT and update the contact name and telephone number as necessary.

- b. Reception staff, telephone staff, eligibility staff and child support staff must be informed about this project and about the correct contact person or unit so that they will recognize the issue when a client makes an inquiry and will route the call, the letter, or the visitor appropriately.
- c. The individual may not have a fair hearing on the amount of the excess child support payment but is entitled to a district level review and, if the matter is not resolved locally, a State second level Excess Support Review.

For Example: The individual may claim the excess support payment should be greater because the local district recovered TA payments through sources other than those identified through automated means in the project. OTDA identified payments issued (with exception - see section d below), and reduced these by lottery match offset repayments of TA.

- d. OTDA is unable to identify in an automated fashion other repayments such as lawsuit settlements, collections on repayment agreements or judgments, liens on real property, etc. Any additional repayments or recoveries of assistance must be identified by TA and provided manually to NYS DCSE by local district staff (see section e below). The URA amount on CSMS will then reflect these reported manual updates.

- e. Recoupments were already taken into account since OTDA considers only issued payments.

20. **EXCEPTIONS** – The automated issuance will not be done if one or more of the following exception circumstances exist.

TA

- a. No WMS case
- b. Invalid case type
- c. Application status
- d. Pending status
- e. Invalid PA Authorization MMDDYY
- f. Case denial
- g. Closed case
- h. Migrated worker isssu benefit
- i. Migrated wrong case type
- j. Migrated CSMS Address
- k. Migrated No Address
- l. No available pay line

CSEU

- a. Excess support payment in excess of \$5,000.00
- b. No Identified IV-A case number
- c. Invalid Dates of TA Payments

For additional information about the exceptions, see the Dear WMS/CNS Coordinator letter dated October 20, 2005.

21. **LDSS ADJUSTMENTS**

- a. LDSS Identified Payment Eligible for Offset

In certain instances, the LDSS will determine that the amount of TA eligible for off-set is greater than the OTDA identified amount. In that case, the LDSS must

immediately inform the DCSE so that CSMS can be updated to reflect the actual amount of unreimbursed assistance.

b. Continuing Responsibility to Identify and Issue Excess Support Payments

The automated process does not take into account repayment made from other sources such as lawsuit settlements, SSI interim assistance reimbursement, collections on judgments, liens, repayments from lump sum, etc. Some cases, whether or not identified in the automated process as being owed excess support, may still be entitled to an excess support payment, or a greater excess support payment, if repayments of TA by means other than child support, recoupment and lottery offset have been received.

Districts continue to have the obligation to insure that all sources of repayment are considered together and compared to the total amount of TA provided. Not all TA payments qualify to be offset by support payment.

For example: One-time emergency payments made 12/96 or later are not considered assistance and cannot be offset by support payments. However, recoveries on liens, lawsuit settlements, etc. must be applied against all TA payments, including one-time emergency payments. If, after all sources of repayment have been applied as is appropriate for the repayment type, there is more total repayment than TA provided, the excess must be paid to the family. Use the appropriate pay type: Upstate “D4 – Excess Support Arrears” (with special claiming code “N”) or NYC, “72 – Excess Support Arrears”.

Note: If there have been repayments (other than by lottery or recoupment) that were not previously considered but which reduce the amount of unreimbursed assistance, DCSE must immediately be informed so that CSMS can be updated to reflect the actual amount of unreimbursed assistance.

c. Adjusting Existing Overpayments

- (1) Overpayments must be terminated to account for the full repayment of TA by child support. The only exceptions are amounts owed to the LDSS for payments which were not offset by child support.
- (2) To help LDSSs to meet this requirement, the CAMEXC-RPT, “CAMS Report of Debts on Excess Child Support Cases” was developed for districts outside NYC.
- (3) The CAMEXC-RPT, “CAMS Report of Debts on Excess Child Support Cases” will be issued following the end of the IV-D accounting month. The IV-D accounting month ends on the last Friday of the month except in December when it ends on the last day of the month. The report will be issued monthly even if a district has no cases to report in the month and the report will continue until further notice.
- (4) When an excess support arrears payment has been issued or determined to be owed, then all TA payments eligible to be offset by assigned support have been

repaid in full. This includes some overpayments that have resulted in the debt on CAMS for TA. When this report is received, districts must review the CAMS record to determine if the debt is the result of an overpayment that has been repaid by child support.

- (5) If a payment has not been offset by support, and is the payment that resulted in the debt, then the debt has not been repaid and should not be terminated. However, if the overpayment resulted from a payment that was offset by child support, the payment must be terminated. The following examples will illustrate:

For Example: The debt is the result of a utility arrears payment made for a period 12/96 or later. Child support will not have been applied against such a payment so the debt is not terminated.

For Example: The debt resulted from an overpayment in a month due to unreported income. Since all of the assistance payments in the month of the overpayment have been repaid (offset by support), the debt has been repaid and must be terminated.

- (6) If it is determined that a CAMS debt must be terminated, claim status reason code of 73 - Excess Child Support should be used.
- (7) Each month, the report will contain new excess support cases, as well as prior month excess support exceptions, that have yet to be resolved (WINR-4402 cases). Even for cases that continue to show as exceptions, if the debt is one that should be terminated, use of claim status reason code 73 will result in the debt falling off the report.
- (8) The CAMS Report of Debts on Excess Child Support Cases reports only cases with debts on CAMS. Local districts must use the Excess Child Support Eligible Report (WINR 4401) and the Excess Child Support Exception Report (WINR-4402) reports to identify cases that must be maintained or terminated.
- (9) In NYC, an automated process was developed that terminates debts as appropriate for cases that have received an excess support arrears payment.
- (10) Cases not appearing on any of these reports (upstate or NYC) may be entitled to an excess support payment, or a greater excess support payment, if repayments of assistance have been made from sources such as lump sums, SSI Interim Assistance reimbursement, lawsuit settlement, lien execution, etc.
- (11) If the LDSS has a pending claim or judgement against real or personal property of the recipient/former recipient, those claims must be adjusted to reflect the repayment of TA.

d. Excess Support Review

- (1) The individual may not have a fair hearing on the amount of the excess child support payment but is entitled to a district level review. See 18 NYCRR 347.25

- (2) The LDSS CSEU and TA Unit will conduct the review, and the TA unit must issue a written decision to the individual who has requested the excess support review within 45 days of a written request for a review.
 - (i) The individual may claim that the amount of assistance considered is too high. Because, in some instances an estimate of assistance was used to compute the URA, the LDSS should complete an audit of the assistance paid to the family.
 - (ii) The individual may also claim that the excess support payment should be greater because the local district recovered TA payments through sources other than those identified through automated means in the project. Since OTDA is currently unable to identify, in an automated fashion, other repayments such as lawsuit settlements, collections on repayment agreements or judgments, liens on real property, etc.; such repayments may have been made by an individual and must be investigated as part of the district level Excess Support Review.
- (3) Individuals may request a State Second Level Excess Support Review conducted by OTDA when they have requested an excess support review by the LDSS and are dissatisfied with the written response by the LDSS. The individual must make that request to OTDA within 20 days of the date of the LDSS written decision resulting from the first level review.

Note: Detailed information regarding the desk review process is found in [06 ADM-16](#), “Desk Reviews of the Distribution of Child Support Payments.”

e. Treatment of the Excess Support Payment for Recipients

- (1) Temporary Assistance: Office Regulation 352.31(a)(8) provides that excess support must be counted as income in the month, following the month, in which the payment is received by the household. The payment must be issued within two business days following the end of the CSEU accounting month. The end of the CSEU accounting month is the last Friday of the month, except for December when the end of the accounting month is December 31st.

In some months, the last Friday in the month will be so early that the excess support payment will be available in EBT in the same month that the excess is identified.

For example: In 2005 the last Friday in August is the 26th. Two business days following the 26th is Tuesday the 30th. In such months, it would not be possible to provide timely and adequate notice and affect the budget change by the month following the month in which the payment is received by the household (in this example, September). Then, an overpayment must be calculated.

- (2) If the excess support payment, combined with other countable income in the month, is greater than the family’s standard of need, then the excess support payment must be treated as a lump sum. Please refer to [03 ADM-10 “TA Policy](#)

Changes: Lump Sum Set Asides and Recourse Two-year College Fund Exemption”.

- (3) Supplemental Nutrition Assistance Program: Lump sums are not countable for Supplemental Nutrition Assistance Program. However, in the month following the month of receipt, the remaining money will be considered a resource.
- (4) Medicaid: Medicaid treatment of excess child support payments depends on the category of the recipient.
 - (a) For Low Income Families, ADC-related Medically Needy and Federal Poverty Level applicants/recipients, all excess support payments must be budgeted as income in the month following the month the payment is issued and as a resource thereafter.
 - (b) For SSI-related applicants/recipients, excess child support collected by a state and forwarded to a family is unearned income to the child in the month the payment is received. One-third of the amount of a child support payment made to or for an eligible child is excluded. If payment is made for several children, a per capita portion of the payment is income to the SSI child.

f. EXCESS SUPPORT AND CHILD ASSISTANCE PROGRAM (CAP) CASES

For districts that participate in the Child Assistance Program (CAP), these cases are subject to the excess support process. Before a district issues a quarterly child support reconciliation payment (K3-CAP Support Reconciliation) on a CAP case, the district must review the period covered by the quarterly report to see if an excess child support payment was previously issued through the mass re-budgeting process and not duplicate any part of the excess support payment through the manual CAP quarterly reconciliation process.

Payments Excluded From the Calculation of Assistance

- (1) There is a difference in the payments that are considered in the calculation of assistance before December 1996 and after. Since December, 1996 New York State has been operating under the approved TANF state plan and there is a distinction between assistance and non-assistance. Federal child support rules (OCSE-AT 88-10) direct states to exclude non-assistance from consideration for the child support offset.
- g. Client Notice System (CNS) codes used for changes or closing of TA cases will trigger appropriate Medicaid notice language and systems extensions. Depending on the circumstances of the change or closing, Medicaid may be extended for: the 4-month child support extension, the Rosenberg extension to re-determine Medicaid eligibility, or 6 months for Transitional Medical Assistance. Also, when appropriate, TA CNS closing codes will continue Medicaid unchanged.
- h. Requesting Information

TA has an ongoing responsibility to ask recipients for new and changed information concerning putative fathers and absent parents. As the local districts is the first and most frequent point of contact with recipients, and as the determiner of ongoing TA eligibility, the TA worker is best able to remind recipients of the requirements and benefits of cooperating with support enforcement activities. The potential payoff-income from child support is a major component of self-sufficiency, particularly in light of time limited cash assistance. Often a recipient has access to vital information that can save SCU months of investigation and location efforts, and leads to earlier establishment of paternity and support obligations.

- (1) To reinforce recipients involvement in the support enforcement process, TA must question recipients regarding putative fathers and absent parents no less frequently than at each recertification. No recertifying TA recipient should leave the absent parent information on the [LDSS -3174](#) blank, unless there is no absent parent. TA workers must require that the head of household enter all required information, or write “unknown”, for any information that cannot be provided.
- (2) In addition to asking the support related questions included in the recertification form ([LDSS-3174 sections 12 and 13](#)), TA examiners may ask appropriate and specific questions such as the following:
 - (a) What is Suzie’s father’s social security number?
 - (b) Do you have copies of decisions in paternity adjudication or support order proceedings? If not, in what court where the orders made?
 - (c) When did you or Suzie last hear from Suzie’s father?
 - (d) Where is he living now?
 - (e) Where is he working?
 - (f) What other income does he have?
 - (g) Who else (his family or friends) might know where he is or where he is working?
 - (h) When you need to contact him, do you have a telephone number where he can be reached?
 - (i) Based on things you remember him saying or doing, to where do you think he might have moved?
 - (j) Does he call or send Suzie gifts or cards? If so, from where are the calls made or mail sent from?
 - (k) Does he send money for Suzie?

- (l) If he is not providing health insurance for Suzie, can he obtain it through his job?
- (m) What have you heard about his whereabouts from his family or friends?
- (3) TA must encourage recipients between recertifications to report any new or changed information immediately. TA must promptly refer all information to the CSEU so they can follow-up on leads while they are fresh. TA refers recipients new or changed putative father/absent parent information to CSEU on the [LDSS-2859](#) "Information Transmittal" form.
- (4) TA workers must encourage recipients who have been sanctioned for non-cooperation with child support requirements to take necessary actions to end the sanction. Workers should discuss cooperation with sanctioned recipients no less frequently than at each recertification.

22. ACTING ON CSEU INFORMATION AND REQUESTS

- a. **ACTING ON CSEU INFORMATION** – The CSEU receives, for referral to TA, monthly reports of TA households for whom current support collected equaled or exceeded the TA deficit amount. Promptly upon receipt of information from the CSEU, that current support exceeds TA granted, TA must determine whether the household would remain eligible for TA if the household received the support directly.
- b. TA also must redetermine ongoing TA eligibility when notified by CSEU that an absent parent has returned to a TA household. However, TA cannot close a TA case based on a parent's return until all of the following actions are completed:
 - (1) The household must comply with filing unit requirements. Generally, the returning parent must apply for assistance and the parent's income must be counted against the TA budget for the household which includes that parent's minor dependent children;
 - (2) The household's financial eligibility for TA must be redetermined based on the inclusion of the returning parent's income and resources (or the household will be ineligible due to its failure to comply with filing unit or verification requests); and
 - (3) The household's category of assistance must be redetermined in light of the absent parent's return.

For example: The returning parent may have a sixty-month count greater than the count currently on the case, or the case may have an existing time limit exemption that will have to be re-examined since a second parent has entered the household.

23. SYSTEMS IMPLICATIONS

a. WMS INSTRUCTIONS

- (1) WMS IV-D Indicator Code

- (a) A IV-D Indicator Code of "Y: IV-D Case" or "X: IV-D Case to be Excluded From IV-D Monthly Mass Authorization" must be entered in screen 1 of the LDSS-3636 or LDSS-3209 for each TA case which includes a minor whose paternity has not been legally established or who has an absent parent. The "X" is used to prevent automated authorization of the pass-through payment and causes an Exception Report in the IV-D MRB/A. It is used at worker discretion.
- (b) For a TA case which is not required to be referred to the CSEU, the IV-D Indicator must be coded "N: Not a IV-D Case".
- (c) To ensure that IV-D payments are not withheld during the 45-day waiting periods for SNA (Case type 12, 16, or 17), a new IV-D Indicator of "P- Pending 45th Day from Application" has been created. This change was necessary in order to systematically inform CSMS that during this 45-day pending period, child support must continue to be forwarded to the applicant. Previously, the change to the status of the client prevented disbursement of support payments to the client, even though there was no cash assistance being issued. When opening Case Types 12, 16, or 17, a IV-D indicator of "N" or "P" must be entered. If a case type 12, 16 or 17 has a IV-D indicator value of "P", this "P" must be automatically changed to a "Y" after the 44th day, in a system generated transaction. The case reason code generated will be "Y34-IV-D Ind changed to "Y".
- (d) If the PA/SNAP code = 01 (Authorized for PA and SNAP), the PA/SNAP reason code will be generated as "Y20-PA Benefit Not Changed - No New Budget). If the PA/SNAP code is not =01, then the PA/SNAP Reason Code will be left blank. The Notice Indicator will be set to "N" (No Notice). The Transaction Type will be "05-Change", and a normal authorization number will be generated.
- (e) For a TA case in which only a referral for paternity establishment is required, the IV-D Indicator must be coded "D-Refer for Paternity Establishment Only".

b. ABEL INSTRUCTION

- (1) Sanctioned individual(s) are included in the household and case member count when preparing an ABEL budget. The "IV-D" field on the ABEL input screen is used to indicate the number of individuals (1, 2 or 3) who are non-compliant with child support enforcement requirements.

ABEL will calculate a reduced monthly needs amount. All of the non-compliant individual(s) countable income should be included in the ABEL budget for the case.

ABEL logic performs computation in the following sequence:

- (a) three-generation calculation
 - (b) gross test (185%)
 - (c) gross test (poverty level)
 - (d) 25% IV-D sanction reduction
 - (e) net income test
 - (f) prorated sanction reduction
 - (g) recoupments
 - (h) restrictions
- (2) For TA SNAP budgets with a "FROM" date of October 19, 1998 or later, entry in the "IV-D" field of the ABEL TA input screen will result in calculation of the SNAP budget including the pre-sanction TA grant as income.
 - (3) For ABEL TA budgets, the following "Other/Unearned Income Source" Codes for support payments should be used as appropriate:
 - 02: Alimony/Spousal Support (Non-Arrears)
 - 06: Child Support Payments
(not assigned)
(also used for unassigned military dependents' allotments when the service person is not a member of the TA household)
 - 10: GI Dependency Allotment
(not assigned; no disregard - used when service person is TA household member)
 - 13: Child/Spousal Support assigned to Agency

17: Spousal Support - Arrears (CT 16, 17, 31, 32)

Note: When the amount of assigned support (minus the disregard) is greater than or equal to the calculated budget deficit, or greater than or equal to the calculated surplus in a Gross Income Test failure, ABEL will generate a "W" in the Surplus/Deficit (S/D) field as a warning that the worker should further investigate the household's eligibility for TA.

(4) Erroneous pass-through payments and overpayments resulting from assigned support payments being received directly and retained by a TA recipient (other than unassigned support which is budgeted against TA needs) must be recouped using Recoupment Type Code "5: IV-D Payment".

(5) For ABEL Supplemental Nutrition Assistance Program budgets, child support pass-through payments are budgeted in the IV-D MRB/A as Other/Unearned Income Source Code "87: IV-D Payment".

c. CLIENT NOTICES SYSTEM (CNS)

TA workers must enter code 'V30 - Failure to Comply with IV-D' in the "TA/Medicaid Individual Reason Code" field on Screen 3 of WMS to designate the individual(s) not in compliance with IV-D requirements. Single or multiple person cases in which an individual has an IV-D sanction coded using individual reason code 'V30' and entering the appropriate CNS pending notice number on Screen 1 of WMS.

d. BICS: RUN OF IV-D PASS THROUGH PAYMENTS

To ensure that pass-through payments are issued in a timely manner and that timely and adequate notice of any resulting reductions in Supplemental Nutrition Assistance Program benefits are provided, as appropriate, districts must review and take appropriate action immediately upon receipt of the monthly IV-D MRB/A "eligibles" list from the CSEU. All pass-through payments, including manually authorized "exceptions" payments, must be issued by the 20th calendar day of each month.

T. PARTICIPATION IN A STRIKE

No family shall be categorically eligible for FA for any month in which the caretaker relative with whom the child is living is, on the last day of such month, participating in a strike. If an FA recipient, other than a caretaker relative, is participating in a strike on the last day of a month, such individual shall be ineligible for FA benefits for such month.

1. DEFINITIONS

- a. **STRIKE** – The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slow down or other concerted interruption of operations by employees.
- b. **CARETAKER RELATIVE** – The term "caretaker relative" means natural or adoptive parent for purposes of making a determination of strike participation.
- c. **PARTICIPATING IN A STRIKE** – The term "participating in a strike" means concerted cooperation and support for a strike action which results in a reduction of income, but does not include in its meaning concurrent work stoppage due to those occurrences described below, items 2a.

2. DETERMINATION IF APPLICANT/RECIPIENT IS PARTICIPATING IN A STRIKE

- a. The applicant or recipient shall not be considered to be participating in a strike if, in the opinion of the local district, the FA applicant or recipient stopped work due to any of the following:
 - (1) Illness
 - (2) Approved vacation
 - (3) Firing
 - (4) Lock-out
 - (5) Intimidation or threats
 - (6) Acceptance of other full time employment
 - (7) Lay-off related to the strike, or
 - (8) Any other reason consistent with Office Regulation.
- b. The case record should include all documentation necessary to justify the agency's decision that the individual is not participating in a strike and therefore continues to be eligible for FA.

- c. Participation in a strike must also result in a reduction of income, and does not include in its meaning concurrent work stoppage due to illness, approved vacation, firing, lock-out, lay-off related to the strike, intimidation or threats by strikers, acceptance of other full time employment, or any other reason consistent with Office Regulations.
- d. Participation in a strike, for FA purposes, does not constitute good cause to leave, or to refuse to seek or accept employment. Therefore, the work rules apply.

3. DENIAL OF FA ELIGIBILITY

- a. **CARETAKER RELATIVE** – When the caretaker relative of an FA child participates in a strike on the last day of the month, the family is not eligible for FA. If otherwise eligible for assistance, benefits must be provided as SNA.
- b. **NON-CARETAKER RELATIVE** – When the individual participating in a strike on the last day of the month is not the caretaker relative, only that individual is ineligible for FA. The other family members can continue to receive FA.

4. SNA CLAIMS ADJUSTMENT

- a. The change of a family or individual to SNA based on participation in a strike on the last day of the month is accomplished by claims adjustment, not case type change.
- b. For a family, the claim for the month's FA benefit would be adjusted and claimed to SNA.
- c. For an ineligible individual, the district must manually determine the amount to be adjusted out of FA to SNA.
- d. Performing BICS adjustments are explained in the BICS (PICS/IPPS/BSPP) manuals which are on the OBFDM intranet web site.

5. LOSS OF EARNED INCOME DISREGARDS FOR FA STRIKERS

Applicants/recipients that have participated in a strike within the previous thirty days are not entitled to receive earned income disregards (i.e., \$90 work disregard, percent earned income disregard) as a deduction from their earnings.

U. INDIVIDUAL DEVELOPMENT ACCOUNTS (IDAs)

The Welfare Reform Act of 1997 established the right of FA recipients to establish and maintain independent development accounts (IDAs). These accounts are trusts which allow recipients of FA to set aside funds, outside of the resource limits, for the purposes of postsecondary education, first home purchases and business capitalization.

1. DEFINITIONS

- a. **ELIGIBLE EDUCATIONAL INSTITUTION** – An "eligible educational institution" means the following:
 - (1) An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 as such sections were in effect on August 26, 1996, or
 - (2) An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act) as such sections were in effect on August 26, 1996.
- b. **POST-SECONDARY EDUCATIONAL EXPENSES** – A "Post-secondary educational expenses" means:
 - (1) Tuition and fees required for the enrollment or attendance of a student of in eligible educational institution, or
 - (2) Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.
- c. **QUALIFIED ACQUISITION COSTS** – The costs of acquiring, construction, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing cost.
- d. **QUALIFIED BUSINESS** – Any business that does not contravene any law or public policy.
- e. **QUALIFIED BUSINESS CAPITALIZATION EXPENSES** – Qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.
- f. **QUALIFIED EXPENDITURES** – Expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.
- g. **QUALIFIED FIRST – TIME HOME BUYER** – A taxpayer (and, if married, the taxpayer's spouse) who has no present ownership interest in a principle residence during the 3-year period ending on the date of acquisition of the principal residence.
- h. **DATE OF ACQUISITION** – The date that a binding contract to acquire, construct, or reconstruct the principal residence is entered into.
- i. **QUALIFIED PLAN** – A "qualified plan" means a business plan which:

- (1) Is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity, and
 - (2) Includes a description of services or goods to be sold, a marketing plan, and projected financial statements, and
 - (3) May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.
- j. **QUALIFIED PRINCIPAL RESIDENCE** – A principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed 100 percent of the area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of the Internal Revenue Code.

2. PURPOSES FOR AN INDIVIDUAL DEVELOPMENT ACCOUNTS

An individual development account may be established by or on behalf of an individual eligible for Family Assistance for the purpose of enabling the individual to accumulate funds for a qualified purpose as specified below.

- a. **POSTSECONDARY EDUCATION EXPENSES** – Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution.
- b. **FIRST HOME PURCHASE** – Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due.
- c. **BUSINESS CAPITALIZATION** – Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses.

3. ESTABLISHMENT OF AN INDIVIDUAL DEVELOPMENT ACCOUNT

- a. An individual development account is a trust created in the United States by or on behalf of an individual eligible for FA and funded through periodic contributions by the establishing individual and matched by or through a qualified entity which is listed below:
 - (1) An organization which meets the definition of not-for-profit under the Internal Revenue Code of 1986 and is exempt from taxation under section 501(c)(3) of the Code, or
 - (2) A local district acting in cooperation with an organization described in (a) above. However, neither the state nor local district shall be required to make or match contributions.

- b. Contributions by the individual can only be made while the individual is receiving FA.
- c. The State or local district is not required to administer any individual development account and is not required to contribute funds to any account. Any contributions made by local districts to these accounts are non-reimbursable.
- d. An individual may only contribute to an individual development account amounts which are derived from the disregarded portion of reported earned income. Funds may only be withdrawn for one of the three reasons cited in subsection 2 above.
- e. An individual development account is disregarded for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized under FA for the period during which the person maintains or makes contributions into the account.
- f. Individual development accounts are exempt as a resource for all PA (FA and SNA), Supplemental Nutrition Assistance Program and MA programs.

4. **PENALTIES FOR UNAUTHORIZED WITHDRAWALS**

The following penalties will be imposed on the family assistance recipients who withdraw funds from individual development accounts for purposes other than specified in subsection 2 above.

- a. The matching funds are subject to the conditions specified by the terms of the trust, if these funds are still available to the qualified entity.
- b. Penalties assessed under the terms of the trust by the qualified entity must be paid, if these funds are still available.
- c. All moneys retained by the recipient, including matching funds, are treated as unearned income in the month the funds are withdrawn.
- d. The account is considered closed and any moneys left in the account after settlement of any penalties under a and b above are considered as unearned income as of the date of the unauthorized withdrawal. Any moneys retained in the following month is considered a resource in that month.
- e. The account holder and his/her legal spouse are prohibited from establishing any other individual development accounts in the future.

5. **ADDITIONAL PROVISIONS**

The following provisions apply:

- a. If the account holder dies, the account may be transferred to a contingent beneficiary subject to the conditions of the trust.
- b. The total of all deposits by the recipient of family assistance paid into an individual development account in a calendar year cannot exceed the amount of the earned

income disregarded in calculating the amount of assistance for the recipient's household.

- c. The account holder may, subject to the terms of the trust, transfer available moneys from one individual development account to another without penalty under the family assistance program.

REFERENCES

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CHAPTER 10: SAFETY NET ASSISTANCE (SNA)

A. GENERAL

1. Chapter 436 of the Laws of 1997 (The Welfare Reform Act (WRA) of 1997) established the SNA program to provide assistance to individuals and families who are ineligible for Family Assistance (FA) or other federal temporary assistance programs, including Refugee Cash Assistance.
2. The SNA program is comprised of a cash and a non-cash component.
3. The SNA assistance program was effective on January 1, 1998. The non-cash component of SNA took effect January 1, 1998 for persons determined unable to work due to the abuse of drugs/alcohol in accordance with Department regulations.
4. Effective December 1, 1999, the non-cash component of SNA becomes effective for persons who have received cash SNA or Home Relief for twenty-four months in their lifetime since August 4, 1997. Persons who are exempt from work requirements, (or who are HIV positive, and are not determined unable to work due to the abuse of drugs/alcohol), are exempt from the twenty-four month lifetime limit on cash SNA.
5. SNA rules apply to all SNA cases, regardless of whether there are children in the case. This includes the following:
 - a. Forty-five day application period
 - b. Requirement to sign Repayment Agreement ([LDSS-4529](#)) and Assignment of Future Earnings ([LDSS- 4530](#))
 - c. Prohibition against the transfer of resources
6. There are some instances where FA rules, not SNA rules, will apply for families whose assistance is claimed to Temporary Assistance to Needy Families (TANF) Case Type 12. This includes the following:
 - a. For TANF funded SNA cases (Case Type 12), an individual in receipt of SSI is not included in the case's household or case count. Additionally, the individual's SSI income is not considered in determining the eligibility of the remaining household members.

Example:

- a. Husband, wife, and a 6-year-old child in common reside together and the child is an SSI recipient. The family is in receipt of TANF-funded SNA Case Type 12. The case would not include the SSI child or the child's income in the case. Therefore, the case is budgeted as a household (HH) of 2 and case (CA) of 2.
- b. Disregard of bona fide loans

- c. Interim Assistance will not be recovered
- d. Employment activities and participation rate

The same rules that govern essential persons in FA also govern essential persons in SNA Case Type 12. See [TASB Chapter 9 section P](#).

- 7. The minor parent living arrangement and minor parent educational requirements will apply to all families with dependent children who receive SNA.
- 8. The Earned Income Disregard is applicable to all SNA households containing a pregnant woman or a dependent child applying for or receiving SNA or Supplemental Security Income (SSI). This includes cases no longer eligible to receive TANF funded FA Case Type 11 or SNA CaseType 12, because an adult on the case, or minor head of household, has reached the State 60-month limit.
- 9. SNA includes assistance granted to veterans under existing laws, and assistance to persons not residing in their own homes when such persons reside in other living situations for which an SNA grant may be provided as specified in 18 NYCRR Part 352.
- 10. SNA does not include medical assistance, foster care of children, or care classifiable under the law as public institutional care.
- 11. Regulations of the office generally governing the programs of Temporary Assistance (TA) and care, including application, determination of initial and continuing eligibility, standards of assistance, budgeting, provision of services, notification of decision, authorization and payment of grants, handling of inquiries, complaints, appeals and requests for fair hearings and investigations of fraud shall apply to SNA. [18 NYCRR § 370.1(a)]
- 12. Any application for SNA or redetermination shall be made on the State prescribed form [18 NYCRR § 370.1(b)].
- 13. The application for or receipt of SNA shall constitute an assignment to the State and the local district concerned of any rights to support from any other person as such applicant or recipient may have in his own behalf, or in behalf of ,any other family member for whom the applicant or recipient is applying for or receiving assistance.

In a manner prescribed by the Office, applicants for or recipients of SNA must be informed that an application for or receipt of such benefits will constitute an assignment. [LDSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) informs TA applicant/recipients of this information.

Such assignment will terminate with respect to current support rights upon a determination by the local district that such person is no longer eligible for SNA except with respect to the amount of any unpaid support obligation that has accrued.

- 14. Investigation - When practicable, responsibility shall be placed upon the applicant for SNA to provide verified information concerning his previous maintenance, loss of income and the extent and duration of current need. Both the method and content of

investigation shall be aimed at assisting the applicant to return to self-support and to fully utilize resources. [18 NYCRR § 370.2(a)]

B. PERSONS ELIGIBLE FOR SNA

1. The following persons, if otherwise eligible for TA must receive assistance under the SNA program:
 - a. Adults without dependent children living with them
 - b. Persons under the age of 18 without a dependent child who have no adult relative with whom to live.
 - c. Families who are otherwise eligible for TA in which the head of household, or any adult member required to be a member of the TA household, is determined to be unable to work due to the abuse of alcohol and/or drugs, and the adult or head of household is compliant with the alcohol and substance abuse screening, formal assessment and rehabilitation treatment requirements in accordance with Office regulations.
 - d. Members of a household in which the head of the household or any adult required to be a member of the TA household fails to comply with required screening, formal assessment or rehabilitation treatment for drug/alcohol abuse in accordance with Office regulations. The non-complying head of household or adult is ineligible for TA.
 - e. Aliens who are eligible for TA, but who are not eligible for federal reimbursement.
 - f. Families who have received FA or other cash assistance, whether or not funded under the Temporary Assistance for Needy Families (TANF) block grant, for periods of time equal to the State sixty-month maximum durational limits for receiving TANF funded assistance.

C. PERSONS NOT ELIGIBLE FOR SNA

1. The following persons are not eligible for SNA:
 - a. Persons who are not legally residing in the U.S. or who are unable to document that they are legally residing in the U.S.
 - b. Aliens who are not eligible for TA.
 - c. Persons who are sanctioned from FA or SNA.
 - d. Persons and families who fail to comply with the eligibility requirements for FA or SNA.
 - e. Persons eligible for the eight months of Refugee Cash Assistance that they can receive in New York State (these persons will be Case Type 16 with the appropriate Federal Charge Codes).

D. FINANCIAL REQUIREMENTS

1. The initial determination shall include consideration of each of the following eligibility factors:
 - a. **PREVIOUS MAINTENANCE AND REASON FOR APPLICATION** – For each member of the household applying for assistance, the following shall be determined:
 - (1) The source and amount of previous income or maintenance
 - (2) The reason and date of its discontinuance
 - (3) Presumptive eligibility for benefits relating to loss of income
 - (4) Employability and availability for employment
 - b. **PRESUMPTIVE DURATION OF NEED** – On the basis of all available facts, an evaluation shall be made of the following:
 - (1) The probable duration of need based upon consideration of the applicant's employability and the availability of employment in the current labor market
 - (2) Presumptive eligibility for work-related benefits
 - (3) The availability of vocational training, rehabilitation services
 - (4) The availability or potential availability of other resources that will make his need for financial assistance short-term

E. GENERAL REQUIREMENTS

1. Applicants/recipients of SNA must meet all applicable requirements generally governing TA programs, including, but not limited to:
 - a. Application
 - b. Determination of initial and continuing eligibility
 - c. Standards of assistance
 - d. Budgeting
 - e. Provision of services
 - f. Notification of decision
 - g. Authorization and payment of grants
 - h. Handling of inquiries, complaints, appeals and requests for fair hearings and investigations
 - i. Filing unit requirements
 - j. Provide social security number
 - k. Residence within the State
 - l. Pursue, appeal and accept Supplemental Security Income
 - m. Alcohol and substance abuse screening, formal assessment and rehabilitation treatment requirements
 - n. Employment requirements - Applicants for and recipients of SNA must meet the employment requirements found in 18 NYCRR Part 385.
 - o. Requirement to sign repayment agreement ([LDSS-4529](#)) and Assignment of future earnings ([LDSS-4530](#))
 - p. Sign agreement to Interim Assistance reimbursement
 - q. Ability of relatives to support
 - r. Cooperate with Child Support Enforcement Unit (CSEU) and right to claim good cause
 - s. Pursue alimony/maintenance/spousal support
 - t. No transfer of property provision

- u. Must not be in receipt of public institutional care
- v. Comply with SNA time limits
- w. family violence option
- x. The requirements of families of the FA program, such as the minor parent and the absence of a minor provisions, also apply to families in the SNA program.

F. NON-FINANCIAL REQUIREMENTS

1. The following requirements shall be evaluated to establish initial and continuing eligibility:
 - a. **AGE** – The applicant shall furnish the date of birth for each person applying for assistance only where such verification is necessary to classify a person as eligible or presumptively eligible for a federal category, to determine employability, or to establish the right of a minor between the ages of 16 and 18 years to receive SNA in his/her own name.
 - b. A minor may be considered eligible for SNA in his own right, provided he is not living with a guardian or relative qualified to receive a grant of TA.

Note: When a 16-21 year old alleges that there is abuse in his/her family and he/she cannot return, a referral should be made to determine if the home situation is detrimental to the 16- 21 year old. If the individual is under 18 years of age, referral must be made to the State Central Register of Child Abuse and Maltreatment in accordance with Sections 413 and 415 of the Social Services Law. If the individual is between 18 and 21 years of age, referral should be made to the Services Division. In either situation arrangements should be made for sheltering the 16-21 year old until a determination is made.

2. **SOCIAL SECURITY NUMBER** – Any applicant for or recipient of SNA, regardless of age, must furnish or apply for a Social Security number as a condition of eligibility. For more information see [TASB Chapter 5 Section N](#).
3. **RESIDENCE WITHIN THE STATE** – SNA shall be granted only to eligible persons who reside in or who are found within the State at the time of application, and the grant may be continued only while such persons are residents of the State.
4. **LIVING ARRANGEMENT** – SNA shall be granted to an eligible needy person in his/her home, home of a relative/friend or in a homeless living situation. In addition, SNA allowances may be granted to persons not living in their own homes when the living arrangement is one described in [TASB Chapter 17, Section E](#).

Note: [LDSS-3668: "Shelter Verification"](#) may be mailed directly to a landlord at the time of application, recertification or when a change of residence occurs.

5. POTENTIAL ELIGIBILITY FOR SSI

- a. Any applicant for or recipient of SNA who, based on a medical statement documenting or indicating the existence of a physical or mental impairment, reasonably appears to qualify for SSI, or has reached or will before the end of the following calendar month reach his/her 65th birthday, or who otherwise appears to be eligible for SSI benefits must, as a condition of eligibility or of continuing eligibility:

- (1) Cooperate in applying for SSI benefits

- (2) Appeal an SSI eligibility denial when the district determines such appeal is required
 - (3) Accept SSI benefits
 - b. When an applicant or recipient refuses without good cause to cooperate in applying for SSI, appealing an SSI denial if required by the local district, or accepting benefits for himself or herself or for a child in his or her care the following penalty applies:
 - (1) An SSD must impose an incremental sanction when any applicant for or recipient of TA refuses without good cause to pursue SSI benefits for himself or herself, required filing unit members, or any persons the applicant, recipient, or representative indicates wishes to receive TA and who reside in the same dwelling unit.
 - (2) An incremental sanction imposed against a single individual will result in a denial or discontinuance of TA.
 - (3) An incremental sanction imposed against a multi-person household will remove the ineligible individual from both the TA household (HH) and case (CA) count which reduces the amount of the TA benefit.
 - (4) An SSD must not impose any sanction when a Non-Parent Caregiver (NPC) who does not want to apply for TA or is not in receipt of TA refuses to pursue SSI benefits for himself or herself.
 - c. An SSD must not deny an applicant or reduce or discontinue a recipient's TA benefits for failure to comply with pursuing SSI if the individual is physically or mentally unable to pursue SSI benefits for himself or herself, required filing unit members, or any persons the applicant, recipient, or representative indicates wishes to receive TA and who reside in the same dwelling unit.
 - d. An SSD must not deny a TA applicant for failure to pursue SSI if the individual's failure occurred prior to applying for TA.
 - e. Chapter 53 of the Laws of 1992 requires local districts to implement enhanced procedures for assisting TA applicants/recipients, who appear to be disabled, to apply for and receive SSI benefits. Local district plans must be developed which specify procedures for early identification, assessment, referral with medical information, tracking and assisting clients in the SSI application and appeals process. For more information see: [08 ADM-5 "SSI – Screening/Identification, Referral and Tracking Requirements."](#); [attachment A](#); [attachment B](#); [attachment C](#); [attachment D](#); [attachment E](#); [attachment F](#); [attachment G](#)
- 6. ALCOHOL AND SUBSTANCE ABUSE SCREENING, FROMAL ASSESSMENT AND REHABILITATION TREATMENT REQUIREMENTS:**
- a. Applicants for and recipients of SNA must participate in alcohol and substance abuse screening, formal assessment and rehabilitation treatment requirements. ([See TASB Chapter 25](#)).

- b. When a mandatory filing unit member is non-compliant with the required screening, formal assessment or rehabilitative treatment for drug/alcohol abuse, a pro-rata sanction must be imposed. The member's needs and income are included in determining the maximum non-cash SNA benefit for the household, but the benefit will be reduced by the member's pro-rata share.
- c. For SNA Case Type 12, the non-cash SNA received during a sanction for non-compliance with the screening, formal assessment or rehabilitative treatment requirements for drug/ alcohol abuse counts toward the 60-month TANF limit.

7. EMPLOYMENT REQUIREMENTS – Applicants for and recipients of SNA must meet the employment requirements found in 18 NYCRR Part 385.

- a. Districts must advise the applicant of the requirements of complying, when applicable, with work requirements. [LDSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) contains this information.
- b. For Temporary Assistance **employment requirement information** – refer to the Temporary Assistance and Supplemental Nutrition Assistance Program Employment Policy Manual or Contact your Employment Technical Advisor with employment/work requirement questions.
- c. The Temporary Assistance and Supplemental Nutrition Assistance Program Employment Policy Manual is accessible via the Welfare To Work Caseload Management System and CentraPort.

8. REQUIREMENT TO SIGN REPAYMENT AGREEMENT ([LDSS-4529](#)) and ASSIGNMENT OF FUTURE EARNINGS ([LDSS-4530](#))

- a. Applicants for SNA must as a condition of eligibility sign (2) two copies of the following forms:
 - (1) **Sign a Repayment Agreement ([LDSS-4529](#))** – which provides that, if it is determined that money is owed to the SSD because of overpayments of SNA, the applicant/recipient agrees to repay any such money that remains due after the applicant ceases to receive SNA.
 - (2) **Sign an Assignment of Future Earnings ([LDSS-4530](#))** – to secure the repayment of any money that is determined, after providing the opportunity for a fair hearing, to be owed to the SSD because of overpayments of SNA to the recipient of SNA. The signature on the [LDSS-4530](#) must be notarized. This requirement applies whether or not there are children in the case.
- b. The Repayment Agreement ([LDSS-4529](#)) and Assignment of Future Earnings ([LDSS-4530](#)) forms must be signed by every adult applicant, every time a person applies or reapplies for SNA benefits.
- c. After a case is automatically converted from FA to SNA due to reaching the State 60-month time limit, the worker must take action at the next case contact to require every adult in the case to sign the Repayment Agreement ([LDSS-4529](#)) and

Assignment of Future Earnings ([LDSS-4530](#)). Refusal to sign these forms must result in the discontinuance of the SNA case.

- d. One (1) set of signed forms must be given to the applicant. The second set of signed forms must be placed in the case record or other location so that the forms can be retrieved if needed.
- e. Neither the Repayment Agreement ([LDSS-4529](#)) or the Assignment of Future Earnings ([LDSS-4530](#)) forms have to be signed at the time of recertification.
- f. Applicants who are only applying for emergency SNA pursuant to 18 NYCRR § 370.3 are not required to sign the Repayment Agreement ([LDSS-4529](#)) and Assignment of Future Earnings ([LDSS-4530](#)) forms.
- g. Refusal to sign either of the Repayment Agreement ([LDSS-4529](#)) or the Assignment of Future Earnings ([LDSS-4530](#)) forms must result in the denial or discontinuance of the SNA case.

(1) All adult applicants for SNA must sign the Repayment Agreement ([LDSS-4529](#)) and the Assignment of Future Earnings ([LDSS-4530](#)) forms. If one adult SNA applicant who is legally responsible for other SNA applicants refuses to sign either the repayment agreement or the assignment of future earnings or both, the entire SNA case is ineligible for SNA and must be denied.

(2) If an SNA applicant who is applying to become added to an active SNA case refuses to sign either or both forms and he/she is legally responsible for members of this active SNA case, the local district must deny the SNA application and close the active SNA case.

- 9. **WELFARE OF CHILD OR MINOR** – When children or minors are included in the application, the home situation shall be considered to determine whether or not the welfare of the child or minor will be safeguarded.
- 10. **RELATIONSHIP OF APPLICANT TO CLAIMED DEPENDENTS** – The applicant shall furnish information regarding the relationship of all members of the household to each other, including those who are applying for assistance and those who are not. Documentation of relationship shall be required in order to explore the possibility of securing necessary services and care and to establish the responsibility of legally responsible relatives for the support of the SNA applicants.
- 11. **INTERIM ASSISTANCE** – All adult TA applicants and recipients must, as a condition of eligibility, sign and date the common application form ([LDSS-2921 Statewide](#)), the recertification form ([LDSS-3174](#)) the Mail-In Recert/Eligibility Questionnaire ([LDSS-4887](#)) or local equivalent. These forms contain the Interim Assistance Reimbursement (IAR) authorization language that permits the Social Security Administration (SSA) to withhold a Supplemental Security Income (SSI) recipient's initial or post eligibility SSI payment, and forward it to a SSD as reimbursement for Interim Assistance (IA) paid to an SNA individual while their SSI application was pending. For more information see [Section L](#) below.

12. ABILITY OF RELATIVES TO SUPPORT

- a. **LEGALLY RESPONSIBLE RELATIVES** – For both short-term and long-term cases, the local district shall determine the existence and whereabouts of the legally responsible relatives of persons for whom application is made and the ability of such relatives to support. When legally responsible relatives are able to provide support to the applicant and are not doing so, the local district shall implement procedures to enforce support.
- b. An applicant for, or recipient of SNA, who is under the age of 21 and living apart from a legally responsible relative, is required, as a condition of SNA eligibility, to cooperate with Child Support Enforcement Unit (CSEU) efforts to establish paternity and secure support. For Information on SNA applicants and recipients responsibility to comply with the child support enforcement program see [TASB Chapter 9 Section S](#).
- c. Offer of a Home – In considering the ability of a legally responsible relative to support, the offer of a home shall be carefully explored and evaluated.
 - (1) The evaluation shall include a determination of the reason for the separation which had occurred, and, if children, minors or other persons are members of the applicant's family unit, the advisability of a change in their living arrangements.
 - (2) An offer of a home does not preclude consideration of eligibility for SNA. If the local district determines that the legally responsible relative is otherwise able but unwilling to contribute to the support of the applicant, the local district shall initiate appropriate action to enforce support.
 - (3) If a single individual under 21 years old leaves home and requests housing at the local district because he/she does not want to follow the rules in the parent's home, and no parental abuse is alleged, the local district calls the parents and they say that the individual can return if he/she adheres to their rules, the individual is not deprived of parental support or care. The local district must deny assistance.
 - (4) The case record must reflect how the above evaluation factors support the applicant's/recipient's decision to accept or deny the offer of a home.
- d. **SOCIALLY RESPONSIBLE RELATIVES** – The local district may evaluate the willingness of socially responsible persons to assist in whole or in part in the support of applicants. Where socially responsible persons have assisted in the past, the situation shall be reviewed to determine current availability of such support.
 - (1) In considering the ability of socially responsible persons to support, the offer of a home by a person shall be included in the exploration and evaluation of resources. In considering the offer of a home, there shall be a careful evaluation of the suitability of such resource in the individual situation, including the physical and mental health of the applicant, his current living arrangements, and his personal wishes and those of his family.

- (2) SNA applicants and recipients may be required to cooperate with the local district in exploring potential support by socially responsible persons. Such exploration should not delay the application process or interrupt assistance at recertification.
- (3) The case record must reflect how the above evaluation factors support the applicant's/recipient's decision to accept or deny the offer of a home.

13. THE REQUIREMENT TO COOPERATE WITH CSEU AND RIGHT TO CLAIM GOOD CAUSE:

- a. Federal and state laws and regulations require individuals who apply for TA to cooperate with the child support program. All SNA applicants and recipients must comply with the Child support requirements and procedures listed in [TASB Chapter 9 Section S](#), “Compliance with Child Support Enforcement Program.
- b. Applicants and recipients must be informed of their responsibility to cooperate with the paternity establishment and support enforcement process, and of their right to claim Good Cause for refusing to cooperate. See [TASB Chapter 9 Section S](#) for more information.
- c. Referrals of minors to the CSEU:
 - (1) SNA minors are required to cooperate with CSEU efforts to establish paternity and secure support.
 - (2) SNA minors are not exempt from pursuing support from parents who are themselves recipients of TA, MA, or SSI.
 - (3) A minor who is married, even if living with the spouse, must cooperate with establishing paternity and/or securing support from the minor's own parents.
- d. Legally Responsible Relative – Referral of an SNA Applicant/Recipient (A/R) to the CSEU does not abrogate the TA worker's responsibility to investigate whether a legally responsible relative is willing and able to provide an appropriate home and adequate financial support to reduce or eliminate the A/R's need for TA.

14. THE REQUIREMENT TO PURSUE ALIMONY/MAINTENANCE/SPOUSAL SUPPORT

- a. Federal and State laws do not permit the CSEU to provide spousal-only support services. An SNA A/R who is living apart from a spouse or ex-spouse, but is not eligible for child support services as described above, may be required to file a court petition for spousal support or maintenance as described below. An SNA A/R who is not eligible for child support services must pursue alimony/maintenance/spousal support if it is potentially available, as follows:
 - (1) **INFORMAL SEPARATION** – An A/R who resides apart from a living spouse and has no action for separation, divorce or annulment pending or decreed, must petition in Family Court to establish a spousal support order.
 - (2) If an order exists but changes in the A/R's or obligor's circumstances so warrant, the A/R must petition to increase the existing order.
 - (3) If an order exists, but the obligor is not making the required payments, the A/R must petition to enforce the existing order.
- b. **SEPARATION, DIVORCE OR ANNULMENT PENDING** – An A/R who has an action for separation, divorce or annulment pending, but for whom the Supreme Court has

not ordered spousal support, must request support in the Supreme Court action if he or she has an attorney, or petition in Family Court to establish a spousal support order.

- (1) If a Family Court order already exists, the individual must petition in Family Court to increase or enforce the existing order, if appropriate.

- c. **LEGAL SEPARATION** – An A/R who has obtained a legal separation must petition in Family Court to establish, increase or enforce (as appropriate) an order for spousal support, unless the separation decree states that the Supreme Court retains exclusive jurisdiction: See ["Supreme Court Jurisdiction", Paragraph e](#) below.
- d. **DIVORCE OR ANNULMENT FINAL** – An A/R who has obtained a final judgement of divorce or annulment which includes an order for alimony/maintenance to be paid to the A/R must petition in Family Court to increase or enforce the support order, as appropriate, unless the decree states that the Supreme Court retains exclusive jurisdiction.
 - (1) If the divorce or annulment decree refers the matter of support to the Family Court, the A/R must petition in Family Court to establish a support order.
 - (2) If the divorce/annulment decree does not address alimony/maintenance for the A/R, the Supreme Court retains jurisdiction.
- e. **SUPREME COURT JURISDICTION** – In situations where the Supreme Court has jurisdiction, the local district should require the A/R to petition in Supreme Court for alimony/maintenance/spousal support only if the A/R has an attorney or the district will provide legal representation.
 - (1) An A/R who has good cause for refusing to pursue alimony/maintenance/spousal support, or whose good cause claim is pending determination, is exempt from cooperating with pursuing support.
 - (2) The local district may pursue support on behalf of such A/R without his or her cooperation only if the district has determined that the individual will not be endangered.
 - (3) Good cause criteria and procedures are described in [TASB Chapter 9, Section S.13](#). Local districts must not include SNA cases in their quarterly reports ([LDSS-3343](#)) to the Department of IV-A/IV-D good cause claims.

15. ALIMONY/MAINTENANCE/SPOUSAL SUPPORT ONLY

- a. A local district's CSEU cannot secure or enforce an order which is **only** for alimony, maintenance or spousal support on behalf of a TA recipient.
- b. Current alimony/ spousal support and arrears which are owed on behalf of the TA recipient are budgeted as income to reduce the TA grant amount.

Example 1

John Bean is an eighteen-year-old TA applicant who lives apart from his parents who, when contacted by the TA worker, state that they are not willing to have John return to their home. John's father is court-ordered to pay John \$45 per month for current support and \$5 per month on arrears. John is referred to the CSEU and, when he is found eligible for TA, the CSEU modifies the support order to be payable to the Support Collection Unit (SCU). From the \$50 per month received by the SCU on John's behalf, \$45 (current) is passed through to John and \$5 (arrears) is retained toward reimbursement of John's TA grant.

Example 2

Jean Smith is a 24-year-old TA applicant who lives apart from her husband. Jean verifies that she has a petition for spousal support pending in Family Court. Her case is opened in the SNA category. At her recertification interview, Jean states that she has received \$45 per month for current support. The TA worker budgets the \$45 per month current spousal support. Three months later, Jean reports that she has also received \$10 per month for arrears. The worker budgets the \$10 per month arrears payments as income to reduce Jean's TA grant. The \$10 per month of countable income which Jean already received and retained in the previous three months is recouped as an overpayment.

16. TRANSFER OF PROPERTY

- a. A person shall not be eligible for SNA when he/she has made a voluntary assignment or transfer of real or personal property for the purpose of qualifying for such aid. Such ineligibility shall be applicable to the TA household for a period of one year from the date of transfer.
- b. A transfer of such property made within one year prior to the date of application shall be presumed to have been made for the purpose of qualifying for such assistance.
- c. If it is determined that there was no intent to defraud the agency and that the action which the applicant took at the time the property was conveyed was a normal transaction not taken for the purpose of qualifying for assistance, such transfer or assignment shall not constitute a basis for denial.
- d. A applicant or recipient who clearly transfers a homestead to avoid a lien would be ineligible for SNA because he transferred to qualify. A client who transfers a homestead where the local district is not seeking a lien would not be penalized because he would only be disposing of an exempt resource, not transferring to qualify.

- 17. NOT IN RECEIPT OF PUBLIC INSTITUTIONAL CARE** – For each member of the household included in the SNA application, it shall be determined that he is not in receipt of public institutional care.

18. **NOT ELIGIBLE FOR OR RECEIVING ASSISTANCE AS FA OR EAF** – For each member of the household included in the SNA application, it shall be determined that he is not eligible to receive FA or EAF.

19. **SNA TIME LIMITS**

- a. A twenty four-month life time limit on receipt of cash Safety Net Case Type 16 is imposed on all SNA individuals not exempt from work requirements.
- b. The twenty-four month Safety Net Cash Assistance clock started on August 4, 1997 (this affects persons who were receiving Home Relief on this date).
- c. The cumulative total months of Safety Net Cash Assistance is applied against the cumulative sixty month TANF limit for adults. For example, if an adult received twenty-four months of cash in Safety Net Assistance and then becomes eligible for Family Assistance (i.e., has a child), the family can only receive Family Assistance for thirty-six months. After this time, they could receive non-federally participating SafetyNet Case Type 16 or Case Type 17.
- d. If an SNA household reaches the twenty-four month life time limit on the receipt of cash SNA Case Type 16 and the head of the household is exempt from work requirements or is HIV positive and not required to participate in alcohol/drug rehabilitation, the case is exempt from the twenty-four month SNA time limit and will receive cash SNA Case Type 16 instead of non-cash SNA Case Type 17 as required by 18 NYCRR 370.4(b)(1)(ii).
- e. The time limit exemption indicator “S” must be entered on Screen 3 of Upstate WMS (item #393 in NYC WMS) for all individuals in an SNA case that is exempt from the twenty-four month life time SNA time limit.
- f. If an SNA household reaches the twenty-four month life time limit on the receipt of cash SNA Case Type 16, and the head of the household is not exempt from work requirements or HIV positive and not required to participate in alcohol/drug rehabilitation, the case will receive non-cash SNA Case Type 17.
- g. The SNA time limit count does not increment for any household members receiving non-cash Safety Net Assistance because the adult in the household is sanctioned for failure to comply with drug/alcohol screening/assessment or treatment requirements.
- h. The twenty-four month limit for cash SNA applies to all cash SNA recipients, including children being cared for by non-applying, non-relative adults. These child only cases are commonly referred to as "Non-Parent Caregivers" (NPC) cases.
- i. A cash SNA-NPC case cannot be exempted from the twenty-four month case SNA time limit because the exemption criteria of employment or HIV status is only applicable to adults in receipt of assistance.
- j. At the end of the twenty-four month cash SNA limit, each cash SNA case (including NPC cases) must be recategorized to non-cash SNA and is subject to the mandated non-cash SNA restriction hierarchy.

G. DETERMINATION OF CONTINUING ELIGIBILITY

1. **CONTINUING ELIGIBILITY** – Continuing eligibility for SNA must include reconsideration of all factors of initial eligibility which are subject to change, including financial need, employment and availability for employment. It must include, where indicated, consideration of presumptive eligibility for FA and classification and transfer to that category.
2. **POTENTIAL SSI ELIGIBILITY** – If a recipient, based on a medical statement documenting or indicating existence of a physical or mental impairment, reasonably appears to qualify for SSI benefits, or during the recertification process demonstrates behavior or symptoms suggesting potential SSI eligibility, or has reached or will before the end of the following calendar month, become 65 years of age, or otherwise appears to be eligible for SSI, his or her continuing eligibility for SNA is subject to his or her efforts to obtain SSI benefits and compliance with the conditions set forth in this [Chapter 10, Section F.5](#). Any determination that pursuit of SSI benefits is necessary must be included in the local district's SSI tracking procedures. See [08 ADM-5 "SSI – Screening/Identification, Referral and Tracking Requirements;" attachment A; attachment B; attachment C; attachment D; attachment E; attachment F; attachment G](#).
3. **LIVING ARRANGEMENTS** – The SNA recipient's place of residence shall be reconsidered in determining continuing eligibility. Whenever possible, dependent persons should be given assistance in their own residence, or efforts should be made to return them to their own residence when it has been determined that another form of care is not appropriate or is no longer required.
4. **CONTINUANCE OR CHANGE IN SHORT-TERM STATUS** – If assistance is needed beyond the short-term period as defined in [this Chapter, Section I](#), policies governing the meeting of needs and the utilization of resources for long-term assistance shall be applied.
5. **RESIDENT: ABSENCE FROM THE DISTRICT OF ADMINISTRATION** – Such absence shall be evaluated according to [Chapter 29, Section A](#). SNA may be provided when the recipient seeks or accepts employment or training available in another local district or when a recipient is temporarily absent from the dwelling unit.

H. DETERMINATION AND PAYMENT OF THE SNA

1. **DETERMINATION** – Determination of initial and continuing eligibility and the amount of the grant shall be based upon the State established standards of assistance. Needs shall be determined, resources explored and utilized, and the budgetary method applied.
2. **PAYMENTS OF GRANTS**
 - a. SNA may be granted in cash except:
 - (1) when the granting of cash may be deemed inappropriate by the local district because of an inability to manage funds, or
 - (2) less expensive or more easily controlled alternative methods of payment are available (administrative ease), or
 - (3) When vendor payments are made to landlords on behalf of individuals residing in public housing.
 - b. Where an individual has so requested, SNA may be granted in whole or in part by restricted payment. [TASB Chapter 20](#) explains the policy of restricting SNA grants.
 - c. Cash assistance can be provided to SNA A/R, except to the following groups of persons, who must receive non-cash SNA only:
 - (1) Individuals who are, or families where the head of household or any adult member required to be a member of the TA household is, determined to be unable to work due to the abuse of drugs/alcohol and the head of household or adult member is compliant with the screening, formal assessment and treatment requirements for drug/alcohol abuse.
 - (2) Families where the head of household or any adult member required to be a member of the TA household fails to comply with the requirements for screening, formal assessment or rehabilitation treatment for alcohol and/or substance abuse.
 - (3) Families that include an adult or minor head of household who have received sixty months of cash assistance, unless the head of household (including spouses) or any adult member of the TA household is exempt from employment requirements or is HIV positive, and not required to participate in drug/alcohol rehabilitation.
 - (4) Cases that include individuals who have received cash SNA or Home Relief for a cumulative period of twenty-four months, after August 4, 1997, in a lifetime, including the receipt of recurring cash emergency SNA, unless the head of household (including spouses) or any adult member of the TA household is exempt from employment requirements or is HIV positive, and is not required to participate in drug/alcohol rehabilitation.

- d. Non-Cash Assistance benefits must be paid in the following manner. This methodology and hierarchy does not apply when a person is in the cash component of SNA program and the grant is restricted for mismanagement or for administrative ease.

(1) Shelter Assistance

- (a) Local districts must make a payment for shelter by direct payment to a landlord, two-party check or other form of restricted payment up to the local agency maximum shelter allowance amount. Local districts may make a payment for a recipient's shelter in excess of such maximum, up to the deficit amount, if the recipient requests in writing that such excess amount be paid.
- (b) These shelter payments are subject to the provisions of Section 143-b of the Social Services Law, often referred to as the Spiegel Act. This law allows local districts to withhold restricted rent when there are violations of health and safety codes.
- (c) Local districts must make payment for shelter by a two-party check upon the request of the recipient. However, local districts are not precluded from making a direct payment to the landlord whenever it finds that the recipient has persistently failed to make payment for rent without good cause in accordance with the current policies for restricted payments (Part 381 of Office regulations) or for administrative ease.
- (d) Districts have three (3) methodologies available to satisfy the mandated shelter restriction. Each of the methodologies may produce a different amount of remaining TA deficit after the mandated shelter restriction. The remaining TA deficit amount may influence the restriction policy of the district.
 - (i) Districts may restrict the agency maximum shelter allowance only. The district enters an "X" in the ABEL budget shelter restriction field, and the shelter cost, up to agency maximum, will be restricted prior to the restriction of domestic energy and/or heating costs.
 - (ii) Districts may restrict the entire actual shelter cost (if the recipient requests that the excess amount be paid). The district enters a "P" in the ABEL budget shelter restriction field, a shelter cost, up to the actual amount, will be restricted prior to the restriction of domestic energy and/or heating costs.
 - (iii) Districts may restrict the excess shelter costs that exceed the agency maximum shelter allowance (if the recipient requests in writing that the excess amount be paid) after all other restrictions are satisfied. The district enters an "S" in the ABEL budget shelter restriction field and any remaining TA deficit will be applied to the shelter cost, up to the actual amount.
- (e) Local districts must provide the recipient with proof of the shelter payment upon request by the recipient.

(2) Utility Assistance (including fuel for heating)

- (a) Local districts must make a restricted payment for utilities on behalf of non-cash SNA recipients who pay separately for utilities.
- (b) Utilities include domestic energy costs (energy required for lights, cooking and hot water), fuel for heating and expenses classified as a utility (i.e., water) that the applicant/recipient is obligated to pay.
- (c) The methodology to determine the restricted amounts for utilities can be found in the [“Methods of Payment” section of the TA Energy Manual](#).
- (d) Local districts must provide the recipient with proof of the domestic utility payment upon request by the recipient.
- (e) The local district is not prohibited from paying the entire amount of a heat-only bill at the written request of the recipient, with appropriate reconciliation. For recipients of non-cash SNA, the local district must get the recipient's written permission before the entire heat-only bill can be paid.
 - (i) Social Services Law § 131-s mandates and procedures take precedence when the applicant/recipient is threatened with a shut-off when they present themselves to the local district. This means that when the applicant/recipient of non-cash SNA is in a shut-off situation, the local district will not need the written permission of the non-cash SNA recipient in order to pay the entire heat-only bill.

e. Non- Cash SNA Payments to Persons not Residing in their Own Home

- (1) Persons residing in certain residential settings have living arrangements different from those of persons residing in their own apartments or homes. Persons residing in those living arrangements have a higher standard than the maximum temporary assistance standards for persons who maintain their own homes.
- (2) Payments for persons in such residential settings do not fit in the ordinary payment methods for non-cash SNA.
- (3) For persons receiving non-cash SNA who are residing in one of the following living situations, the standards of assistance are those detailed in 18 NYCRR § 352.8 and Parts 408, 900 and 1000:
 - (a) Negotiated Room and board situations
 - (b) Approved residential programs for victims of domestic violence
 - (c) Maternity homes
 - (d) Family care
 - (e) Residential care facilities

- (f) Residential substance abuse treatment facilities
 - (4) The payment to the facilities or to the provider of room and board must be made by a restricted payment.
 - (5) The personal needs allowances (PNA) must be provided in cash, except for those persons in residential substance abuse treatment facilities where it must be provided as a restricted/ conditional payment. The PNA of TA recipients required to participate in a residential substance abuse treatment program are considered “conditional” because if the client leaves the facility, prior to completion of the program, any accumulated PNA is considered an overpayment and returned to the local district, rather than to the recipient.
- f. Districts outside of NYC may authorize direct shelter/room and board payment to the adult caretaker of the children in the NPC non-cash SNA CaseType 17 case. These direct shelter/R&B payments must be restricted in the Automated Budgeting Eligibility Logic (ABEL) budget and authorized to the adult caretaker separately from the recurring cash grant.

I. EMERGENCY SNA AND SHORT-TERM SNA

1. DETERMINING INITIAL ELIGIBILITY/INELIGIBILITY

Local districts must authorize SNA assistance to provide for the effective and prompt relief of identified needs which cannot be provided for under Emergency Assistance to Needy Families with Children (EAF) or FA. Emergency and short-term assistance is limited to the items, conditions and amounts which are allowed under 18 NYCRR Part 352:

- a. An emergency or short-term case is a case in which need is presumed to continue for a period of less than three months.
- b. Frequent reapplications for assistance are not considered emergency or short-term.
 - (1) Frequent reapplications for assistance are not considered emergency or short-term if the purpose of the frequent applications is to circumvent the normal eligibility requirements, such as work rules, for ongoing TA, they are unable to meet their normal everyday living expenses or they should be applying for ongoing TA or other benefits (i.e., SSI, Unemployment Insurance Benefits, Social Security Benefits, etc.) to meet their recurring needs.
 - (2) When individuals make frequent reapplications for emergency assistance (**for example**, more than once within a three month period or a pattern of every few months), local districts should carefully review the reasons for the multiple applications to determine whether one of the above situations in b(1) exists. If so, local districts should deny emergency assistance whenever, based upon the case circumstances, the local district determines that an application for recurring assistance is more appropriate.
 - (3) The applicant does not have to complete another application but the applicant must be provided with a notice of the denial or emergency assistance, as well as a notification of the action taken on the application for recurring assistance.
 - (4) State Law requires payment of utility arrears for eligible households, households applying for utility arrears assistance are exempt from the frequent applications provision.
- c. The local district must provide necessary supervision to such cases in order to modify or terminate grants as quickly as circumstances require.

2. ELIGIBILITY FOR EMERGENCY SNA – Local districts must authorize emergency SNA only under the following conditions:

- a. There is an identified emergency need. An emergency is a serious occurrence or situation needing prompt action;
- b. The individual or household meets all of the following conditions:

- (1) The individual's or household gross income at the time of application must not exceed 125 percent of the current federal income official poverty line, as defined and annually revised by the federal office of management and budget. The 125% of federal income official poverty lines are published yearly (April).
 - (2) A household includes all persons residing in the applicant's house or apartment. It includes related and unrelated persons, such as lodgers, roomers and boarders, foster children and wards or employees who share the housing unit.
 - (3) Gross income is all income on the date of application (earned, unearned, including Supplemental Security Income (SSI).
- c. The individual or household is without income or resources immediately available to meet the emergency need.
 - d. Resources include, but are not limited to: cash, bank accounts, credit cards (not required of recipients), the ability to obtain advance wages from the current employer and community resources.
 - e. If the emergency is the result of a fire, flood or other like catastrophe, or if energy emergency assistance is granted in accordance with Social Services Law § 131-s, the individual's or household's gross income can exceed 125 percent of the federal income official poverty line.
 - f. The emergency need cannot be met under the Emergency Assistance to Needy Families with Children (EAF), the Home Energy Assistance Program (HEAP), FA or SNA.
 - g. The applicant is not disqualified from receiving recurring assistance or subject to durational sanction or the emergency did not arise because the applicant had previously been disqualified or sanctioned for failure to comply with the non-financial requirements of [this Chapter, Section F](#).

3. ESNA AND SANCTIONED PERSONS

- a. When an applicant for emergency assistance is a single person whose TA case is currently closed due to a sanction, the individual is not eligible for emergency assistance, except for payment(s) of utility assistance.
- b. The purpose of a sanction is to impose a financial penalty when an individual or family member will not comply with program rules. Providing assistance, to an otherwise eligible person, to cover a period during which the person was sanctioned, would clearly violate the sanction requirement and must not be done. Additionally, for multi-person households where a member is, or was sanctioned for non-compliance with TA program rules, any assistance provided to meet an emergency cannot include the share of the person sanctioned for the period during which he/she was sanctioned.

c. INDIVIDUAL EXAMPLES

Example 1

John Brown has completed his three-month durational sanction and has reapplied for ongoing SNA. Mr. Brown will be eligible for ongoing assistance. He has told his worker that he is threatened with eviction since he has not paid his \$250 rent each month for the past three months, May, April and March. He also owes for February, the last month that he received TA before the sanction began.

Of the \$1,000 arrears owed, the only amount that can be paid is \$250 which represents February's rent and only if that will prevent the eviction. (The \$250 is recoupable.)

Example 2

Mr. Brown's landlord will not accept the partial payment of arrears and continues the eviction procedure. Mr. Brown now requests rent for the first month to allow him to move. Mr. Brown is TA eligible but cannot receive ongoing assistance for 45 days from application. However, emergency needs can be met during the 45 day period. Mr. Brown is eligible for the first month's rent.

Example 3

Mr. Harper applied for TA at the end of his durational sanction. He now has income which makes him financially ineligible for SNA. The income is below the 125% of poverty ESNA standard. He owes rent arrears that accrued during his sanction period. When the worker explained that he is not eligible for ESNA to pay the rent arrears, Mr. Harper asked for help to move.

Mr. Harper is not eligible for any ESNA since one condition for receipt of ESNA is that the emergency did not arise because the applicant had previously been disqualified or sanctioned for failure to comply (370.3(b)(4)).

Note: The difference between Example 2 and Example 3 - Mr. Brown is eligible for SNA prior to the 45th day to meet an emergency. This payment is not considered Emergency SNA. That is different from Mr. Harper's situation. Mr. Harper is financially ineligible for ongoing SNA. Under 18NYCRR 370.3(b)(4), Mr. Harper is ineligible for ESNA because his emergency situation was caused by his sanction for failure to comply.

Example 4

Ms. Peters was a TA recipient whose case closed due to earned income after the fraud investigator discovered Ms. Peters' employment. An Intentional Program Violation (IPV) was established and pended.

Several months later, Ms. Peters applied for ESNA because her work hours had been reduced and she got behind in her rent. Ms. Peters would have been eligible for ESNA except that the pended IPV was now imposed. The period of ineligibility runs from the time of the determination that Ms. Peters would have been eligible but for the IPV.

d. **MULTI-PERSON RECIPIENT HOUSEHOLD EXAMPLES**

Example 1

Member Disqualified or Under an Incremental Sanction

Mrs. Steele was sanctioned for two calendar months for failing to make a timely report that her son had gone to live with his father. Her needs were deleted from the 3 person TA budget and the budget is now based on the two remaining children in the household. The two-person shelter allowance is \$229. The actual rent is \$400 monthly.

Mrs. Steele informs her worker that the rent has not been paid for the last two months. The landlord is threatening eviction if the arrears is not paid. Mrs. Steele has the ability to pay the future rent, and she agrees to a shelter restriction. However, the worker must determine what amount can be paid. The amount over the shelter allowance (\$400 - \$229) is \$171. That amount must be prorated to determine Ms. Steel's portion. One third, $(\$171 \times 1/3)$ \$57 each month, must be considered Ms. Steel's portion. Of the total arrears amount, \$686 (\$800 - \$114) can be paid, if that amount will resolve the eviction threat, and is recoupable. If the landlord will not accept a partial payment then alternate emergency assistance would be provided as needed.

Note: When alternate emergency assistance is provided to the household of an individual under an incremental sanction which continues, any amount that can be identified as the sanctioned person's portion can not be paid.

Example 2

Member Sanctioned for Failure to Comply With Child Support Requirements (25% reduction in needs).

Mrs. Willoughbee receives Temporary Assistance for herself and her daughter. She is currently under a IV-D sanction which began four months earlier. Mrs. Willoughbee told her worker that her landlord is evicting her for non-payment of rent. She owes a total of \$750 for the previous three months.

Because she is asking for an arrears payment for months that she was under sanction, the \$750 for which she would otherwise be eligible must be reduced by 25%. If the landlord will accept \$562.50 (\$750 – \$187.50) to withdraw the eviction, then that amount may be paid. The payment is recoupable.

If the landlord will not accept the partial payment, any other assistance to meet the emergency must be reduced by 25% while the sanction continues.

Example 3

Sanctioned member - prorata benefit reduction

Mrs. Packard was sanctioned for refusal to comply with the Drug/Alcohol (D/A) assessment requirements. The sanction resulted in a prorata reduction in the benefit of Mrs. Packard and her three children. (Although the worker took the sanction action, the case was inadvertently left in the cash category for the first two months.)

After several months, Mrs. Packard agreed to comply. In the two months when she had incorrectly received the temporary assistance allowance in cash, she did not pay the rent. She informed her worker she is threatened with eviction because she owes rent for two past months. Mrs. Packard's rent is \$400 monthly. The total amount owed is \$800. Mrs. Packard agrees to the continued restriction of her rent. However, the worker must determine what amount of Mrs. Packard's arrears can be paid and if the landlord will accept that amount to prevent the eviction.

Mrs. Packard's prorata share of the \$800 arrears is \$200 ($\$400 \times 1/4 \times 2$ months). The worker determines that \$600 may be paid to avoid the eviction ($\$800 - \200). That amount is authorized if the landlord will accept partial payment to prevent the eviction. The payment is recoupable.

Note: The same arrears amount would be allowed even if Mrs. Packard continued to refuse to comply with the D/A assessment requirement. However, the continuing sanction could affect the worker's decision about whether or not Mrs. Packard could pay future shelter costs.

e. E-SNA RECIPIENT HOUSEHOLD WITH MORE THAN ONE SANCTION TYPE EXAMPLES

To determine the emergency amount that can be paid when a case has more than one sanction in place (or was sanctioned during the time that the emergency arose). Apply the reductions in the following order:

- Incremental (see d. Example 1 above), then
- 25% reduction (see d. Example 2 above), then
- prorata reduction (see d. Example 3 above).

f. ESNA – DETERMINING THE 125% POVERTY LEVEL AND IF THE SHELTER ARREARS REPAYMENT AGREEMENT IS REQUIRED

Example:

Mr. Branch is currently under a durational sanction. At the time the sanction was imposed, Mr. Branch did not live with his wife and therefore, the case closed.

After the sanction began, Mr. Branch moved into his wife's apartment. Mrs. Branch is requesting ESNA to pay rent arrears. Mrs. Branch is not sanctioned or disqualified, so 18 NYCRR § 370.3(b)(4) does not prohibit her eligibility for ESNA.

Mr. Branch's share of the arrears cannot be paid for any month in which he was living with his wife and sanctioned.

The worker must determine if the household passes the ESNA 125% of poverty income test. The worker must also determine if the household must sign a shelter repayment agreement. Normally, when determining the "household" for the purpose of E-SNA 125% of poverty test, all persons in the dwelling unit are considered (95 INF-43). However, because Mr. Branch is in a durational sanction period, the worker compares any income of both individuals against the poverty level for one. If they pass that test, the worker compares the income of both against the TA standard of need for one to determine if the repayment agreement must be signed. If they are eligible for TA for one member based on this test, the household will not have to sign the repayment agreement.

4. **CALCULATING GROSS INCOME** – In calculating gross income, the local district must calculate the monthly earnings for each month as follows:
 - a. Average the last four weeks of pay. This is done by:
 - (1) Adding each week of pay together, and dividing by four
 - (2) Multiplying this weekly average by a 4.333 weeks to arrive at a monthly figure
 - b. If any of the past four weeks' pay is higher or lower than the other three because of an unusual circumstance that the worker does not expect to continue, then the unusual pay week must be discarded and the average monthly wages determined by averaging the three remaining weeks and multiplying by 4.333 weeks. Examples of unusual circumstances include:
 - (1) Missing a week of work because of illness
 - (2) Overtime that is not expected to last
 - (3) Temporary closing of a plant, etc.

Note: If there is no reason to believe that the high or low pay is temporary, then the average must be based on the four weeks' pay.
 - c. The averaging method is used only if there has not been a significant change in pay. A significant change in pay is any increase or decrease that is expected to last at least thirty days. Examples include:
 - (1) Wage or salary increase
 - (2) An increase in the number of hours regularly worked
 - (3) Taking a second job
 - (4) Going from part-time to full-time employment
 - d. Use the most current pay information when the last four weeks of pay cannot be used because there has been a significant change in pay.

The most current pay information requires that the hourly wage rate be multiplied by the number of hours per week and 4.333 weeks per month.

- e. Convert non-weekly wages to an average monthly income amount by using the following conversion factors:
 - (1) Bi-weekly wages: multiply by 2.166
 - (2) Semi-monthly wages: multiply by 2
 - (3) Monthly wages: no conversion factor required
 - (4) Contractual wage: divide contractual wage by number of pay weeks in contract and multiply by 4.333.
5. **LUMP SUM** – Emergency SNA must not be used to meet needs during a period of ineligibility for TA due to the receipt of a lump sum.
6. Emergency SNA does not include MA.
7. **DETERMINATION** – When emergency need is met prior to the completion of investigation, the evidence on which the presumption of eligibility and need is based shall be documented in the case record.
8. **AUTHORIZATION** – Where the need for SNA is short-term or where emergency needs are met prior to the completion of investigation, assistance must be authorized on a one time basis or for the period during which the need is expected to continue. In cases where the need is deemed to be emergency or short-term, the grant may be limited to those items for which there is immediate need.
9. **PROPERTY LIENS** – When emergency or short-term SNA is granted, the local district may accept a deed for real property and/or a mortgage pursuant to Social Services Law § 106 as security for the value of assistance granted.
10. **MASS EMERGENCY ASSISTANCE** – When emergency needs occur on a mass basis, such as the need for mass feeding or clothing distribution and other essential items, these needs shall be considered as emergency and short-term, and shall be provided for as specified above. Names of persons requesting such assistance shall be recorded on form [LDSS-880, "Register of Application and Authorization for Emergency Assistance"](#). This form shall constitute the application. The [LDSS-880](#), when signed by the social services official, shall serve as the authorization for such assistance.
11. **TOWN SOCIAL SERVICES OFFICER** – When application is made to a town social services officer, he may make an emergency grant of SNA and immediately forward the application to the county department of social services for investigation. Such investigation shall be completed within the time frame as described in 18 NYCRR § 351.8. (See [TASB Chapter 5, Section I](#)).

12. ESNA SHELTER ARREARS

Local district can only make ESNA shelter arrears payments when all of the following conditions are met:

- a. The individual or household is not eligible for FA, recurring SNA, EAF or EAA
- b. To receive a shelter arrears payment under ESNA, the household's gross monthly income on the date of application must not exceed 125% of the federal income poverty level guidelines for that household size. These guidelines are revised annually and are effective April 1 through March 31 of the year for purposes of ESNA.
- c. A household includes all persons residing in the applicant's house or apartment. It includes related and unrelated persons, such as lodgers, roomers and boarders, foster children, and wards or employees who share the housing unit.
- d. Gross income is all income on the date of application (earned, unearned, including Supplemental Security Income (SSI) and in-kind before any deductions are taken). This includes such income of all persons in the household as defined in c. above.
- e. Households that fail to cooperate in providing information necessary to determine eligibility are ineligible for shelter arrears assistance.
- f. Local districts must determine to the best of their ability that the applicant/recipient has no available resources to alleviate his or her emergency need.
 - (1) Applicants/recipients with available resources must use these resources to alleviate their emergency need.
 - (2) Available resources include such things as money in the bank and community resources.
 - (3) Local districts must be sure that the resource is actually available to meet the applicant's/recipients emergency need. Before making a referral to a community resource, the district must confirm with the community resource that they are indeed able to meet that person's emergency need.
- g. The arrears payment is essential to forestall eviction or foreclosure and no other shelter accommodations are available, or the health and safety of the applicant is severely threatened by failure to make such a payment.
- h. Shelter arrears payments include rent, mortgage, and tax arrears
- i. In order to receive an allowance to pay shelter arrears, the applicant must reasonably demonstrate an ability to pay shelter expenses, including any amounts in excess of the appropriate local district maximum monthly shelter allowance in the future. Local districts must use their discretion when determining reasonableness:

- (1) A local district must consider a client's ability to meet future rental obligations. If arrears occurred because the apartment is too costly for the client, and it is unlikely that continued rental obligations can be met, an alternative to paying the arrears may be more preferable.
 - (2) The local district may determine that the client cannot meet the rental obligation on their income, there is no third party to assist with the rent, and income is not likely to increase in the near future. As an alternative to paying the arrears, placement in temporary housing with assistance in relocating to more affordable housing may be more appropriate than paying the arrears.
- j. When in the judgment of the local district, the individual or household has sufficient income or resources to secure and maintain alternate permanent housing, shelter arrears need not be paid to maintain a specific housing accommodation.
 - k. A payment to prevent eviction or foreclosure may be made for the time prior to the month of application for applicants seeking emergency assistance under ESNA.
 - l. Current month's rent or mortgage payment must not be considered when calculating the amount of the shelter arrears payment unless the current month's rent is past due and there is a threat of eviction or foreclosure if it is not paid.
 - m. The amount of the payment is limited to a total period of six months once every five years unless the local district determines, at its discretion, that an additional shelter arrears payment is necessary based on individual case circumstances.
 - n. Fees related to landlord's actions to evict clients or legal costs of mortgagees who begin foreclosure actions against clients are not payment for shelter, thus, such costs cannot be paid.
 - o. Local districts may require the signing of a lien as a condition of eligibility for ESNA.
 - p. ESNA must not be used to pay rental arrears for FA or SNA recipients.
 - q. The authorization of the payment receives special written approval by the social services official or such other administrative officer as he/she may designate, provided such person is in higher authority than the supervisor who regularly approves authorization.
 - r. An applicant who is not applying for, or who is determined ineligible for recurring FA or SNA or for one-time emergency relief under EAF or EAA, who is subsequently determined otherwise eligible for ESNA, is required as a condition of eligibility to complete and sign the "ESNA Shelter Arrears Repayment Agreement".
 - s. Applicants who are required to sign a Repayment Agreement but who refuse to do so are ineligible to receive shelter arrears assistance under ESNA.

13. ESNA Shelter Arrears Repayment Agreement

- a. The applicant must agree as a condition of eligibility for the shelter arrears assistance under ESNA to repay, within a twelve (12) month period, all of the shelter

arrears assistance provided to him/her. In addition all of the conditions for receiving a shelter arrears payment outlined below must be met:

- (1) The household meets all of the conditions to be eligible for ESNA listed in 12, above.
 - (2) Such payment is essential to forestall eviction or foreclosure and no other shelter accommodations are available, or
 - (3) The health and safety of the applicant is severely threatened by failure to make such payment.
 - (4) The authorization of the payment receives special written approval by the social services official or such other administrative officer as he/she may designate, provided such person is in higher authority than the supervisor who regularly approves authorization.
 - (5) The applicant reasonably demonstrates an ability to pay shelter expenses, including any amounts in excess of the appropriate local agency maximum monthly shelter allowance in the future.
 - (6) The applicant must not have received shelter arrears assistance in the past five years exceeding a period of six months, unless at its discretion, the local district determines an additional shelter arrears payment may be advisable.
- b. Only the applicant and his/her legal spouse may be required to sign the Repayment Agreement.
 - c. In order to determine if an applicant for shelter arrears is required to sign a repayment agreement, local districts must complete the entire Part 1 of the “ESNA Shelter Arrears Repayment Agreement” (unless the person is already in receipt of recurring FA or SNA).
 - d. Districts must set forth a schedule of payments that assure repayment within 12 months of the date of the shelter arrears assistance.
 - e. The Repayment Agreement itself sets forth the amount of the arrears received, the payment schedule and the dates payments must be received by the agency.
 - f. Districts must clearly specify the dates for repayment by completing Part 2 of the Agreement. A specific date must be established for receipt of the first payment.
 - g. Districts must provide the address to which payments must be made.
 - h. There is no requirement that the district send a bill. If the district chooses to send bills and does not send a bill, the person is still responsible for the payment.
 - i. General business practice dictates that a receipt should always be given when cash is received by the district.

- j. The language set forth in the “ESNA Shelter Arrears Repayment Agreement” must be reproduced locally, without change.
- k. Part 2 of the Agreement must be completed for applicants where the local district has completed Part 1 and the answer to 1. F is “no”.
- l. A copy of the Repayment Agreement must be retained in the case file.
- m. Applicants who are required to sign the Repayment Agreement must receive a copy of the completed form.
- n. A local district currently operating under an approved local equivalent may request approval of a local change to the standard language on the repayment agreement form, including the addition of a “Confession of Judgment” provision by sending a request and copy of the draft to:

NYS Office of Temporary and Disability Assistance
Center for Employment and Economic Supports
40 North Pearl Street
Albany, NY 12243

- o. If required to do so, the applicant signs the "ESNA Shelter Arrears Repayment Agreement" to repay in full, the amount of the shelter arrears payment in a period not to exceed twelve months.
 - (1) Subsequent assistance to pay shelter arrears under ESNA cannot be provided unless the applicant is current on payments agreed to under the original repayment agreement.
 - (2) The local district must enforce the repayment agreement by any legal method available to a creditor including but not limited to referral to a collection agency, obtaining a judgment from a court, garnishment of wages in appropriate cases, etc. in addition to any rights it has pursuant to the social services law (i.e., ability to require liens as a condition of eligibility for assistance).
 - (3) If an individual or household who has signed a repayment agreement, but who has not yet repaid an arrears payment in full, later becomes eligible for recurring TA any unpaid balance is suspended.
- p. If an applicant is applying for recurring SNA and a shelter arrears payment must be made prior to the 45th day, a repayment agreement should be signed (this is done in the event the SNA case is never opened). However, if the case is opened the repayment agreement is null and void and only the amount of arrears above the shelter maximum is recouped, as with all other applicants.
- q. Districts may require that recipients of ESNA for shelter arrears execute a lien on real property. The portion of the lien that represents the amount of the shelter arrears assistance which has already been satisfied by payments under the Agreement must be deducted from the amount of the lien.

- r. Applicants who are required to sign a Repayment Agreement but who refuse to do so are ineligible to receive shelter arrears assistance under ESNA.

J. SUPPLEMENTAL SAFETY NET ASSISTANCE

1. **SNA** must not be denied or discontinued solely on the basis that the applicant/recipient is in receipt of SSI (18 NYCRR § 370.7). If an SSI recipient appears at the local district office to apply for supplemental TA, local districts are required to determine eligibility for SNA in accordance with all SNA program standards.
2. **NEEDS** – In determining the degree of need, all applicable SNA standards shall be utilized. While the SSI benefit level is a flat grant based on living arrangements, the SNA budget must be based on shelter needs added to the basic allowance, plus the monthly Home Energy Allowances plus any applicable special needs. Shelter needs budgeted shall not exceed the local district's maximum schedules.
3. **BUDGETING NEEDS** – When an SSI recipient applies for SNA, incremental budgeting (rather than proration) is used to determine the needs of SSI individuals. The following steps should be used to budget cases whenever an SSI recipient is living with an FA household and application is made for supplemental SNA in order to meet the SSI recipient's needs:

- a. Determine the needs of the household with the SSI recipient included.
- b. Determine the needs of the FA household alone.

When calculating the shelter needs in the first two steps, the needs of the SSI recipient are to be considered last.

- c. The difference between the needs with the SSI recipient in the household and the FA household alone are considered to be the needs of the SSI recipient.
 - (1) If the needs of the SSI child are more than the SSI living with others rate, the SSI recipient is eligible for supplemental SNA benefits.
 - (2) If the needs of the SSI child are less than or equal to the amount of the SSI check, the SSI child is not eligible for supplemental benefits.

4. **RESOURCES** – An SSI recipient can have up to \$2,000 of countable resources, and up to an additional \$1,500 set aside to meet burial and related expenses, and still remain eligible for SSI. Under the SNA program, however, there are many more stringent restrictions on the amounts and kinds of resources a person can have. Accordingly, it is possible that an SSI recipient who is income eligible due to high shelter costs would be ineligible for SNA due to excess resources. In determining eligibility for SNA, the utilization of resources, including real and personal property, shall be treated in accordance with applicable Office Regulations.
5. **INCOME** – In determining eligibility for supplemental SNA benefits, earned income must be treated in accordance with the SNA rules.
 - a. The Social Security Administration (SSA) disregards (exempts) the first \$20 of a recipient's income when determining that individual's SSI grant. This \$20 is not disregarded under the SNA program.

- b. The SSA disregards the first \$65 plus one-half of the remainder of all earned income. This amount is not disregarded under the SNA program.
 - c. In-kind income as determined by the SSA must not be considered as available income unless a separate verification of its availability is made. For more information [see section K](#) below.
 - d. The portion of the SSI grant being recouped by the Social Security Administration must not be considered as available income [352.16(d)].
6. **NOTICES** – Timely and adequate notice must be given to individuals, within the state, whose Supplemental Security Income is supplemented by a grant of SNA. Whenever a local district proposes to reduce or discontinue a supplemental SNA grant to an SSI recipient, timely and adequate notice as defined in Office regulations, detailing the reason for the proposal, together with a copy of the budget, shall be sent to the SSI recipient.
7. Individuals who have a portion of their SSI cash benefits recouped by SSA, or are sanctioned from receiving SSI cash benefits, can apply for and receive SNA benefits. If an SSI recipient makes an application for Safety Net Assistance (SNA), the Social Services District (SSD) is required to determine eligibility for SNA according to all SNA program standards.

K. TREATMENT OF SSI IN-KIND INCOME

1. The New York State Appellate Division ruled in the Rosenfeld v. Blum litigation that there is no authority to automatically presume the availability of income based upon a determination of the SSA. The court further declared that Social Services Law requires local districts consider only "in-kind" income that is actually available to the applicant/recipient to reduce his/her need for TA.
2. Local districts should be able to utilize the Social Security Administration's records that separately identify the presence of "in-kind" income. The SSA defines "in-kind" income as any income other than cash income and must be either food, clothing, or shelter (Type "H1" on the SDX file) or something the individual can sell or convert to obtain food, clothing, or shelter (included in Type "S1" on the SDX file).
3. In addition to normal verification procedures, local districts must contact the appropriate SSA District Office to ascertain the nature and amount of the "in-kind" income which the Social Security Administration has identified in determining the level of the SSI benefit.
4. **INDEPENDENT DETERMINATION OF "IN KIND" INCOME** – The eligibility worker must make an independent determination as to the availability of "in-kind" income and record that determination in the case record.
 - a. If the SSI recipient is eligible for SNA, the local social services district will open the case and promptly notify him or her that, as a condition of continuing eligibility, he/she must provide verification within the next 30 days that he/she has applied for a reduction in the amount of the SSI "in-kind" income.
 - b. If the SNA-eligible SSI recipient is in the "Living in the Household of Another" living arrangement, he/she must appeal any denial of his/her request for a reduction of the SSI "in-kind" income amount and exhaust the available administrative remedies to achieve the reduction.

Note: The reason such SSI recipients "Living in the Household of Another" are required to return to SSA is that they were determined by SSA to be paying less than their pro-rata share of food and shelter. However, their applications for TA (or continued need for TA) indicates they may be paying more than their pro-rata share of either food or shelter. If upon return to the District Office, SSA determines this is the case they may be eligible for an SSI living arrangement category providing a higher Federal benefit. A higher Federal benefit will, in turn, lower the SNA payment.
 - c. The SSA determines an individual to be living in the household of another if he/she is receiving free or reduced (i.e., paying less than his/her pro-rata share) food and shelter.
5. **BUDGETING** – Only the amount of "in-kind" income actually available to the SSI recipient shall be used to determine the level of need for SNA.

Example 1

Mr. Brown, an SSI recipient, lives with his two adult children who are not on TA, and receives a monthly SSI check of \$345.67. The total shelter expense for this apartment is \$675 of which Mr. Brown pays \$225. He pays less than his prorata share of the food costs. He is in the SSI Living in the Household of Another" (SDX Supplemental Code F) living arrangement and is applying for TA.

- (1) The eligibility worker makes an independent determination of the availability of the "in-kind" income. In this example, the worker determines that the \$118.00 is not available and records that determination in the case file.
- (2) Since Mr. Brown is eligible for SNA, his case will be opened and his grant payment will be processed. As a condition of continuing eligibility, however, he will be referred to SSA to have the amount of his SSI "in-kind" income reduced through the SSA's redetermination process.

Example 2

Mr. Fox, an SSI recipient, without other income, resides with his son and daughter-in-law who are not on TA. Mr. Fox states he pays his son \$80 per month for room and board. SSA determines that Mr. Fox is "Living in the Household of Another" (SDX Supplement code F). He is receiving a monthly SSI benefit check of \$345.67. He applies for SNA. Mr. Fox fails the gross income test, has a budget surplus of \$114.42 and is ineligible for SNA.

L. INTERIM ASSISTANCE TO SSI APPLICANTS

1. DEFINITIONS

Interim Assistance (IA) – Assistance furnished to an individual financed totally from State and /or local funds, for meeting basic needs and provided while the applicant is pending an SSI eligibility determination or post eligibility determination.

Interim Assistance Period – The period of time between which an SNA recipient was eligible for payment of SSI benefits and the time the individual actually received an initial SSI payment or the following month if the SSD cannot promptly stop making the last SNA payment.

Interim Assistance Reimbursement (IAR) – Reimbursement by SSA to the State for interim assistance furnished to TA recipients during the months their SSI applications are pending and/or during the months their SSI benefits have been suspended or terminated and reinstated.

Electronic Signature – For Rest of State (ROS) (outside of NYC) a signature of the SSD representative electronically captured through the Welfare Management System (WMS) via the SSD representative's user ID and password used in WMS at the time of case opening and recertification. The SSD representative's signature may be retrieved by accessing the COGNOS Electronic Signature Report.

For NYC HRA – Electronically capture the SSD representative's signature via Paperless Office System (POS). The data from POS is an electronic record of the SSD representative's signature and may be retrieved by accessing POS "Review Case" reports.

Exclusion Cases – Cases that are too complex for the current eIAR functionality and must be processed manually.

Government to Government Services Online (GSO) – a suite of applications enabling governmental organizations and authorized individuals to conduct business with and submit confidential information to the Social Security Administration (SSA). The interim assistance application is used to submit the IAR request information to the SSA.

Initial Payment – The total amount of SSI benefits payable to an eligible individual (including retroactive amounts, if any) at the time the first payments of SSI benefits are made, but does not include any emergency advance payments or presumptive disability or blindness payments authorized by SSA.

Initial Post Eligibility Payment – The first payment of SSI benefits made at the time SSI benefits are first reinstated following a period of suspension or termination, does not include any emergency advance payments or presumptive disability or blindness payments authorized by the SSA.

Presumptive Payments – In certain disability claims where the SSI applicant is severely disabled or blind the SSA may provide presumptive payments for up to six

months. Presumptive payments are authorized to provide SSI benefits while the disability determination is pending.

Protective Filing – A written statement by an individual indicating intent to claim SSI benefits received at an SSA office or another federal or State office designated by the SSA to receive applications on behalf of the SSA or by a person so authorized.

Recertification Date – The date a signed and dated recertification form is submitted to a social services district.

Supplemental Security Income – SSI benefits means Supplemental Security Income payments made under Title XVI of the Social Security Act and any State supplementary payments made under Article 5, Title 6 of the Social Services Law.

State Supplement – Monthly payments funded by NYS to SSI recipients and administered by the SSA. State supplement payments are added to an SSI recipient's monthly SSI benefit.

Working Days – Any normal day the Office is open is counted as a working day. Holidays and weekends are not counted as working days.

2. INITIAL AND POST-ELIGIBILITY SSI DETERMINATION

- a. This Office and the federal Social Security Administration (SSA) have entered into a Interim Assistance Reimbursement (IAR) Agreement. The Agreement permits local districts to recover IA for initial SSI applicants.
- b. The agreement also extends IAR by allowing local districts to recover IA provided to SSI recipients who were suspended or terminated and subsequently reinstated onto SSI (initial post-eligibility situations).
- c. The common application form ([LDSS-2921 Statewide](#)), the recertification form ([LDSS-3174](#)) and the Mail-In Recert/Eligibility Questionnaire ([LDSS - 4887 /M327h\[NYC\]](#)) or local equivalent contain the IAR authorization language that permits local districts to recover IA for initial SSI applicants. They also contain the IAR authorization language that permits local districts to recover IA for initial post-eligibility recipients.
- d. A signed authorization applies to any IA paid to an SNA applicant or recipient.
- e. The SSD must capture an SSI applicant, recipient or their representative's signature and an SSD representative's signature on the IAR authorization as instructed in [08 ADM-11](#), Interim Assistance Reimbursement (IAR) Consolidated Policy and Procedures and [10 INF-15](#), Temporary Assistance (TA) Policy implications Regarding Electronic Interim Assistance Reimbursement (e-IAR) Activation.. The signature of the SSDs representative may now be captured electronically. Please refer to [14 ADM-02](#), The Use, Capture and Reporting of an SSD's Representative's Signature on Interim Assistance Reimbursement (IAR) Authorizations, for complete information on the ability to use, capture and report the electronic signature of a Social Services District (SSD) representative's signature on the Interim Assistance

Reimbursement (IAR) authorization as required by agreement with the Social Security Administration.

- f. The authorization remains valid until SSA has made a final determination on the SSI applicant or recipient's claim or until the State and applicant or recipient mutually agree to terminate the authorization. [See 13 LCM-15](#), Document Packet for Fair Hearings Related to Interim Assistance (IAR).

3. ADMINISTRATIVE RESPONSIBILITIES AND PROCEDURES

- a. If an applicant or recipient is determined eligible for IA, the SSD must issue interim assistance for as long as eligibility continues.
- b. SSDs must timely calculate the amount of IA to be recovered.
- c. In all circumstances, when the SSD receives an e-mail notification from SSA that IA data is required, the SSDs must provide SSA with the information within a maximum of 25 working days from the date the SSD received the e-mail notification. Ideally, SSDs should provide SSA with the required IA data within 10 working days of receiving an e-mail notification. If an SSD fails to comply within the 10 working day timeframe, an additional 15 working days will be provided. If the SSD fails to provide SSA with required IA data within a maximum of 25 working days from the date the SSD received an e-mail notification, the system will automatically send the entire initial SSI payment directly to the recipient in accordance with SSA rules and the SSD will not receive any IAR. See [09 ADM-18](#), Temporary Assistance (TA) policy Implications of Implementation of Electronic Interim Assistance Reimbursement (e-IAR).
- d. The TA household's eligibility must be immediately reevaluated and appropriate action must be taken including, if necessary, reducing or discontinuing assistance. The SSD may use electronic or non-electronic notification from the SSA as documentation that a TA applicant or recipient has been determined eligible for SSI. If the SSI income changes a TA recipient's grant amount or results in ineligibility for TA, an adequate notice must be provided. Timely notice is not required.
- e. Within ten working days of the SSD receiving the IAR payment from the SSA, the SSD must provide every TA recipient with a complete accounting of his/her SSI benefits withheld as reimbursement for IA by completing and mailing a [LDSS-2425A "Repayment of Interim Assistance Notice"](#) (Rest of State) or Local Equivalent (LE).
- f. If a local district becomes aware that it has incorrectly recovered TA funds for a benefit that the SSI recipient did not actually use (benefits not redeemed or benefits that were cancelled), or for any other reason, it must return the amount of the incorrectly recovered benefit(s) to SSA to be distributed to the recipient according to their rules.
- g. For districts outside of New York City (NYC), the Benefit Issuance Control System (BICS), Cash Management System (CAMS) or district accounting records must be reviewed to determine if an overpayment was paid to, or on behalf of, an SNA recipient during the IA period. Any overpayment issued to an SNA recipient via BICS during the IA period can be recovered from the individual's initial or post eligibility

SSI payment. For NYC all system or accounting records must be reviewed to determine if an overpayment was paid to, or on behalf of, an SNA recipient during the IA period.

- h. The SSD must determine if any recoupment amounts deducted from the Automated Budgeting Eligibility Logic (ABEL) budget during the IA period can be recovered. SSDs can recover the entire amount of an SNA grant paid during the IA period, including the amount withheld by recoupment for overpayments that originated prior to the IA period.
 - i. If IA was recovered by any other means, such as, a lawsuit settlement, lottery offset, and/or lien, the IA amount must be reduced to reflect the recovery. For information regarding overpayment/repayment refer to GIS 04 TA.DC006.
 - j. The SSD must determine if during the IA period multiple SSDs provided IA to the same individual. If so, the SSDs must follow the instructions in [Section L, Chapter 10](#).
 - k. SSDs must maintain accurate accounting records for each individual for which the SSD receives IAR from the SSA. These records must at a minimum include the following information:
 - 1. The amount of the IAR payment received from SSA
 - 2. The amount of IA paid to the individual
 - 3. The date the IAR payment was received by the SSD from SSA
 - 4. Documentation to support the amount of IA recovered
 - l. Accounting records must be available for inspection by this Office and by SSA.
 - m. All IAR case processing records such as forms from the SSA, application/recertification forms, and SNA payment records, must be maintained for at least six years.
4. Interim Assistance Period
- a. The interim assistance period is the period of time between which an SNA recipient was eligible for payment of SSI benefits and the time the individual actually received an initial SSI payment or the following month if the SSD cannot promptly stop making the last SNA payment.
 - (1) Initial Eligibility refers to the period of time between which an individual applied for SSI benefits and the time the individual is eligible to receive an SSI payment.
 - (2) For initial eligibility, the IA period begins with the first month the individual was eligible for payment of SSI benefits and ends with and includes, the month in which the initial SSI payment is received or the following month if the SSD cannot promptly stop making the last SNA payment.
 - (3) Example: An individual applied for SSI on June 25, 2011. On October 6, 2012 the SSD received an e-mail that the individual was eligible for an SSI payment retroactively from July 1, 2011 to October 31, 2012 with ongoing SSI payments

beginning on November 1, 2012. The individual continuously received SNA benefits effective August 1, 2011. The individual received an SNA payment and was eligible to receive an SSI payment for the entire time period he received TA. The IA period is from August 2011 to October 2012.

- (4) Post Eligibility refers to the period of time when an SSI recipient's benefits were wrongfully terminated and subsequently reinstated.
- (5) For Post Eligibility, the IA period begins on the first day for which a TA recipient's SSI benefits were retroactively reinstated after a period of wrongful suspension or termination, and ends with the month the individual's SSI benefit payments resume, or the following month if the SSD cannot promptly stop making the last SNA payment.

Example:

An individual's SSI benefits were wrongly suspended on January 1, 2012. On January 3, 2012 the individual applied for TA. The individual received SNA beginning February 16, 2012. On March 2, 2012 the SSD received an e-mail of initial post eligibility for the payment period from January 1, 2012 to March 31, 2012, with notice of ongoing SSI benefits to begin April 1, 2012. The IA period is from February 2012 to March 2012.

- b. Once notification is received that a recipient is eligible for an SSI initial or post eligibility payment the household's eligibility must be immediately reevaluated and appropriate action must be taken including, if necessary, reducing or discontinuing assistance. In addition, reasonable effort must be taken to timely stop the last SNA payment from being issued.

5. Interim Assistance Reimbursement Calculation

All of the following actions must be performed to determine the amount of IA that can be recovered directly from the Social Security Administration.

- a. Determine the IA period.
- b. Determine the SSI initial eligibility payment period.

The SSI initial eligibility period is the period of time between which an SSI recipient was eligible to receive SSI payments and the time ongoing SSI payments began.

Example:

An SSD received a payment summary notification from SSA that reflected Mr. Brady was eligible to receive SSI of \$690 per month from July 1, 2012 to September 30, 2012 and ongoing SSI payments to begin on October 01, 2012. The initial SSI payment period is July 1, 2012 to September 30, 2012.

- c. Do not recover any payments that are federally funded including such as the following:

- (1) Home Energy Assistance Payments (HEAP)
- (2) Supplemental Nutrition Assistance Program (SNAP) benefits
- (3) Emergency Assistance to Families (EAF)
- (4) Family Assistance (FA) benefits
- (5) Employment payments financed with federal funds
- d. Do not recover any non-cash SNA-Federally Participating, Case Type 12, payments (SN-FP).
- e. Do not recover any presumptive SSI benefits received by the recipient during the IA period.
- f. Determine the amount of SNA payments issued (date of benefit) to the recipient during the IA period. These payments include:
 - (1) SNA payments Case Type 16 (SN - CSH) and 17 (SN - FNP)
 - (2) Veterans Assistance payments
 - (3) Institutional Care for adults pursuant to 18 NYCRR Part 371 which allows for cost incurred to shelter adults in a city or county home
 - (4) Foster Care payments funded totally from State and local funds (i.e., no federal funding). For more information see [94 ADM-01](#).
- g. The SNA amount issued to a recipient during the IA period may include the following:
 - (1) Any recoupment amount subtracted from the ABEL budget during the IA period to repay overpayment claims that apply to overpayments that originated prior to the IA period.
 - (2) Any payment for basic needs made from 100% State or local funds paid during the IA period regardless of whether or not the payments are for expenses incurred during the interim period. For example, an SSD can recover the amount of SNA paid for fuel during the interim period even though the bill was for fuel provided prior to the interim period. Conversely, a bill for fuel received during the interim period but paid by the SSD after the IA period cannot be recovered. An exception is the payment for energy restrictions must be within the IA period.
 - (3) The total monthly amount of SNA paid can be recovered from the total sum of the recipient's initial SSI payment as long as, for the month SNA was paid, the recipient was eligible to receive both an SNA payment and an SSI payment. For example, a single SNA individual was eligible to receive SNA payments from January 1, 2011 to June 30, 2011. The SSI eligibility period was February 2011 to June 2011, (the ongoing SSI payment began July 2011). During the IA period the recipient received the following SNA payments and was eligible to receive the following SSI payments:

	Recipient Income	IA Payments	SSI
January	.0	352	0
February	0	600	424
March	0	352	724
April	340	12	724
May	0	352	724
June	0	352	724
Total	340	2,020	3,320

In February, the SNA payment of \$600 included a payment for emergency housing. Even though the SNA recipient was only eligible to receive \$424 in an SSI payment, the entire \$600 of SNA paid to the recipient in that month can be recovered from the total initial SSI amount. No IA amount can be recovered for the month of January because both an SNA and an SSI payment were not received for that month.

- h. Do not recover any IA made prior to the SSA's determination of initial SSI eligibility.
- i. Do not recover any IA for any month that the recipient was not eligible to receive both an SNA payment and an SSI payment.

Example: An SNA recipient is eligible for an initial SSI payment. SNA payments were paid as follows:

<u>Date of Payment</u>	<u>Date of Service</u>	<u>Amount</u>
10/18/11	09/06/11-09/30/11	\$336.00
10/18/11	10/01/11-10/31/11	\$336.00
11/01/11	11/01/11-11/30/11	\$336.00

Information from the SSA provided the following summary of initial SSI eligibility payments that the individual was determined eligible to receive:

<u>From</u>	<u>To</u>	<u>Amount</u>
08/11	08/11	\$710.00
09/11	12/11	\$ 0.00
01/12	01/12	\$103.38
02/12	02/12	\$447.67

Zero IA can be recovered from the initial SSI payment. Districts must not recover any IA for any month that the recipient was not eligible to receive both an SSI payment and an SNA payment. The September 06, 2011 service date was not paid until October 18, 2011, and the recipient did not receive any initial SSI for the month of October or any other months an SNA payment was made; therefore zero can be recovered.

- j. For New York City (NYC) the WMS Benefit Issuance History inquiry along with other additional NYC issuance systems can be used to determine payments made to the

recipient. For SSDs outside of NYC, BICS can be used to determine payments made to the recipient.

- k. SSDs outside of NYC can request the Case Record of Assistance Report through BICS Production Request (BPR) 44. The report can be requested for a specific case number and time period. It is recommended that the requested “from” and “to” dates be at least one month greater than the actual SSI period to ensure that all eligible payments are included on the report.

6. SSA Methods for Payment of Interim Assistance Reimbursement

The SSA disburses an SSI recipient's initial SSI payment via e-IAR. The e-IAR process is a project designed, implemented and mandated by the SSA to automate the IAR payment process by utilizing a SSA secure website known as Government-to-Government Services Online (GSO). The SSA computerized process allows the SSA to determine the payment due to an SSD automatically based on the SSD worker's reported IA payment information inputted into and transmitted through the GSO website. In addition, the system retains an electronic record of this determination for review; automates the SSA notice to the SSD processes with a comprehensive e-mail alert system; and, automatically notifies SSD workers via e-mail of the reimbursement determination and payment.

The e-IAR process does not change SSD notification requirements; the actions needed to obtain IAR authorization; the way the SSD determines the IA period; or, the manner in which the SSD calculates the IAR amount.

Once SSA receives the required IA data via the GSO, they will calculate the amount of IAR due to the SSD and send any reimbursement to the SSD by direct deposit using the Automated Clearing House (ACH).

7. Required Agency Actions When an IAR Payment is Received from SSA:

- a. Re-evaluate the household's TA eligibility and take appropriate action if necessary, by reducing or discontinuing assistance. An adequate notice must be provided. Timely notice is not required.
- b. Send to any other SSD which provided IA during the IA period their portion of the IAR payment.
- c. Within ten working days of the SSD receiving the IAR payment from the SSA, complete and send the: [LDSS-2425A](#) “Notification of Repayment of Interim Assistance” (Rest of State) or the LDSS-2425A (LE) (NYC).
- d. Maintain all IAR case processing records for at least six years.

8. Interim Assistance Calculation for an Individual Who is Part of a Multi-Person Household

- a. The incremental budgeting method must be used to determine the amount of IA that can be recovered from the initial SSI benefit of an individual who was part of a multi-person household. Incremental budgeting is:

- (1) The difference between the SNA benefits the family received during the IA period with the SSI recipient included in the household count, and his/her income and/or additional allowance(s) budgeted; and
 - (2) The amount of SNA the family would have received during the IA period with the SSI individual deleted from the household count along with the deletion of the SSI individual's income and additional SNA allowance(s).
- b. To determine the amount of IA to be recovered from a multi-person household, complete the following steps:
- (1) Determine the IA period
 - (2) Determine the actual amount of SNA the family received during the IA period with all household members (including the SSI recipient) included in the household count, all income, and additional allowances included in the budget
 - (3) Determine the amount of SNA the remaining household members would have received during the IA period. Be sure to delete the SSI individual from the household count and delete his/her income and or additional allowances from the budget
 - (4) Subtract the total of number (3) from the total of number (2)
- c. SSDs cannot recover emergency SNA provided to members of a multi person household that includes an SSI recipient during the IA period, unless the district can determine that the assistance provided was specifically for the SSI individual. For example, the amount of the SSI recipient's share of a utility shut-off payment made to a multi person household during the interim period cannot be distinguished from the other household members and therefore cannot be recovered. However, an emergency payment directly attributable to the SSI recipient, such as a restaurant allowance, can be recovered.
- d. Special consideration is required when family members form a filing unit and the SSI family member would be a required filing unit member but for the receipt of SSI. TA eligibility for remaining household members must be determined as follows:
- (1) For TANF-funded cases (Case Types 11 and 12), an individual in receipt of SSI is not included in the case's household or case count. Additionally, the individual's income is not considered in determining the eligibility of the remaining household members.

Example:

A husband, wife, and a 6-year-old child in common reside together and the child is an SSI recipient. The family is in receipt of FA. The case would not include the SSI child or the child's income in the case. Therefore the case is budgeted as a household (HH) of 2 and case (CA) of 2.

- (2) For SNA cases (Case Types 16 and 17), you must determine if the household is subject to Rice proration budgeting, Rice budgeting applies **only** when:

- (a) The SSI recipient is a “legally responsible relative” (LRR), and
- (b) There are no children on the case under age 18 (or age 18 and in full-time secondary school or the equivalent).
- (3) When the SSI recipient is also a legally responsible relative, the SSI recipient is included in the household count, but not the case count. (*Rice Budgeting*, [94 ADM-10](#)).

Example

A husband, wife, and 20-year-old daughter reside together and the wife is an SSI recipient. The husband and wife are legally responsible for each other and for the daughter who is under 21. The SSI wife/mother is included in the household count but not the case count, therefore the case is budgeted as a household (HH) of 3 and case (CA) of 2.

- (4) No SNA case that is eligible to be claimed for Maintenance of Effort (MOE) can have the Rice proration applied even if the child is not active on the case.

Example

A husband, wife, and a 12 year-old child in common reside together and the wife is an SSI recipient. The family is in receipt of SNA (case type 16) after exhausting TANF-funded benefits and transitioning to SNA. Because this is an SNA/MOE case, we would not include the SSI wife or the wife’s income in the case. Therefore, the case is budgeted as a household (HH) of two and case (CA) of two.

- e. The following are four (4) examples that will illustrate the steps needed to calculate IAR for multi-person households:

Example 1: Two Person Household – One receives SSI

Mr. and Mrs. Warren applied for TA benefits on January 5, 2012. They began receiving cash SNA benefits on February 18, 2012. Based on a review of Mr. Warren’s medical documentation, the SSD determined that he may be eligible for SSI and required Mr. Warren to apply for SSI as a condition of eligibility for TA. On July 15, 2012, the SSD received e-mail notification that Mr. Warren was eligible to receive an initial SSI benefit effective May 1, 2012. Ongoing SSI payments began August 1, 2012.

Step 1: Determine the IA period. The IAR period is three months May 2012 through July 2012.

Step 2: Determine the amount of SNA the family received during the IAR period with the SSI recipient and his/her additional allowances and income included in the budget/household count. The amount of SNA the two person household received during the IA period is \$1,605 (\$535 x 3).

Step 2 is illustrated with the following ABEL budget:

The screenshot displays the ABEL budget interface with the following data:

WBGTPA ** PA BUDGET **		VERSION		DIST ALBA 04/17/2014	
CASE NAME	CASE NO.	OFC	UNIT	WORKER	TRAN CASE IVD
WARREN DAVID	SCRATCHPAD	XXX	XXXXX	XXXXX	05 16
HH CA DP-HH DP-CA HC LF PI SI PSP PSF	***** EARNED INCOME *****				
02 02	01	#	LN	30I	30M SRC FRQ D HRS CCR
TY R	ACTUAL	ALLOW	1:		
	BASIC	22500	2:		
	ENRGY	2250	**** OTHER INCOME ****		
	SPMNT	1700	LN SRC F	AMOUNT	EXEMPT
01 E	SHELT	25000	21300	0	0
	WATER	0	0	0	0
1 X	FUEL	5800	0	0	0
	OTHER	0	0	TOTAL NET	0
	OTHER	0	0	\$\$\$ PA GRANT	\$\$\$\$
	OTHER	0	0	TOTAL NEEDS	53500
	TOTAL NEEDS	53500	TOTAL INC	0	0
***** RECOUPMENT *****		CD / AMT D	53500	0	0
TY	BALANCE	%	MO	AMT	REM
	0	00.0		0	0
	0	00.0		0	0
	0	00.0		0	0
RECALC	00.0	0	SEMI CASH	11350	050112 TO 073112
FS CASE NO.			SEMI N-CASH	0	DATE STORED / /

Row=24 Col= 80 POLL

Step 3: Determine the amount of SNA the remaining household members would have received during the IAR period with the SSI recipient and their additional TA allowances (if any) and/or income deleted from the budget/household count. The amount of SNA that a one person household would have received is \$1,224 (\$408 x3).

Step 3 is illustrated with the following ABEL budget:

The screenshot shows the ABEL budget screen for Warren David. The screen displays various financial categories and amounts, including actuals, allowances, and needs. The total needs are 40800, and the total income is 0. The screen also shows the effective date of the budget as 05/01/12 to 07/31/12.

TY	R	ACTUAL	ALLOW	1:	2:
01	E	25000	18400	0	0
1	X	5800	0	0	0
TOTAL NEEDS		40800		0	0
TOTAL INC				0	0
RECOUPMENT				0	0
TY BALANCE				0	0
RECALC				0	0
FS CASE NO.				0	0

Step 4: Determine the amount of IA that can be recovered by subtracting the total of step number 3 from the total of step number 2.

The SNA amount the household received during the IAR period with the SSI recipient included in the budget/ household count was \$1,605. The amount of SNA the household would have received during the IAR period with the SSI recipient removed from the budget/household count is \$1,224.

The amount of IAR that can be recovered is \$381 (\$1,605-\$1,224). The SSD would request from the SSA via the Government to Government Services (GSO) application an interim assistance reimbursement of \$381.

Example 2: Multi- Person Household and One Parent receives SSI

Mr. and Mrs. Smith applied for TA. Due to reaching the State 60 month time limit Mr. and Mrs. Smith and their three children began receiving SNA- FNP (case type 17) effective August 1, 2011. Any TA the family received prior to August 8, 2007 was claimed as FA. On May 2, 2012, the SSD received an e-mail notification from the SSA that Mr. Smith was eligible to receive SSI effective December 1, 2008. Ongoing SSI payments began June 1, 2012.

Step 2: Determine the amount of SNA the family received during the IA period with the SSI recipient and their additional allowances and income included in the budget/household count. The amount of SNA the five person household received was \$10,100 ($\1010×10).

```

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WBGTPA ** PA BUDGET ** VERSION DIST ALBA 04/16/2014
CASE NAME CASE NO. OFC UNIT WORKER TRAN CASE IVD
SMITH JOHN SCRATCHPAD XXX XXXXX XXXXX 05 17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF ***** EARNED INCOME *****
05 05 02 # LN 30I 30M SRC FRQ D HRS CCR
TY R ACTUAL ALLOW 1:
BASIC 47700 2:
ENRGY 4770 ***** OTHER INCOME ***** 0 GROSS 0
SPMNT 3700 LN SRC F AMOUNT EXEMPT 0 TAXES 0
01 P SHEL 45000 38600 0 0 0 NYS DIS 0
WATER 0 0 0 0 0 WORK EXP 0
1 X FUEL 6300 0 0 0 EXEMPT 0
OTHER 0 0 TOTAL NET 0 0 CH CARE 0
OTHER 0 0 $$$$ PA GRANT $$$$$ 0 CH CARE 0
OTHER 0 0 TOTAL NEEDS 101000 0 CH CARE 0
TOTAL NEEDS 101000 TOTAL INC 0 0 DISREGARD 0
***** RECOUPMENT ***** CD / AMT D 101000 0 TOT DED 0
TY BALANCE % MO AMT REM RECOUPMENT 0 0 UNAVAIL 0
0 00.0 0 0 UTIL/RES 0 0 NET INC 0
0 00.0 0 0 SHEL/RES 45000
0 00.0 0 0 RESTRICTED 6300 * EFFECTIVE DATE *
RECALC 00.0 0 SEMI CASH 24850 080111 TO 123111
FS CASE NO. SEMI N-CASH 0 DATE STORED / /

Row=24 Col= 80 POLL

```

The following budget represents the time 01/01/12 to 05/31/12

```

WBGTPA  ** PA BUDGET **      VERSION      DIST ALBA  04/16/2014
CASE NAME      CASE NO.      OFC  UNIT  WORKER  TRAN  CASE  IVD
SMITH JOHN      SCRATCHPAD  XXX  XXXXX  XXXXX   05   17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
05 05          02          #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R          ACTUAL  ALLOW          1:
          BASIC          47700          2:
          ENRGY          4770  **** OTHER INCOME ****          0 GROSS          0
          SPMNT          3700  LN SRC F  AMOUNT EXEMPT          0 TAXES          0
01 P  SHEL  45000  38600          0          0          0 NYS DIS          0
          WATER          0          0          0          0          0 WORK EXP          0
1 X  FUEL          6300          0          0          0 EXEMPT          0
          OTHER          0          0  TOTAL NET          0          0 CH CARE          0
          OTHER          0          0  $$$$ PA GRANT $$$$          0 CH CARE          0
          OTHER          0          0  TOTAL NEEDS 101000          0 CH CARE          0
          TOTAL NEEDS 101000  TOTAL INC          0          0 DISREGARD          0
***** RECOUPMENT *****  CD / AMT D 101000          0 TOT DED          0
TY BALANCE  %  MO  AMT  REM  RECOUPMENT          0          0 UNAVAIL          0
          0 00.0          0          0  UTIL/RES          0          0 NET INC          0
          0 00.0          0          0  SHEL/RES          45000
          0 00.0          0          0  RESTRICTED  6300 * EFFECTIVE DATE *
RECALC  00.0          0          0  SEMI CASH  24850  010112 TO 053112
FS CASE NO.          SEMI N-CASH          0  DATE STORED  /  /
  
```

Row=24 Col= 80 POLL

Step 3: Determine the amount of SNA the household members would have received during the IAR period with the SSI recipient and their additional TA allowances (if any) and/or income deleted from the budget/household count. The amount of SNA a four - person household would have received if the SSI recipient was removed from the household count is \$8,620.00 (\$862 x 10). Step 3 is illustrated with the following ABEL budgets:

```

WBGTPA  ** PA BUDGET **          VERSION          DIST ALBA  04/16/2014
CASE NAME          CASE NO.      OFC  UNIT  WORKER  TRAN  CASE  IVD
SMITH JOHN          SCRATCHPAD    XXX  XXXXX  XXXXX   05   17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF          ***** EARNED INCOME *****
04 04              02              #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R              ACTUAL    ALLOW          1:
          BASIC          38600          2:
          ENRGY          3870  **** OTHER INCOME ****          0  GROSS          0
          SPMNT          3000  LN SRC F  AMOUNT  EXEMPT          0  TAXES          0
01 P  SHEL  45000      34800          0      0          0  NYS DIS          0
          WATER          0      0          0      0          0  WORK EXP          0
1 X  FUEL          6000          0      0          0  EXEMPT          0
          OTHER          0      0          TOTAL NET          0          0  CH CARE          0
          OTHER          0      0          $$$$ PA GRANT $$$$$          0  CH CARE          0
          OTHER          0      0          TOTAL NEEDS  86200          0  CH CARE          0
          TOTAL NEEDS  86200          TOTAL INC          0          0  DISREGARD          0
***** RECOUPMENT *****  CD / AMT  D  86200          0  TOT DED          0
TY BALANCE  %    MO  AMT    REM  RECOUPMENT          0          0  UNAVAIL          0
          0 00.0          0      0  UTIL/RES          0          0  NET INC          0
          0 00.0          0      0  SHEL/RES          45000
          0 00.0          0      0  RESTRICTED          6000 * EFFECTIVE DATE *
RECALC          00.0          0          SEMI CASH          17600  080111 TO 123111
FS CASE NO.          SEMI N-CASH          0          DATE STORED  /  /

Row=24 Col= 80          POLL

```


The following represents the time period from 01/01/12 to 5/31/12

```

WBGTPA  ** PA BUDGET **      VERSION      DIST ALBA  04/16/2014
CASE NAME      CASE NO.      OFC  UNIT  WORKER  TRAN  CASE  IVD
SMITH JOHN      SCRATCHPAD  XXX  XXXXX  XXXXX   05   17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
04 04          02          #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R          ACTUAL    ALLOW          1:
          BASIC          38600          2:
          ENRGY          3870  **** OTHER INCOME ****          0 GROSS          0
          SPMNT          3000  LN SRC F  AMOUNT EXEMPT          0 TAXES          0
01 P  SHEL  45000    34800          0  0          0 NYS DIS          0
          WATER          0  0          0  0          0 WORK EXP          0
1 X  FUEL          6000          0  0          0 EXEMPT          0
          OTHER          0  0  TOTAL NET          0  0 CH CARE          0
          OTHER          0  0  $$$$ PA GRANT $$$$          0 CH CARE          0
          OTHER          0  0  TOTAL NEEDS 86200          0 CH CARE          0
          TOTAL NEEDS 86200  TOTAL INC          0  0 DISREGARD          0
***** RECOUPMENT *****  CD / AMT D 86200          0 TOT DED          0
TY BALANCE  %  MO  AMT  REM  RECOUPMENT          0  0 UNAVAIL          0
          0 00.0          0  0  UTIL/RES          0  0 NET INC          0
          0 00.0          0  0  SHEL/RES 45000
          0 00.0          0  0  RESTRICTED 6000 * EFFECTIVE DATE *
RECALC  00.0          0  SEMI CASH 17600  010112 TO 053112
FS CASE NO.  SEMI N-CASH 0  DATE STORED / /
  
```

Row=24 Col= 80 POLL

Step 4: Determine the amount of IA that can be recovered by subtracting the total derived from step number 3 from the total derived from step number 2.

The SNA amount the household received during the IAR period with the SSI recipient included in the budget/household count was \$10,100. The amount of SNA the household would have received during the IAR period with the SSI recipient removed from the budget/household count is \$8,620. The amount of IAR that can be recovered is \$1,480 (\$10,100-\$8,620).

Example 3: Child Receives SSI Plus Household Receives an Emergency Utility Payment During the IAR Period

Due to reaching the State 60 month time limit, Mr. and Mrs. Sawyer and their three children began to receive non-cash SNA (case type 17), effective May 1, 2012. On June 15, 2012 the family received an emergency utility payment of \$433 due to a utility disconnect. On July 18, 2012, the SSD received the e-mail notification from SSA that the Sawyer's 2 year old son was eligible to receive SSI effective January 1, 2012 Ongoing SSI payments began August 8, 2012.

Step 1: Determine the IAR period. The IAR period is May 2012 through July 2012.

Step 2: Determine the amount of SNA the family received during the IAR period with the SSI recipient and their additional allowances and income included in the budget/household count. The amount of SNA the five - person household received during the IAR period is \$3,030 (\$1010 x 3).

Step 2 is illustrated with the following ABEL budget:

The screenshot shows the ABEL budget screen for Sawyer Edward. The screen displays various financial details including case information, income sources, expenses, and a summary of needs and income. The total needs are listed as 101,000, and the total income is 0. The screen also shows a recoupment section with a balance of 0.00.0 and a restricted amount of 6,300. The effective date is 050112 to 073112.

WBGTPA ** PA BUDGET **		VERSION		DIST ALBA 04/17/2014	
CASE NAME	CASE NO.	OFC	UNIT	WORKER	TRAN CASE IVD
SAWYER EDWARD	SCRATCHPAD	XXX	XXXXX	XXXXX	05 17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF	***** EARNED INCOME *****				
05 05	02	#	LN 30I 30M SRC FRQ D	HRS	CCR
TY R	ACTUAL	ALLOW	1:		
	BASIC	47700	2:		
	ENRGY	4770	**** OTHER INCOME ****	0	GROSS 0
	SPMNT	3700	LN SRC F	AMOUNT	EXEMPT 0 TAXES 0
01 P	SHELT	50000	38600	0	0 NYS DIS 0
	WATER	0	0	0	0 WORK EXP 0
1 X	FUEL	6300	0	0	0 EXEMPT 0
	OTHER	0	0	TOTAL NET	0 0 CH CARE 0
	OTHER	0	0	SSSS PA GRANT \$\$\$\$\$	0 0 CH CARE 0
	OTHER	0	0	TOTAL NEEDS	101000 0 CH CARE 0
	TOTAL NEEDS	101000	TOTAL INC	0	0 DISREGARD 0
***** RECOUPMENT *****			CD / AMT D	101000	0 TOT DED 0
TY BALANCE	%	MO	AMT	REM	RECOUPMENT 0 0 UNAVAIL 0
	0 00.0		0	0	UTIL/RES 0 0 NET INC 0
	0 00.0		0	0	SHELT/RES 50000
	0 00.0		0	0	RESTRICTED 6300 * EFFECTIVE DATE *
RECALC	00.0		0		SEMI CASH 22350 050112 TO 073112
FS CASE NO.				SEMI N-CASH	0 DATE STORED / /

Row=24 Col= 80 POLL

Step 3: Determine the amount of SNA the household would have received during the IAR period with the SSI individual and their additional TA allowances (if any) and/or income deleted from the budget/household count. The amount of SNA a four person household would have received is \$2,586 (\$862 x 3).

Step 3 is illustrated with the following ABEL budget:

```

WBGTPA  ** PA BUDGET **      VERSION      DIST ALBA 04/17/2014
CASE NAME      CASE NO.      OFC UNIT  WORKER  TRAN  CASE  IVD
SAWYER EDWARD  SCRATCHPAD  XXX  XXXXX  XXXXX  05   17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF
***** EARNED INCOME *****
04 04          02          # LN 30I 30M SRC FRQ D HRS CCR
TY R          ACTUAL  ALLOW          1:
      BASIC      38600          2:
      ENRGY      3870  **** OTHER INCOME ****      0 GROSS      0
      SPMNT      3000  LN SRC F  AMOUNT EXEMPT      0 TAXES      0
01 P SHEL      50000  34800      0      0      0 NYS DIS      0
      WATER      0      0      0      0      0 WORK EXP      0
1 X FUEL      6000      0      0      0      0 EXEMPT      0
      OTHER      0      0  TOTAL NET      0      0 CH CARE      0
      OTHER      0      0  $$$$ PA GRANT $$$$$      0 CH CARE      0
      OTHER      0      0  TOTAL NEEDS  86200      0 CH CARE      0
      TOTAL NEEDS  86200  TOTAL INC      0      0 DISREGARD      0
***** RECOUPMENT *****  CD / AMT D  86200      0 TOT DED      0
TY BALANCE  %  MO  AMT  REM  RECOUPMENT      0      0 UNAVAIL      0
      0 00.0      0      0  UTIL/RES      0      0 NET INC      0
      0 00.0      0      0  SHEL/RES  50000
      0 00.0      0      0  RESTRICTED  6000 * EFFECTIVE DATE *
RECALC  00.0      0  SEMI CASH  15100  050112 TO 073112
FS CASE NO.  SEMI N-CASH  0  DATE STORED  /  /
Row=24 Col= 80      POLL
  
```

Step 4: Determine the amount of IA that can be recovered by subtracting the total derived from step number 3 from the total derived from step number 2. The SNA amount the household received during the IAR period with the SSI recipient included in the budget/household count was \$3,030. The amount of SNA the household would have received during the IAR period with the SSI recipient removed from the budget/household count is \$2,586. The amount of IAR that can be recovered is \$444 (\$3,030-\$2,586). The emergency utility payment of \$433 the family received cannot be recovered as IAR because the SSD cannot determine that the assistance provided was specifically for the SSI recipient.

Example 4: Multi-Person Household and Pregnant Mom Receives SSI

Meleah Thayer, a pregnant mother, and her two children applied for TA on November 11, 2011. Due to reaching the State 60 month time limit, the household was determined eligible for SNA-FNP benefits effective December 19, 2011. Meleah Thayer is eligible for a pregnancy allowance. On August 12, 2012 the district received e-mail notification from SSA notifying the SSD that Ms. Thayer is eligible for an SSI payment of \$626.00 monthly for the period of October 1, 2011 to August 31, 2012. Ongoing SSI benefit to begin effective September 1, 2012.

Step 1: Determine the IAR period. The IAR period is December 2011 through August 2012.

Step 2: Determine the amount of SNA the family received during the IAR period with the SSI recipient and their additional allowances and income included in the budget/household count. The amount of SNA a three person household received during the IAR period is \$6166.20. The \$6166.20 includes \$470.20 for the period of 12/19/11 to 12/31/11 and \$5,696 (\$712 x 8) for the period of 01/01/12 to 8/31/12.

Step 2 is illustrated with two ABEL budgets. Two Abel budget are needed to accurately calculate the initial budget effective 12/19/2011 to 12/31/2011 and the ongoing budget effective 01/01/12 to 08/31/12.

The following Abel Budget is the initial budget effective 12/19/2011 to 12/31/2011 with three in the household.

```

Albany Production - TP
File Edit Connection Setup View Help

WBGTPA ** PA BUDGET ** VERSION DIST ALBA 04/17/2014
CASE NAME CASE NO. OFC UNIT WORKER TRAN CASE IVD
THAYER MELEAH SCRATCHPAD XXX XXXXX XXXXX 02 17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF ***** EARNED INCOME *****
03 03 02 # LN 30I 30M SRC FRQ D HRS CCR
TY R ACTUAL ALLOW 1:
BASIC 30000 2:
ENRGY 3000 ***** OTHER INCOME ***** 0 GROSS 0
SPMNT 2300 LN SRC F AMOUNT EXEMPT 0 TAXES 0
01 P SHEL 45000 30900 0 0 0 NYS DIS 0
WATER 0 0 0 0 0 WORK EXP 0
0 FUEL 0 0 0 0 0 EXEMPT 0
18 OTHER 5000 5000 TOTAL NET 0 0 CH CARE 0
OTHER 0 0 $$$$ PA GRANT $$$$$ 0 CH CARE 0
OTHER 0 0 TOTAL NEEDS 71200 0 CH CARE 0
TOTAL NEEDS 71200 TOTAL INC 0 0 DISREGARD 0
***** RECOUPMENT ***** CD/1ST MO D 47020 0 TOT DED 0
TY BALANCE % MO AMT REM RECOUPMENT 0 0 UNAVAIL 0
0 00.0 0 0 UTIL/RES 0 0 NET INC 0
0 00.0 0 0 SHEL/RES 45000
0 00.0 0 0 RESTRICTED 0 * EFFECTIVE DATE *
RECALC 00.0 0 MO CASH 2020 121911 TO 123111
FS CASE NO. SEMI N-CASH 0 DATE STORED / /

Row=24 Col= 80 POLL
24.00 Lab: U7560 Connected 3.1 RSA with 128 bit AES http://nyas.albany.gov:4034
  
```

The second ongoing budget effective 01/01/12 to 8/31/12 reflects three in the household count:

```

WBGTPA  ** PA BUDGET **      VERSION      DIST ALBA 04/17/2014
CASE NAME      CASE NO.      OFC UNIT  WORKER TRAN CASE IVD
THAYER MELEAH  SCRATCHPAD  XXX XXXXX XXXXX 05 17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF ***** EARNED INCOME *****
03 03          02          # LN 30I 30M SRC FRQ D HRS CCR
TY R          ACTUAL    ALLOW          1:
          BASIC          30000          2:
          ENRGY          3000 ***** OTHER INCOME *****
          SPMNT          2300 LN SRC F AMOUNT EXEMPT          0 GROSS          0
          01 P SHEL 45000 30900          0 0          0 TAXES          0
          WATER 0 0          0 0          0 NYS DIS          0
          0 FUEL 0          0 0          0 WORK EXP          0
          18 OTHER 5000 5000          0 0          0 EXEMPT          0
          OTHER 0 0          0 0          0 CH CARE          0
          OTHER 0 0          0 0          0 CH CARE          0
          TOTAL NEEDS 71200 TOTAL INC          0          0 CH CARE          0
          ***** RECOUPMENT ***** CD / AMT D 71200          0 DISREGARD          0
TY BALANCE % MO AMT REM RECOUPMENT          0          0 TOT DED          0
          0 00.0 0 0 0 UTIL/RES          0          0 UNAVAIL          0
          0 00.0 0 0 0 SHEL/RES 45000          0          0 NET INC          0
          0 00.0 0 0 0 RESTRICTED          0 * EFFECTIVE DATE *
RECALC 00.0 0 SEMI CASH 13100 010112 TO 083112
FS CASE NO. SEMI N-CASH 0 DATE STORED / /
Row=24 Col= 80 POLL
  
```

Step 3: Determine the amount of SNA the household would have received during the IAR period with the SSI recipient and their additional TA allowances (if any) and/or income deleted from the budget/household count. The amount of SNA a two – person household would have received is \$4,188.60. The \$4,188.60 amount includes \$324.60 for the period of 12/19/11 to 12/31/11 and \$3,864 (\$483 x 8) for the period of 01/01/12 to 8/31/12

Step 3 is illustrated with the following two ABEL budgets. Two Abel budget are needed to accurately calculate the initial budget effective 12/19/2011 to 12/31/2011 and the ongoing budget effective 01/01/12 to 08/31/12.

The following Abel Budget is the initial budget effective 12/19/2011 to 12/31/2011 with two in the household.

WBGTPA	** PA BUDGET **	VERSION	DIST ALBA	04/17/2014
CASE NAME	CASE NO.	OFC	UNIT	WORKER
THAYER MELEAH	SCRATCHPAD	XXX	XXXXX	XXXXX
HH CA DP-HH DP-CA HC LF PI SI PSP PSF			02	17
02 02	02			
***** EARNED INCOME *****				
TY R	ACTUAL	ALLOW	# LN 30I 30M SRC FRQ D	HRS CCR
BASIC		22500	1:	
ENRGY		2250	2:	
SPMNT		1700	***** OTHER INCOME *****	
01 P SHELT	45000	21900	LN SRC F AMOUNT EXEMPT	0 GROSS 0
WATER	0	0	0 0	0 TAXES 0
0 FUEL	0	0	0 0	0 NYS DIS 0
OTHER	0	0	0 0	0 WORK EXP 0
OTHER	0	0	0 0	0 EXEMPT 0
OTHER	0	0	0 0	0 CH CARE 0
TOTAL NEEDS	48300		TOTAL NET	0 CH CARE 0
			\$\$\$\$ PA GRANT \$\$\$\$\$	0 CH CARE 0
			TOTAL NEEDS	48300 CH CARE 0
			TOTAL INC	0 DISREGARD 0
***** RECOUPMENT *****			CD/1ST MO D	32460 0 TOT DED 0
TY BALANCE	% MO AMT REM		RECOUPMENT	0 UNAVAIL 0
0 00.0	0 0		UTIL/RES	0 NET INC 0
0 00.0	0 0		SHELT/RES	32460
0 00.0	0 0		RESTRICTED	0 * EFFECTIVE DATE *
RECALC	00.0 0		SEMI CASH	0 121911 TO 123111
FS CASE NO.			SEMI N-CASH	0 DATE STORED / /

The second ongoing budget effective 01/01/12 to 8/31/12 reflects two in the household count:


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WBGTPA  ** PA BUDGET **      VERSION          DIST ALBA  04/17/2014
CASE NAME          CASE NO.    OFC  UNIT  WORKER  TRAN  CASE  IVD
THAYER MELEAH          SCRATCHPAD  XXX  XXXXX  XXXXX   05   17
HH CA DP-HH DP-CA HC LF PI SI PSP PSF          ***** EARNED INCOME *****
02 02          02          #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R          ACTUAL  ALLOW          1:
          BASIC          22500          2:
          ENRGY          2250  **** OTHER INCOME ****          0 GROSS          0
          SPMNT          1700  LN SRC F  AMOUNT EXEMPT          0 TAXES          0
01 P  SHEL  45000  21900          0  0          0 NYS DIS          0
          WATER          0  0          0  0          0 WORK EXP          0
0  FUEL          0  0          0  0          0 EXEMPT          0
          OTHER          0  0  TOTAL NET          0  0 CH CARE          0
          OTHER          0  0  $$$ PA GRANT  $$$          0 CH CARE          0
          OTHER          0  0  TOTAL NEEDS  48300          0 CH CARE          0
          TOTAL NEEDS  48300  TOTAL INC          0  0 DISREGARD          0
***** RECOUPMENT *****  CD / AMT D  48300          0 TOT DED          0
TY BALANCE  %  MO  AMT  REM  RECOUPMENT          0  0 UNAVAIL          0
          0 00.0          0  0  UTIL/RES          0  0 NET INC          0
          0 00.0          0  0  SHEL/RES  45000
          0 00.0          0  0  RESTRICTED          0 * EFFECTIVE DATE *
RECALC  00.0          0  SEMI CASH  1650  010112 TO 083112
FS CASE NO.          SEMI N-CASH          0  DATE STORED  /  /
  
```

Row=24 Col= 80 POLL

Step 4: Determine the amount of IA that can be recovered by subtracting the total derived from step number 3 from the total derived from step number 2.

The SNA amount the household received during the IAR period with the SSI recipient included in the budget/household count was \$6,166.20. The amount of SNA the household would have received during the IAR period with the SSI recipient and her additional pregnancy allowance removed from the budget/household count is \$4,188.60. The amount of IAR that can be recovered is \$1,977.60 (\$6,166.20 – \$4,188.60).

9. Multiple Social Services Districts Provided Interim Assistance

- When more than one SSD provided IA during the IA period, the SSA must send the IAR email notification and any IAR to the SSD that has a valid IAR authorization in SSA's computer file. Therefore, the SSA will distribute an SSI recipient's entire IAR reimbursement to only one SSD and that SSD must calculate and distribute any other SSD's share of the IAR amount.
- The SSD that receives the SSA email notification must research and review the individual's SSI eligibility period to determine if the SSI recipient was eligible to receive SSI benefits prior to, or beyond, the time the district provided IA. If so, the SSD must review WMS inquiry to determine if any other SSD is entitled to IAR. See

[09 ADM 18](#) – Temporary Assistance (TA) Policy Implications of Implementation of Electronic Interim Assistance Reimbursement (e-IAR).

If an SSD received an SSA e-mail notification for an individual who lived in their district and the individual received Safety Net Assistance (SNA) benefits for two months but the initial SSI eligibility period is for 12 months, the SSD must review WMS to determine if any other SSD issued IA to the recipient during the SSI eligibility period.

- c. The SSD that receives the SSA e-mail notification is the SSD that must provide the required IA data to the SSA for all SSD(s) that provided IA to the recipient during the IA period. Accordingly, the original district must contact the other SSD(s) and instruct them to provide the total IA amount paid during the IA time period in enough time to meet the prescribed SSA reporting time frame.
- d. If the original district fails to research and/or notify other SSD(s) that IA information is needed to correctly calculate the amount of IAR to be requested from the SSA, the other SSD(s) will not receive any IAR and will not have any recourse from the original SSD or the TA recipient to collect IA.
- e. If the SSD requesting the information does not receive the information from the other SSD(s) in enough time to process the IA data, the SSD(s) that failed to comply with the prescribed timeframe will not receive their share of IAR.
- f. To determine the IAR contact for an SSD, the original district may contact the TA/IM director of any other SSD that must provide IAR data. An SSD's TA/IM director contact information is available on CentraPort.
- g. When the first SSD receives the required information from the other SSD(s), the first SSD must, in the time periods prescribed:
 - (1) Calculate the total amount of IA the TA recipient received from all SSD(s) during the IA period.
 - (2) Calculate the amount of IAR each SSD is to receive.
 - (3) Timely access the e-IAR SSA website and input all required IAR data.
 - (4) Disburse the IAR received by the SSA to all SSD(s) that are due IAR by sending a check in the amount each district is due with a copy of a completed [LDSS-2425A](#) "Repayment of Interim Assistance Notice" or NYC [LDSS-2425A](#) LE
 - (5) Complete and send one [LDSS-2425A](#) or NYC [LDSS-2425A](#) LE to the TA recipient designating how the SSD calculated IAR. The "remarks" section of the form can be used to notify the recipient of the name of any other SSD(s) that provided IA, the IA period that any other SSD(s) provided IA, and the amount of IA provided by other SSD(s).

10. IAR and Fuel and Domestic Energy Costs

- a. If during the IA period a single SNA recipient's fuel and/or domestic energy costs are restricted from the ABEL budget, and the SSD pays the recipient's actual utility or fuel bill to a vendor for the same period, the actual amount paid to the utility or fuel vendor during the IA period is considered IA and can be recovered. Normal reconciliation procedures apply.
- b. If during the IA period a single SNA recipient's energy reconciliation is completed and the amount paid to the fuel and/or domestic energy provider by the SSD is more than the amount restricted from the recipient's TA grant the individual has been overpaid and an overpayment is established. The overpayment amount can be recovered from the individual's initial or post eligibility SSI payment as IA. Any amount not recovered by IAR is subject to recovery and recoupment. For more information on overpayments and IAR [see Section L.12 below](#).
- c. If an energy reconciliation is completed for a single SNA individual after the IAR amount has been calculated and received from the SSA and the amount paid to the fuel and/or domestic energy provider by the SSD is more than the amount restricted from the recipient's TA grant and/or recovered by IAR, the recipient has been overpaid and is subject to recovery and recoupment.
- d. If an energy reconciliation is completed for a single SNA individual after the IAR amount has been calculated and received from the SSA and the amount paid to the fuel and/or domestic energy provider by the SSD is less than the amount restricted from the recipient's TA grant and/or recovered by IAR, the recipient has been underpaid and the district must take one of the following actions:
 - (1) Apply the underpayment against any outstanding overpayment; or
 - (2) If there is no outstanding overpayment, issue a refund to the recipient; or
 - (3) If the overpayment is less than the underpayment, apply the underpayment against the overpayment and issue the remainder to the recipient.
- e. If during the IA period, an SNA recipient who is part of a multi-person household has fuel and/or domestic energy costs restricted from the ABEL budget, and the SSD pays the recipient's actual utility or fuel bill to a vendor for the same period, the SSD must not recover as IA the actual amount paid to the utility or fuel vendor. The SSI recipient's share of the fuel and/or domestic energy costs is determined by using the **incremental budgeting method**. Normal reconciliation procedures apply, including establishing an overpayment that can be recouped from the remaining eligible family members TA case.

11. Interim Assistance and Overpayments

- a. Overpayment(s) paid to, or on behalf of, a TA recipient via the BICS system during the IA period can be recovered from the individual's initial or post eligibility SSI payment as IA.
- b. Any overpayments paid to a TA recipient are reflected in BICS, including payments issued by check, Electronic Benefit Transfer (EBT) and voucher. To identify

overpayments paid to a recipient during the IA period, review the BICS Issued Direct Payment lists and the Non-SVCS - Issued Indirect checks.

Example

On 3/1/2012, a single TA recipient received \$200 to forestall an eviction. The IA period is February 2012 to May 2012. The \$200 paid to forestall an eviction is issued via BICS on 3/1/2012 and is reflected in the Non-SVCS – Issued Indirect checks list. On 3/10/2012 a \$200 overpayment was entered into CAMS. Since this overpayment is paid within the IA period, the entire \$200 can be recovered as IA. The \$200 overpayment claim in CAMS is closed.

- c. If the amount of the IAR received from SSA repays the entire balance or reduces the balance of the overpayment (s), the SSD must accordingly close or reduce the balance of the overpayment claim(s) in CAMS, or other record keeping system.
- d. Overpayments that were incurred prior to the IA period it cannot be recovered.

12. Interim Assistance Recovery of Recoupment

- a. The entire amount of SNA paid during the IA period, including the amount withheld by recoupment to reduce overpayment(s) that originated prior to the IA period. To determine the amount of a recoupment that can be recovered, the time period of the overpayment being recouped must be determined.
- b. If the recoupment is for an overpayment that occurred during the IA period, the recoupment amount cannot be recovered as IA because the amount of assistance granted to the recipient would reflect a reduced amount equal to the recoupment. For SSDs outside of NYC, any payments issued during the IA period are listed in the BICS. Therefore, the original overpayment amount is included in the IAR calculation.
- c. If the recoupment is for an overpayment that originated prior to the IA period, the entire amount of recoupment(s) deducted from the ABEL budget during the IA period can be recovered as IA.

Example:

An SNA recipient received an overpayment of \$500 prior to the IA period. During the IA period, the recipient is eligible for a \$300 a month grant but \$30 per month of the grant amount is recouped, producing an SNA benefit of \$270 per month. Since the overpayment originated prior to the IA period, the \$500 cannot be recovered as IA. However, the SSD should recover the full \$300 per month grant from the recipient's initial SSI payment. Any overpayment balance should be adjusted according to standard recovery procedures.

- d. To determine the amount of recoupment that can be recovered, the SSD worker must review the BICS Case Record of Assistance for each payment issued. SSDs are encouraged to maximize the recovery of IA by pursuing the recovery of recoupment. Note, however, that the required time frames listed in the "Agreement for Reimbursement to State for Interim Assistance Payments between the Social

Security Administration (SSA) and the State of New York” must be adhered to, and met.

13. Multiple Overpayments Paid During the IA Period that Originated Prior to the IA period

- a. If a TA recipient has multiple overpayments that are incurred during the IA period, all of the overpayments can be recovered as IA from the initial SSI payment.
- b. If the TA recipient has multiple overpayments that originated prior to the IA period, only the recoupment recovered from the ABEL budget, during the IA period, can be recovered.
- c. If the TA recipient has a current recoupment in the ABEL budget for an overpayment that originated prior to the IA period, and they have additional overpayment(s) that were paid during the IA period, and are pending recoupment, the SSD can recover the amount recouped from the SNA grant during the IA period, plus the total of the overpayment(s) paid during the IA period.

Example:

A single SNA individual receives an overpayment of \$500 prior to the IA period that is being recouped from the ABEL budget. An additional overpayment of \$200 was paid during the IA period for a utility reconciliation that is pending recoupment. The individual is eligible for \$300 a month grant, but \$30 per month of the grant amount is recouped, producing an SNA grant of \$270 per month. The SSD must recover the full \$300 per month grant as IA plus the \$200 overpayment paid during the IA period. The balance of the \$500 overpayment that originated prior to the IA period cannot be recovered from the recipient's initial SSI payment, but the balance should be processed according to standard overpayment recovery procedures.

14. IAR Records Retention

- a. The SSD must retain a copy of the following for a minimum of six years:
 - (1) Completed SSA-8125-F6s faxed to the SSA for exclusion cases
 - (2) The amount of the IAR payment received from the SSA
 - (3) The date the IAR payment was received by the SSD from the SSA
 - (4) [LDSS-2425A](#) or LDSS 2425A LE (NYC) in the case record
 - (5) IAR accounting records

15. Recovery of Foster Care (Non IV-E) benefits for SNA Recipients

- a. When the amount of the initial SSI payment is significantly greater than the amount of SNA that can be recovered, the SSD also must review child welfare services records to determine if the same recipient has received non IV-E child welfare foster care benefits during the IA period.

- b. SSD's may use 25% or more as a guide to determine when an initial SSI payment is significantly greater than the amount of SNA that can be recovered.
- c. If the TA recipient has received SNA foster care benefits during the IA period, the SSD must determine the amount of these payments and recover such payments from the client's initial SSI payment in the same manner as SNA payments are currently recovered including providing appropriate notice. As long as:
 - (1) The SSD has a signed authorization. IAR is frequently not available for former foster care cases who have not moved onto TA because, without a TA application, there might not be a signed IAR authorization. However, if a local district determines that a signed IAR authorization was obtained, the SSD may recover the amount of SNA authorized during the IA period.
 - (2) SNA payments are furnished during the IA period
 - (3) SNA payments can be specifically earmarked as being authorized for the SSI recipient
 - (4) SNA payments have not been recouped or recovered
- d. An SSD must identify persons who potentially received foster care, which can be recovered, by targeting clients who applied for SSI prior to their 21st birthday. The SSD can determine if the SSI recipient applied for SSI, prior to his/her 21st birthday, by comparing the individual's date of birth, found on WMS, against the SSI eligibility date provided by the SSA.

Example

The SSD receives an e-mail which shows an initial eligibility payment of \$6,000 (about 12 months of retroactive SSI benefits) for a 19 year old who has only been on SNA for the past 3 months. The SSI application date is one year ago. Since the amount of SSI is far greater than the amount of SNA that can be recovered and the client is under 21, foster care is consulted. Foster care indicates that this individual also received foster care payments for 6 months after the SSI application date. The SSD must recover the SNA payments for the 3 months and the foster care payments for the 6 months paid during the IA period.

- e. The maintenance expenses paid by an SSD for a child placed into residential care by a school district's Committee on Special Education is not considered IA and, therefore, cannot be recovered.

16. Exclusion Cases

An SSD may still receive a paper SSA-8125-F6 for exclusion cases. Originally, SSA intended all IAR cases would be processed via the GSO. Since the implementation of eIAR, the SSA determined that there are several types of cases that are too complex for the current eIAR functionality and must be processed manually. Complex cases are known as "exclusion cases." It is expected that the number of "exclusion" cases will be very small.

For exclusion cases, the SSA will FAX a paper SSA-8125-F6 to the SSD. In the heading of the SSA-8125-F6 will appear a designation that the case is an exclusion case.

SSDs must process the paper SSA-8125-F6 in accordance with the installment payment method identified in [08 ADM-11](#), Section V.E. Any reimbursement amount will be paid to the district in a paper check. SSDs will not be required to provide any payments directly to the SSI claimant. SSA will disburse any remaining initial SSI payment to the SSI claimant in accordance with their rules.

17. IAR and SSA Computer Matching

New York is an “Automated Authorization State” which requires that the State notify the SSA by electronic means of the date individuals provided written permission authorizing the SSA Commissioner to withhold their initial SSI payment or initial post eligibility payment, and send the payment directly to the SSD as IAR. To meet this requirement, when an individual applies for SSI, SSA adds that person's name and identifying information to their central computer system and usually codes the SSI case as pending.

Information about these cases and all other SSI recipients in New York is regularly sent to this Office by SSA via the State Data Exchange (SDX). The pending SSI applicants listed on the SDX are matched against active SNA (case types 16 and 17) cases on WMS every weekend.

The names and social security numbers of the SSI applicants listed on the SDX that match active TA recipients on WMS, are transmitted to SSA every week. Those cases that successfully meet SSA's edits have their SSA file annotated with the appropriate IAR status code that can be found on the SDX. This annotation directs SSA to send the client's initial SSI payment to the appropriate SSD as IAR.

An SSD's ability to recover IA directly from the SSA is based on the applicant/recipient's written permission and the correct annotation of the IAR status on the SSA's computer system. If the SSA's computer system is not annotated correctly, the initial SSI payment will not be sent to the correct SSD; it may be sent directly to the recipient. If this occurs, the SSD can request that the recipient repay the IA that was paid to the individual but the SSD has no legal basis to require such a refund.

SSDs may use the “SDX – SSI Individual Status” available on the WMS to confirm that the correct IAR status code is annotated in the SSA computer system.

M. PRESUMPTIVE SSI PAYMENTS

1. Presumptive payments are authorized by SSA to provide SSI benefits to an SSI applicant while a disability determination is pending. In certain disability claims where the SSI applicant is severely disabled or blind, the SSA may provide presumptive payments for up to six months.
2. Presumptive Payments are considered unearned income for TA and must be budgeted.
3. SSI presumptive payments are not considered part of this initial SSI payment and cannot be used to recover IA.

Example

Mr. Raven received SNA beginning 12/23/2007. On 1/15/2008, Mr. Raven had a stroke that left him partially paralyzed. On 1/16/2008, the hospital social work staff applied for presumptive SSI on his behalf. On 2/1/2008, Mr. Raven was determined eligible for presumptive SSI benefits of \$676 monthly. The monthly presumptive SSI benefits were budgeted as unearned income which resulted in the discontinuance of Mr. Raven's SNA. The SNA benefits provided to Mr. Raven from 1/1/2008 to 2/15/2008 cannot be recovered from his initial SSI benefit.

N. SSI APPLICATION PROTECTIVE FILING DATE

1. A protective filing date allows TA applicants and recipients who apply for SSI within sixty days of signing a TA application or recertification form to use the TA application or recertification date as the SSI application date.
2. Establishing a protective filing date benefits the TA applicant/recipient because he or she, may be eligible for up to two additional months of SSI eligibility. In addition, this may increase the amount of interim assistance reimbursement the SSD recovers directly from the SSA.
3. SSDs may inform TA applicants/recipients of the benefits of an SSI protective filing date and ways they can establish a protective filing date. For example, the TA applicant/recipient can tell the SSA eligibility worker that they applied for TA on a specific date, or the SSI applicant can telephone the SSA that he or she has applied for TA and intends to apply for SSI within sixty days of applying or recertifying for TA. In addition, SSDs may assist TA applicants/recipients in establishing a protective filing date by calling, faxing or writing the SSA office regarding the client's intent to apply for SSI. The date of this contact then becomes the SSI application date. For more information see [08 ADM – 05](#); [attachment A](#); [attachment B](#); [attachment C](#); [attachment D](#); [attachment E](#); [attachment F](#); [attachment G](#).
4. In order to obtain accurate recertification dates to support the protective filing process, all local districts must also enter the recertification date onto WMS. A recertification date is defined as the date a signed and dated recertification form is submitted to a local district.

O. SSI ALIEN DEEMING PERIOD

1. Effective December 19, 1997, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) mandates that all of the income and resources of an alien's sponsor must be deemed to be available to sponsored alien when determining eligibility for SSI.
2. The sponsor's responsibility continues until the sponsored alien:
 - a. Obtains 40 quarters of Social Security coverage
 - b. Becomes a naturalized citizen
 - c. Dies

P. NATIONAL CASE CORRECTION

1. The "National Case Correction" procedure was established to provide a standard method of correcting Supplemental Security Income (SSI) data when local districts notice discrepancies between data on the State Data Exchange (SDX) and data in local district records. This procedure enables local districts to notify SSA of apparently erroneous information in SSI records and to receive a response about the action SSA has taken on the case.
2. Local districts receive the SDX on either tape or paper. This SSI data is used to:
 - a. Authorize medical assistance
 - b. Issue benefit identification cards
 - c. Terminate interim assistance payments
 - d. Authorize Grants of Assistance for Guide Dogs
 - e. Verify eligibility status for SNAP and other programs
3. The Case Correction Procedure allows local districts to notify SSA when the local district learns of an inaccuracy in a recipient's SSI record because of changes in the recipient's circumstances, or of incorrect data maintained on the SDX record. Additionally, these procedures provide for the assurance of a turnaround document from SSA reporting on action taken. The vehicle for these changes is the SSA-3911, Report of Change – SSI Data.
4. If the local district becomes aware of information that does not correspond to the SDX information (for example, change of address, increased income or resources, etc.) they must inform SSA of this change in information.

This can be accomplished by:

- a. Contacting the local SSA Field Office in a mutually agreed upon manner (such as via a telephone liaison person) or
- b. In writing, by completing Part I and II of the SSA-3911
 - (1) When the form is completed, send the first two copies of the form to the local SSA Field Office responsible for the SSI case, the third copy to the SSA Regional Office and retain the fourth copy for local district files.
 - (2) The SSA Field Office, upon receipt of the local district's notification, will take any necessary action to investigate and resolve this issue. Upon completion, the SSA Field Office will annotate the form in the appropriate block(s), send one copy to the Regional Office and return one copy to the initiating local district.
5. If, after 60 days, the data has not been corrected on the SDX or the original copy of the SSA-3911 has not been returned from the SSA Field Office with notation as to action

taken or reason for not taking action, the local district should advise this Office of any lack of action by SSA. Such report should be sent to:

New York State Office of Temporary and Disability Assistance
Center for Employment and Economic Supports
40 North Pearl Street
Albany, New York 12243
or
FAX (518) 474-9347

6. If the source of the information to correct the discrepant data is the recipient, the local district should, in addition to routing the form to the local SSA Field Office and Regional Office, advise the recipient to immediately report the change to SSA. This should include submitting any supporting documentation, if he/she has not already done so.
7. Movement of SSI Recipient to another Social Services District – It is important that movement of an SSI recipient from one local district to another local district within the State be reported to this Office to assure that Medicaid and necessary services continue to be available to the recipient and that the correct local district be billed for the local share of the SSI recipient's Medicaid costs.

Q. SNA INTER-JURISDICTIONAL DISPUTES

1. A social services official responsible in an individual case, for either the authorization of assistance or the investigation of the application for assistance, and the making of a recommendation relative to such application, shall have the right to appeal to the Office from a decision made in such case by another social services official.
2. The appellant social services official shall file with the Office an appeal in writing setting forth the basis for his determination or decision, the action or determination sought to be reviewed, and a statement in justification of his determination or decision. Three copies of such appeal shall be delivered in person or by certified mail to the Office.
3. The Office shall hold a hearing in accordance with the requirements of Section 22 of the Social Services Law. The notice of appeal may be filed at the time the decision to grant assistance is reached and may be prior to or simultaneous with the issuance of the grant. The filing of an appeal does not represent a request for approval to grant assistance.
4. Where a town social services officer fails or refuses to issue a grant of SNA which has been recommended by a county social services official, the county social services official shall apply to the Office for a review of the town's action and issue assistance to the SNA applicant pending the Office's review and decision.

R. VETERAN ASSISTANCE

1. Veteran assistance means SNA given to eligible veterans.
2. **Veteran** – means a person, male or female, who has served in the armed forces of the United States in time of war and has been honorably discharged or released under honorable circumstances from such service or furloughed to the reserve.
3. Merchant Marines who served during World War II have been designated as veterans for the purpose of classifying SNA benefits as veteran assistance benefits. This was accomplished by passage of Chapter 685 of the New York State Laws of 1991, effective August 2, 1991.
4. In addition to the above definition of veterans, the term veterans includes persons who:
 - a. Were employed by the war shipping administration or Office of Defense Transportation or their agents, as a merchant seaman documented by the United State Coast Guard or Department of Commerce or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service.
 - b. Served satisfactorily as a crew member during the period of armed conflict, December 7, 1941 to August 15, 1945, aboard oceangoing merchant vessels in either foreign, intercoastal, or coastwide service, as such terms are defined under federal law (46 USCA 10301 and 10501), and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies, via ocean routes, or public vessels in oceangoing service or foreign waters.
 - c. Have received a certificate of release or discharge from active duty and a discharge certificate, or an honorable service certificate report of casualty, from the Department of Defense.
5. In time of war means the periods set forth for the following wars:
 - a. **Civil War** – from twentieth day of April, eighteen hundred sixty-one to and including the ninth day of April, eighteen hundred sixty-five.
 - b. **Spanish-American War** – from the twenty-first day of April, eighteen hundred ninety-eight to and including the eleventh day of April, eighteen hundred ninety-nine.
 - c. **Philippine Insurrection** – from the eleventh day of April, eighteen hundred ninety-nine to and including the fourth day of July, nineteen hundred two.
 - d. **World War I** – from the sixth day of April, nineteen hundred seventeen to and including the eleventh day of November, nineteen hundred eighteen.
 - e. **World War II** – from the seventh day of December, nineteen hundred forty-one to and including the second day of September, nineteen hundred forth-five.

- f. **Korean Conflict** – from the twenty-fourth day of June, nineteen hundred fifty to and including the twenty seventh day of July, nineteen hundred fifty-three.
 - g. **Viet Nam Conflict** – from the first day of January, nineteen hundred sixth-three to and including the seventh day of May, nineteen hundred seventy-five.
- 6. Veteran organization means
 - a. Grand Army of the Republic
 - b. United Spanish War Veterans
 - c. American Legion
 - d. Disabled American Veterans
 - e. Veterans of Foreign Wars of the United States
 - f. Jewish War Veterans of the United States, Incorporated
 - g. Catholic War Veterans, Incorporated
 - h. Army and Navy Union of the United States
 - i. Italian American War Veterans of the United States, Incorporated
 - j. Polish Legion of American Veterans, Incorporated
 - k. The Mariane Corps League
 - l. Military Order of the Purple Heart, Inc.
 - m. Amvets
 - n. American Veterans of World War II
 - o. Veterans of World War I, U.S.A., Inc.
 - p. Polish-American Veterans of World War II
 - q. Masonic War Veterans of the state of N.Y., Inc.
 - r. American Gold Star Mothers, Inc.
 - s. Regular Veterans Association, Inc.
 - t. Vietnam Veterans of America
 - u. Eastern Paralyzed Veterans Association

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[07 ADM-6](#)

[Attachment 1](#)

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[Attachment 5](#)

[02 ADM-2](#)

[00 ADM-7](#)

[97 ADM-21](#)

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CHAPTER 11: EMERGENCY ASSISTANCE TO NEEDY FAMILIES (EAF)

A. DEFINITION

Emergency Assistance to Needy Families with Children (EAF) is a federally funded program which provides assistance to deal with crisis situations threatening a family with a child(ren) under the age of 18, or under 19 and attending full-time secondary school or the equivalent level of vocational or technical training. EAF is to meet needs resulting from a sudden occurrence or a set of circumstances that was unforeseen and beyond the applicant's control that demands immediate attention.

B. APPLICATION

1. An application for Emergency Assistance to Needy Families with Children (EAF) made by an individual family not currently in receipt of temporary assistance shall be recorded on the State prescribed form.
2. For a family currently in receipt of temporary assistance, no additional application is required. Districts must address the emergency/immediate needs of recipients through additional allowances.
3. The State prescribed form must be marked EAF to identify it as an EAF application.
4. When emergency assistance is required on a mass basis, names of families requesting such assistance recorded on form [LDSS-880, "Register of Application and Authorization for Emergency Assistance"](#) shall constitute their application.
5. All EAF determinations must be made on a case-by-case basis because of the unique characteristics of emergency need. The basis for each eligibility decision must be documented clearly in the case record.

C. ELIGIBILITY

1. Emergency assistance must be provided immediately by a local district to or on behalf of a needy child under the age of 18 or under the age of 19 and attending full-time secondary school or the equivalent level of vocational or technical training and any other member of the household in which he is living if the conditions set forth in Office Regulation 372.1 are met, and, in addition all of the following conditions are met:
 - a. The child is living with a relative related by blood, marriage or adoption;
 - b. The child(ren), parents or other eligible relatives are without income and/or resources immediately available to meet the needs, and the household's available income on the date of application is at or below 200% of the federal poverty level for that household size, or the household is financially eligible to receive temporary assistance or for child protective, child preventive or other child welfare services, at least one member of the household is in receipt of temporary assistance or SSI.

The following examples illustrate the available income policy:

- (1) The head of an EAF categorically eligible family of three lost his job last year. The family had been living on savings after UIB ran out. When the family's savings were depleted, they were unable to pay the rent. The family filed an application for help to meet an eviction emergency on April 10th. The eviction is set for April 15th. The head of household has returned to work and will receive his first paycheck on April 25th. The paycheck represents a full month's salary of \$3,200 gross.

The worker verifies that the back rent must be paid by April 15th or the sheriff will evict the family. The monthly conversion of 200% of the federal poverty for a family of three in the month of application (April, 2008) is \$2,933.00. Since the family does not have available gross income in excess of 200% of the poverty level for three on the date of application, and since the expected income will not be available in time to avoid the eviction, the family is found eligible for EAF for the rent arrears.

- (2) A family applied for EAF on April 4th for help to deal with homelessness and other needs related to a catastrophic fire. Although no family members were injured, the family home and all belongings were destroyed. The family of four has available income on the date of application of \$3,200. This represents Social Security benefits and earnings. The applicant knows that this will not be enough to house the family temporarily, replace clothing, find permanent housing, etc. while waiting for the insurance settlement. However, since this is more than 200% of the monthly federal poverty limit, the family is ineligible for EAF today.

Although the ESNA 125% limit does not apply to a fire, flood or other catastrophe, the district will not make a separate ESNA determination, since the family currently has financial resources to pay for temporary housing and to start to replace clothing and is not eligible for an emergency payment.

The district provides the [LDSS-4002 "Notice of Action Taken on Your Request for Assistance to Meet an Immediate Need or a Special Allowance"](#) telling the applicant that the application is denied since there is currently no unmet emergency need.

Ten days later, on April 14th, the same family reapplied for EAF. The family used its financial resources to pay for temporary housing and to begin to replace clothing and other personal items. The family located a new apartment and paid the first month's rent and a security deposit. The family needs help with the moving expenses. On the new application date, April 17th, the family does not have available gross income in excess of 200% of the federal poverty level. For that reason and because they are without the resources to meet the emergency need, the family is EAF eligible for help with moving expenses.

- c. The emergency needs cannot be met under Office Regulation 352 by an advance allowance.
- d. The emergency resulted from a sudden and unforeseen circumstance beyond the individual's control.
 - (1) Applicants for EAF will be ineligible to have their emergency need met by EAF when the district determines that the emergency did not arise from a sudden occurrence or situation that was unforeseen and beyond the individual's control.
 - (2) If the family is denied EAF due to this provision, then the district must consider the family's eligibility for Emergency Safety Net Assistance or for referrals to other programs or resources. See [TASB 10 Section I](#).
 - (3) The sudden and unforeseen provision is not required to be met for SSL 131s utility payments.
 - (4) The sudden and unforeseen provision is not required to be met for diversion payments.
 - (5) Examples: All examples assume that the family is otherwise eligible for EAF.
 - (a) In late April, a woman applied for payment of rent arrears for March and April to avoid eviction. The worker determined that the woman is employed full-time and was so for the period that the arrears accrued. However, the worker also determined that the woman was ill, missed nearly three weeks of work in February and was not paid for those sick days.

The sudden and unforeseen occurrence was the applicant's illness. While she was able to maintain her family with her earnings normally, she was not able to recover financially from the loss of three weeks of income.

The family is found eligible for EAF.
 - (b) After an applicant exhausted eligibility for HEAP benefits, he applied for EAF for payment of a past fuel oil bill. The family had been paying their fuel bills

but as the unusually cold weather continued and the cost of fuel increased, the family could not pay the bill.

The extended unusually cold weather and the increased fuel prices are sudden occurrences beyond the applicant's control.

The family is found eligible for EAF.

- (c) An applicant who applied for rent arrears to avoid eviction stated that she did not pay her rent because she was saving to get a better apartment. However, she then used most of the rent savings to pay for school tuition for the children and for school clothes. The need to pay tuition for children in private school is not an unexpected occurrence beyond the applicant's control. Therefore, she is not eligible for EAF.

The applicant must be evaluated for emergency Safety Net Assistance (ESNA). Since the applicant's income is below 125% of the poverty level for her size family, but above the TA limit, the applicant must sign a shelter arrears repayment agreement in order to qualify for an ESNA rent arrears payment.

- (d) An applicant filed for emergency assistance for rent arrears. The family used the income usually reserved for rent to pay back oil bills. Because of the extended cold weather and the increase in oil prices, even after the family had exhausted HEAP eligibility and made payments on the fuel oil bill, arrears accrued. The oil company threatened to refuse further deliveries until the arrears was paid in full. The family used the rent money to pay the fuel arrears. The extended unusually cold weather and the increased fuel prices are sudden occurrences beyond the applicant's control.

The family is EAF eligible.

- (e) An individual applied for emergency assistance for himself and his family to prevent an eviction. The individual receives Social Security Disability benefits but he did not receive his full benefit for several months due to a recovery of a prior overpayment by SSA. The reduction in household income during that period caused the rent arrears to build.

EAF cannot be denied on the basis that the client should have foreseen and known that an overpayment would result in a reduction in benefits and in the resulting inability to pay the rent. Therefore, the district need not try to make a determination of who was at fault for the overpayment, the client or SSA.

The family is EAF eligible.

- (f) A family needed assistance to meet an eviction threat. The caretaker mother had been working and paying rent on the family's apartment. After the mother was laid off from her job, she collected UIB. The apartment was not affordable on only the UIB income and arrears accrued. Mom found another

job and the apartment will be affordable in the future. However, she has no means to pay the arrears.

The sudden and unforeseen occurrence is the job lay-off. The district determines that the family is eligible for EAF to pay the arrears.

- e. Emergency assistance is necessary to avoid destitution of the child or to provide living arrangements for him or her in a home.
- f. The household's destitution or need for living arrangements did not arise because the employable child or relative with whom he or she lives refused without good cause to accept employment or training for employment.
- g. For a recipient of TA, such destitution did not arise from the mismanagement of a TA grant, or the Emergency Grant being applied for, will not replace or duplicate a TA Grant already made under Office Regulation 352. This section does not prohibit the issuing of EAF to replace a lost or stolen TA grant.

Note: Another decision in the Bacon vs. Toia litigation broadens the scope of assistance available to an FA recipient applying for EAF. The prohibition from an FA recipient receiving EAF if his/ her need resulted from the loss or theft of a regular TA grant or of cash from a TA grant was removed by the court.

Note: While in some instances it may be appropriate to actually replace the amount of the lost or stolen TA grant, EAF should otherwise be limited to meeting only the emergent needs of the family which resulted from this loss or theft.

- h. No assistance shall be provided which would duplicate temporary assistance for which a person is eligible or would be eligible, but for a sanction violation of the employment requirements found in 18 NYCRR Part 385 or other requirements of state law. See Section G Below Sanctioned Persons - [Section G](#).
2. The use of EAF funds is limited to the programs and services for eligible individuals and families administered by the Office of Temporary and Disability Assistance except when amounts are specifically appropriated for services. Then EAF shall be provided to eligible individuals and families only within the amounts specifically appropriated and subject to the terms and conditions of such appropriations.
 3. Individuals who are or would be ineligible for FA due to their alien status are also ineligible for EAF.
 4. Applying families who would be eligible for FA except that they have reached the State 60 month time limit are categorically eligible for EAF.
 5. **PREGNANT WOMEN** - Categorical eligibility for EAF exists at any time in the pregnancy when the pregnancy has been medically verified. Therefore, EAF can be used to meet the emergency needs of EAF eligible medically verified pregnant women, even when these women have no other children under the age of 18 or under 19 and

attending full-time secondary school or the equivalent level of vocational or technical training.

It should be noted that pregnancy alone does not constitute an emergency. The pregnant woman must experience an emergency (e.g., homelessness). In determining whether eligibility for EAF exists with respect to a pregnant woman, the criteria that must be applied are the same as those applied for any other family faced with a crisis situation.

6. The availability of such emergency assistance shall not relieve a town social services official in districts with a county-town form of administration from providing SNA and care as may be necessary in emergency situations pursuant to subdivision 3 of Section 67 of the Social Services Law.

Note: In districts with the county-town form of administration, town social services officers are responsible for authorizing immediate short-term emergency assistance as needed in accordance with subdivision 3, Section 67, Social Services Law. Applications for emergency assistance shall be forwarded promptly to the county commissioner of social services and any further authorization for emergency assistance within the 30 day period shall be made by the county authorizing official. Assistance authorized by town social service officers is not subject to federal participation.

D. LOSS OR THEFT OF GRANT CHECK

The provisions of Office Regulation 352.7(g)(1) specify the action to be taken for the replacement of lost or stolen checks.

Providing EAF to an otherwise qualified FA recipient whose need resulted from the loss or theft of a regular TA grant involves the following considerations:

1. An applicant or recipient reports to a local district that a check has been lost or stolen, an affidavit of loss shall be required of the recipient, and payment of the check shall be stopped.
2. If a recipient has not already done so, he/she shall be required by the local district to report the loss or theft to the police, to obtain from them the blotter entry number, or classification number, or file number of other available evidence of the reporting, and to furnish such evidence to the local district.

E. LOSS OR THEFT OF CASH

The local district must use reasonable verification techniques to assure the validity of the claimed loss or theft. Techniques to be employed shall include, but need not be limited to the following:

1. Alleged theft must be reported to the local police agency. The blotter number or other available evidence of report must be furnished to the local district; and,
2. Alleged loss must be supported by a written statement by the recipient detailing the circumstances surrounding the loss. Details to be furnished shall include the amount of the grant check, estimated expenditures made from the proceeds of the grant check, the time the loss was discovered and his/her attempts to recover the loss.

F. LOSS OR THEFT OF ELECTRONIC BENEFITS

1. The local district must use reasonable verification techniques to assure the validity of the claimed loss or theft.
2. When a recipient claims that he or she has not received electronic cash assistance benefits which the Department's computer issuance record indicates were issued, the social services district must verify the validity of the computer issuance record in accordance with procedures established by the Department.
3. If it is verified that a valid issuance transaction occurred, the benefits cannot be replaced.
4. If it is determined that a valid issuance transaction did not occur, the benefits must be restored.

G. SANCTIONED PERSONS

The purpose of a sanction is to impose a financial penalty when an individual or family member will not comply with program rules. Providing assistance, to an otherwise eligible person, to cover a period during which the person was sanctioned, would clearly violate the sanction requirement and must not be done. Additionally, for multi-person households where a member is, or was sanctioned for non-compliance with TA program rules, any assistance provided to meet an emergency cannot include the share of the sanctioned person for the period during which he/she was sanctioned. The exception to this is SSL 131-s emergency energy payments.

The following examples will illustrate the policy:

1. Parent refused employment or training for employment.

Mr. and Mrs. Wilton applied for TA for themselves and their 17 year old daughter. Mr. Wilton had just quit his full-time job. He provided no reason why he quit. The job was available and he could have returned but he refused. When Mr. and Mrs. Wilton failed to keep their eligibility interview appointment, their application was denied. The denial notice contained the full information about their failure to keep the eligibility appointment and also about Mr. Wilton's ineligibility for TA for 90 days from the date of the job quit.

Two months later, Mr. and Mrs. Wilton applied for EAF to pay rent arrears. The worker determined that the emergency need was caused by Mr. Wilton's job quit and refusal to return to the job. Therefore, the Wilton family is not eligible for EAF. [372.2(a)(4)]

The Wiltons may apply for recurring TA. If the worker determines that an emergency arrears payment should be made, that payment cannot include Mr. Wilton's prorata share. The payment would be paid under the category of assistance under which the recurring TA is authorized.

2. TA case closed for failure to apply for a benefit or resource.

Ms. Russell received TA for herself and her son until her case was closed for failure to apply for Social Security Survivor's benefits. Three months later, she applied for EAF because she had not paid rent since her TA case closed. At the time of her EAF application, she still had not applied for social security benefits.

Ms. Russell and her son are ineligible for EAF since EAF must not duplicate TA for which a person is or would be eligible but for a sanction for violation of State law or regulation.

3. Previously TA with a sanctioned member - Incremental

Mr. Costello has been disqualified from receiving TA for a period of six months due to an IPV. His needs were deleted from the TA case of his wife and daughter. The TA case closed the following month.

Mr. Costello is now requesting EAF for rent arrears that accrued during the two month

period since the case closed. The worker determines that the household is eligible for EAF and must now determine the amount that can be paid. The worker must prorate any amount of rent over the two person TA shelter standard to determine Mr. Costello's share. Mr. Costello's share cannot be paid.

4. Previously TA with a sanctioned member - Prorata benefit

Mr. Abbot was under a 120-day sanction for failure to comply with D/A treatment requirements. One month into the sanction, the Abbot family's TA case closed because the family did not keep an appointment for an agency interview and provided no reason why the appointment was not kept.

The family is now applying for EAF because they have not paid rent for the two months that the TA case has been closed. Mrs. Abbot explains that they did not keep the appointment because she had begun working but with the end of TA and the delay in her first paycheck, they got behind in the rent. The worker is satisfied that the Abbot family can pay future rent and that they do not currently have the ability to pay the arrears. Since Mr. Abbot did not refuse a job or training for a job, the family is not ineligible for EAF due to his sanction. However, his prorata share of the shelter arrears cannot be paid. If the landlord will accept partial payment, EAF may be authorized for all but Mr. Abbot's prorata share of the arrears.

5. Previously TA with individual sanctioned for non-compliance with IV-D

Ms. Laurel and her two children were in receipt of TA. The TA needs were reduced by 25% since Ms. Laurel refused without good cause to comply with IV-D. The case closed several months later because Ms. Laurel got a job. At the time of case closing, Ms. Laurel still had not complied with IV-D.

Ms. Laurel is now applying for EAF. Her children were ill for two weeks in one month and her hours were temporarily cut in the following month causing her to get behind in the rent. The worker is satisfied that Ms. Laurel can pay future rent and does not currently have the resources to pay the arrears.

Because Ms. Laurel is not currently under a durational sanction or sanctioned for a reason that would also apply to EAF, the worker must then decide if the payment would duplicate assistance that Ms. Laurel would have received except for the sanction. The income in the household was enough to close the case, sanction or no sanction. Therefore, no reduction in the EAF payment is necessary. The entire rent arrears can be paid.

H. SCOPE/LIMITATION

1. Emergency assistance to eligible needy families with children shall be provided as follows:
 - a. EAF grants and allowances provided shall be only for such items of need, in such amounts as provided for in Part 352 of Office Regulations.
 - b. Office regulation 352.7(g)(3) authorizes the recoupment/recovery of shelter arrears, paid to applicants, which exceed the maximum shelter standard. Applicants include applicants for EAF only. Thus, if shelter arrears are paid under EAF and they exceed the maximum shelter standard, the amount above the maximum is recoverable or recoupable. If the applicant did not immediately become a recipient of recurring TA, recovery would be pursued. If the person later becomes a recipient of TA and there is an outstanding balance on the excess arrears payment, recoupment should be initiated. See [TASB Chapter 22](#).
 - c. Legal fees related to landlords' actions to evict clients or legal costs of mortgage-holders who begin foreclosure actions against clients are not payment for shelter. Therefore, such costs cannot be paid.
 - d. EAF must not be authorized as a recurring payment and cannot be used to meet ongoing needs.
 - e. Office regulation 352.5 authorizes payment essential to continue or restore utility service for an applicant for assistance, including EAF. When a household's gross monthly income on the date of application exceeds the temporary assistance standard of need for that household size a repayment agreement for utility arrears assistance granted under EAF must be completed and signed. The sudden and unforeseen provision is not required to be met for utility payments. For more information refer to the TA Energy Manual.
 - f. When the district determines that an applicant is eligible for EAF for the cost of repairs to client owned property, the district must pay for repairs and claim the full cost to EAF.
 - g. In situations of a mass emergency, payment for costs of necessary medical care, services and supplies, mass feeding and clothing distribution, and other essential articles such as blankets shall be made.
 - h. Services necessary to cope with the emergency situation, including information, referral, counseling, car insurance, car repairs, securing family shelter, providing child care (including day care and temporary foster care), and any other services which meet needs attributable to the emergency situation, shall be provided.
 - i. If otherwise eligible, child care and transportation may be paid under EAF for homeless families seeking permanent housing.

Note: The responsibility for providing transportation may reside with a school district, certain shelters for runaway youth or the social services district. Under the provisions of Education Law §3209, the social services district is responsible for arranging and paying for transportation if all of the following three conditions exist:

- the child or family is eligible for Emergency Assistance for Families (EAF) as defined in SSL §350-j,
- the child was placed by the social services district in temporary housing,
- the designated school district is not the school district in which the temporary housing is located.

In other words, transportation must be provided to EAF-eligible homeless children if the designated school district is outside the school district where the temporary housing is located. If the temporary housing is located in the designated district, the designated school district is responsible for transportation. See [06 ADM-15](#), [06 ADM-15 Attachment](#).

- j. Child care can be paid under EAF only in emergency situations such as when a mother is sick but still in the home, as long as the case record documents the need (i.e., doctor statement, etc.).

Note: If a recipient requests child care due to illness and the recipient has made child care arrangements which the local district approves, then the local district pays for the service. If the recipient hasn't made child care arrangements, the local district may have to work with the client or with the Services Unit to make appropriate arrangements.

- k. Whenever a local district determines that an EAF payment that was made was incorrect, for example it is later determined that the applicant did have available resources to meet his or her emergency need (i.e., through a subsequent RFI match), the local district should take appropriate steps to recover the incorrect payment.
- l. In order for a recovery to be pursued or a recoupment to be initiated, the eligibility worker must make a referral to the accounting unit (or whatever unit is responsible for pursuing overpayments) so that an accounts receivable record will be established and the overpayment tracked.
- m. If a household is determined ineligible for EAF the household's eligibility for Emergency Safety Net (ESNA) must be explored. See [TASB Chapter 10, Sect. I](#).

I. SHELTER AREARS AND EAF

1. Shelter Arrears payments include payments for rent, mortgage and/or tax arrears.
2. A payment to prevent an eviction is limited to a total period of six months once every five years, unless the district determines that an additional shelter payment is necessary based on individual case circumstances.

Note: The six month period can not be split up and used at different times over the five year period.

3. Current month's rent must not be considered when calculating this payment unless the current month's rent is past due.
4. Applicants eligible for EAF-only, may receive an allowance for rent, mortgage or tax arrears for the time prior to the time the case was opened if the following conditions are met:
 - a. Such payment is essential to forestall eviction or foreclosure and no other shelter accommodations are available; or
 - b. The health and safety of the applicant is severely threatened by failure to make such payment; and
 - c. The authorization of the payment receives special written approval by the social services official or such other administrative officer as he or she may designate, provided such person is in higher authority than the supervisor who regularly approves authorization; and
 - d. The applicant reasonably demonstrates an ability to pay future shelter expenses, including any amounts in excess of the appropriate agency maximum monthly shelter allowance.
5. When in the judgment of the local social services official, the individual or family has sufficient income or resources to secure and maintain alternate permanent housing, shelter arrears need not be paid to maintain a specific housing accommodation.
6. Shelter arrears payment may exceed the appropriate maximum monthly shelter allowance. However, any amount which exceeds the appropriate maximum monthly shelter standard is an overpayment and is subject to recovery or recoupment.
 - a. If the applicant receives a one-time only shelter arrears payment under EAF, then the amount above the shelter standard should be referred for collection, using the same means that the district uses to collect overpayments when a TA case closes and there is an outstanding overpayment.
 - b. If the applicant subsequently receives FA or SNA, then the overpayment is recouped from future recurring grants.

7. The ESNA Shelter Arrears Repayment Agreement is not required for a one-time only shelter arrears payment authorized under EAF.

J. AUTHORIZATION - EAF

1. Payment Authorization

EAF may be authorized more than once in a 12-month period, even if the subsequent emergency is unrelated to a previous one. The local district may make EAF payments to meet needs related to the emergency situation which occurred before the EAF program authorization and/or needs which continue after the EAF program authorization.

2. EAF Program Authorization Form ([LDSS-4403](#))

- a. This form serves as the EAF program authorization form. It attests to eligibility for the EAF program.
- b. Local districts must use the [LDSS-4403](#) or an approved local equivalent when authorizing payments under EAF other than EAF foster care, preventive services and juvenile justice services.
- c. In situations of mass emergency, the register of families applying for such emergency assistance, when signed by the authorizing official, shall serve as the authorization for such assistance.

K. DECISIONS

1. **DECISION AND PAYMENT** - When an application for EAF is made and an immediate need is claimed, each local district is required to follow the procedures found in [TASB Chapter 5, Section I](#).
2. If an applicant designates in writing that they are only applying for a one-time payment to meet an emergency/immediate need, and are not seeking ongoing TA, Supplemental Nutrition Assistance Program or Medical Assistance, a [LDSS-4002 "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance"](#) notice may be used to adequately notify applicants with out providing any additional notice(s).
3. If an applicant does not designate in writing that they are only applying for a one-time payment to meet an emergency/immediate need, the household must be provided with the following notices:
 - a. [LDSS-4002 "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance"](#)
 - b. [LDSS-4013A "Action Taken on Your Application": Public Assistance, Supplemental Nutrition Assistance Program and Medical Assistance Coverage" \(Part A\); LDSS-4013B "Action Taken on Your Application": Public Assistance, Supplemental Nutrition Assistance Program and Medical Assistance Coverage \(Part B\)](#)

L. FAIR HEARINGS

1. Expedited hearings in EAF will be scheduled as soon as reasonably possible. In the larger local districts, where Hearing Officers are always available, hearings may be scheduled as quickly as one day after the hearing request has been received. In certain small local districts, where Hearing Officers are not always available on a daily basis, special arrangements will be made to insure expedited hearings. Local districts shall be aware that the normal six-day notice will not be forthcoming in all cases and that special telephone arrangements will be utilized to insure that the local district has notice of the time and place of the hearing.
2. Local districts should take appropriate steps to insure that a person is specifically designated to insure prompt compliance with EAF decisions which do not affirm the local district's determination. It is the intention of the Department to issue decisions after expedited hearings in EAF cases within 10 working days of the hearing.

References

352.7(g)
372

[06 ADM 15](#)
[Attachment](#)
[03- ADM 11](#)
[02 ADM-2](#)
[00 ADM-2](#)
[97 ADM-20](#)
83 ADM49
83 ADM-31
81 ADM-67
80 ADM-90

[06 INF 25](#)
[03 INF 35](#)
[02 INF-42](#)
[99 INF-15](#)
[95 INF-7](#)
88 INF-59

GIS Message (96TA/DC025)

Related Items

SSL67
369.1
358-3.2 a-c
358-5.2 a-c

CHAPTER 12: EMERGENCY ASSISTANCE TO ADULTS (EAA)

A. DEFINITIONS

1. **EMERGENCY ASSISTANCE FOR ADULTS** - means grants of assistance to aged, blind or disabled individuals and couples who have been determined eligible for or are receiving Federal supplemental security income benefits and/ or additional State payments and applied for such assistance to meet emergency needs, that cannot be met by the regular monthly benefits of SSI and additional State payments.
2. **EMERGENCY NEEDS** - means those needs which, if not met, would endanger the health, safety or welfare of such persons.
3. **APPLICANT FOR EAA** - means an individual or couple who has directly or by a representative, expressed in writing on the State-prescribed form to the local district in the county in which the applicant resides, a desire to receive EAA and to have his eligibility considered.

B. APPLICATION

A separate copy of the State-prescribed application form ([LDSS-2921](#)) shall be completed each time an applicant applies for EAA, except if he/she last applied for such assistance within the prior 12 months and lives at the same address. The previous application shall be reviewed, updated and signed by the applicant.

C. DETERMINATION OF ELIGIBILITY

The local district shall determine each applicant's eligibility on the basis of a completed application, a face-to-face interview with the applicant, or his duly designated representative, and prompt verification of the circumstances of the applicant. That verification shall include an investigation, properly documented of the facts alleged in the application including:

1. The identity of the applicant
2. The domicile of the applicant
3. Family composition
4. The amount necessary to meet emergency needs
5. Income from any source
6. Savings and other resources
7. The type of emergency needs
8. The applicant's eligibility for SSI or additional State payments.
9. In order to be eligible for EAA, an applicant (if a couple, the eligible spouse) shall:
 - a. Reside in New York State
 - b. Be eligible for SSI benefits or additional State payments, and
 - c. Have emergency needs that cannot be met by the regular monthly SSI benefit and additional State payments, or by income or resources not excluded by the Federal Social Security Act, and which, if not met, would endanger the health, welfare, or safety of the applicant.

D. GRANTING OF EAA

Emergency needs as defined in this Section are limited to the following:

1. **REPLACEMENT OR REPAIR OF CLOTHING, FURNITURE, FOOD, FUEL AND SHELTER** - Replacement or repair of the above (including repairs to homes owned by eligible persons and temporary shelter until necessary repairs are completed or replacement shelter is secured), shall be provided if the clothing, furniture, food, fuel, or shelter was lost or rendered useless as a result of burglary, theft, or vandalism, or as a result of fire, flood or other similar catastrophe which could not have been foreseen by the recipient and was not under his control. All such losses due to burglary, theft or vandalism must be reported to local law enforcement officials and appropriately verified by local officials before replacement or repair is made. Documentation in the case record shall include verification of the blotter entry number, classification number, file number, or other available evidence of reporting furnished to the local district.

Replacements and repairs shall be made as follows:

- a. Clothing and furniture in accordance with schedules SA-4a and SA-4b
 - b. Food based on a prorata share of the schedule for regular recurring monthly needs
 - c. Fuel in accordance with the schedules
 - d. Shelter in an amount not to exceed the maximum of the monthly shelter allowance for rent. (397.5[a])
2. **REPLACEMENT OF STOLEN CASH** - Stolen cash shall be replaced if reported to local law enforcement officials and appropriate verification made by local officials. Documentation in the case record shall include verification of blotter number, classification number or other available evidence [397.5(b)].
 3. **REPLACEMENT OF LOST OR MISMANAGED CASH** - Cash which has been lost or mismanaged by a person who, by reason of advanced age, illness, infirmity, mental weakness, physical handicap, intemperance, addiction to drugs, or other cause or has suffered substantial impairment of his ability to care for his property shall be replaced. When such assistance is granted, a referral shall be made to adult protective services for an evaluation and determination of the need for protective services and a representative payee. [397.5(c)] (See indicators of possible mental or physical health problems at end of this Section.)
 4. **CHattel MORTGAGES OR CONDITIONAL SALES CONTRACTS** - Payments to a secured party in whose favor there is a security interest on furniture or household equipment essential to making living accommodations habitable shall be made in an amount not to exceed cost of replacement as stated in schedule [SA-4a](#).

Payments shall be made only after every effort has been made by the local district to defer, cancel, reduce or compromise payments on the security interest.

Such assistance shall be authorized only once during the lifetime of an eligible person.

5. **MOVING EXPENSES** - Household moving expenses shall be paid when a change of residence is necessary because the health, welfare or safety of the eligible person or persons is endangered and the move is not caused by eviction or non-payment of rent or when the move will substantially reduce rental costs.
6. **ESTABLISHMENT OF A HOME** - A grant shall be made for furniture or clothing which may be necessary to enable a person to move to a private residence from a nursing home, hospital or other institution. Such assistance shall be authorized only once during the lifetime of an eligible person and shall not exceed amounts stated in schedules [SA-4a](#) and [SA-4b](#).
7. **MAINTENANCE OF A HOME** - Household expenses shall be met when essential to the maintenance of a home for a person whose SSI benefit has been reduced because of placement in a medical facility. Within 45 days following placement in such a facility, the social services official shall determine and document in the case record whether the recipient is expected to remain in the facility for less than 180 days following the reduction in his SSI benefits and return home following discharge.
8. **ESSENTIAL REPAIR OR REPLACEMENT OF EQUIPMENT** - The cost of repair or replacement of essential household heating, cooking, refrigeration, water supply, personal safety, plumbing, and sanitary equipment shall be met provided that the cost of household heating, cooking and refrigeration equipment shall not exceed the amounts stated in schedule [SA-4a](#). Cost of other equipment shall be determined by the local district in accordance with prevailing prices in the community.
9. Repairs to, or maintenance on, property not owned by the SSI occupant must not be made under EAA.
10. **RENT SECURITY DEPOSITS** - Security against non-payment of rent or for damages as a condition of renting a housing accommodation shall be provided under the conditions as described in [TASB Chapter 17](#).
11. **BROKER'S FEES** - Broker's fees necessary to securing shelter shall be provided if:
 - a. The need for alternative housing is urgent,
 - b. Not authorizing such a fee would prove detrimental to the recipient's health and safety,
 - c. In order to secure the necessary housing, it is essential that the official provide funds for such a fee or expense.
12. **STORAGE OF FURNITURE AND PERSONAL BELONGINGS** - The cost of essential storage of furniture and personal belongings during relocation, eviction or residence in temporary shelter must be met for as long as the circumstances necessitating the storage continue to exist and provided that eligibility for EAA continues to exist.

Note: There is no regulatory limit on the amount that can be paid for the storage. Additionally, Department Regulations do not place restrictions on the types of furniture and personal belongings that require storage.

13. PAYMENTS FOR SERVICES AND SUPPLIES ALREADY RECEIVED

- a. Non-utility (other than natural gas or electricity) heating fuel - Per [00 ADM-2](#), please refer to the Energy/HEAP Manual for Energy/HEAP policy.
- b. Utility (natural gas or electricity) services - Per [00 ADM-2](#), please refer to the [Energy/HEAP](#) Manual for Energy/HEAP policy.
- c. Other household expenses - Payment shall be made for items including, but not limited to, rent incurred during the four-month period prior to the month in which such person applies for emergency assistance for adults when payment of such expenses is necessary to prevent eviction and in the judgment of the local district, other housing accommodations appropriate for the person's best interest are not available in the area.
- d. Shelter arrears payments made under EAA are not limited to the maximum monthly shelter standard.
- e. Shelter arrears payments made under EAA are not limited to a total period of six-months once every five years.
- f. An execution of a lien cannot be required as a condition of eligibility for granting EAA.
- g. A local district shall not grant emergency assistance under this paragraph to a person who has received a grant under this paragraph within the preceding 12 months, unless the granting of such assistance is recommended by the local district and has been approved by a duly designated official of the Department.
- h. A person shall be deemed to have received a grant under this paragraph within the preceding 12 months if he/she is residing in a household with another person who has received a grant under this paragraph within the preceding 12 months.

14. REPLACEMENT OF A LOST, STOLEN OR UNRECEIVED SSI CHECK - A lost, stolen or unreceived Federal SSI and/or additional State payment check (or checks) shall be replaced up to a maximum of one-half the amount of each check, predicated upon the estimated period of time required for the receipt of the original check or replacement check by the Social Security Administration. As a condition of eligibility for such assistance, the applicant shall be required to agree in writing on a form prescribed by the Department ([LDSS-2921A](#)) to repay any amount granted as emergency assistance when the original check or replacement check is received.

All such incidents of loss, theft or non-receipt shall have been reported to the appropriate district office of the Social Security Administration and appropriately by the local district before the replacement check is issued. Documentation in the case record shall include verification of the report to the Social Security Administration. [397.5(m)]

15. **NUTRITIONAL REQUIREMENTS** - Within 24 hours of application, a money payment or food voucher shall be issued in the amount of \$21.70 for a single individual and \$34.60 for a couple to meet a person's nutritional requirements for one week. The applicant shall demonstrate that he requires such assistance to avoid hunger and has no cash or personal assets readily reducible to cash with which to purchase food. Such assistance shall be granted to applicants for SSI or to recipients of SSI whose SSI or additional State payment check has been lost, stolen or unreceived. [397.5(n)]

E. FAIR HEARINGS

An applicant or recipient for EAA shall be informed of his right to appeal to the department and request a fair hearing when his application has not been acted on promptly or the application is denied or the grant is deemed inadequate (397.8).

1. The form for EAA notification shall be used in EAA cases to apprise the applicant of the district's determination and the method by which he/she may request an expedited fair hearing. The [LDSS-4002 "Action Taken on Your Request For Assistance To Meet An Immediate Need Or A Special Allowance"](#) will be used for this purpose.
2. In the case of an applicant for EAA, who alleges that his/her situation is one of immediate need, each local district is required to render a determination of eligibility or ineligibility for an immediate need the same day. If an immediate need does exist and if the applicant is eligible, the immediate need must be met the same day. If the agency decision is that an emergency need does exist, but the emergency is not an immediate need, the emergency must be met for an otherwise eligible applicant in a timeframe that will prevent the emergency from becoming an immediate need.
3. Expedited hearings in EAA will be scheduled as soon as it is reasonably possible. In the larger local districts, where Hearing Officers are usually available, the hearings may be scheduled as quickly as one day after the hearing request is received. In certain small local districts, where Hearing Officers are not always available on a daily basis, special arrangements will be made to insure expedited hearings. Local districts should be aware that the normal six-day notice will not be forthcoming in all cases and that special telephone arrangements will be utilized to insure that the local district has notice of the time and place of the hearings.

F. AUTHORIZATION

1. The State prescribed form ([LDSS-2921](#)) shall be marked "EAA" to identify it as Emergency Assistance to Adults. Such authorization shall not exceed the amount permitted and shall only be for and in the amount necessary to meet the specific emergency for which this application was made (397.9).

G. INDICATORS OF POSSIBLE MENTAL OR PHYSICAL HEALTH PROBLEMS

The following are possible indicators of impairments which affect the individual's ability to manage his/her own affairs:

MENTAL INDICATORS

1. Not oriented to time and places; unable to give time of day, day of week, month, year, date; cannot specify present location
2. Unnatural behavior pattern for age groups; characterized by:
 - a. Anxiety - apprehension, tension, or uneasiness which stems from anticipation of danger
 - b. Apathy - unemotional, "I don't care" attitude
 - c. Depression - morbid sadness, crying
 - d. Paranoia - oversuspiciousness, persecutory delusions
 - e. Alcoholism - individual drunk and unable to comprehend situations, slurring speech
3. Excessive dependency, individual cannot act without advice of someone else, appears helpless
4. Forgetfulness, memory lapse, cannot perform intellectual functions
5. Argumentative to an extreme with all
6. Bizarre dress, ill fitting, out of season
7. Extreme nervousness indicated by shaky hands, fidgeting, nail biting, etc.
8. Confused; unable to understand (management of his/her) affairs

PHYSICAL INDICATORS

1. Bedridden, wheelchair, difficulty getting out of chairs and walking, transferring;
2. Impairment with sight; hearing; missing limbs
3. Chronic illness or medical problem affecting normal functioning

H. GRANTS OF ASSISTANCE FOR GUIDE DOGS (GAGD)

Under the SSI program, employed SSI recipients are permitted to deduct work-related expenses, such as maintenance of a guide/service dog, from their countable income. Since the SSI program provides no special provision for the maintenance of guide/service dogs for recipients who are not eligible for such earned income exemptions, State legislation was enacted to remedy this inequity. SSL § 303-a directs SSDs to provide assistance, in accordance with regulations of the department, to persons with disabilities who have been determined to be eligible for or are receiving federal SSI and/or additional state payments and using a guide dog, hearing dog, or service dog, for the purchase of food for such dog. This form of assistance is administered as a separate Temporary Assistance program called "Grants of Assistance for Guide Dogs" (GAGD).

1. DEFINITIONS

- a. **GRANTS OF ASSISTANCE FOR GUIDE DOGS (GAGD)** - means grants of assistance to blind, deaf or disabled individuals who have been determined to be eligible for or are receiving Federal supplemental security income benefits and/or additional State payments and who maintain a guide, hearing or service dog. The grants are for the purchase of food for such guide/ service dogs.
- b. **GUIDE/SERVICE DOGS** - A guide/service dog is any dog that is trained to aid a person with a disability and is actually used for such purpose. Guide/service dogs are used to help bridge the gap between a disabled person's physical abilities and the architectural, cultural and other requirements of our society. The guide/service dog can be trained to transport items, assist in overcoming architectural barriers and perform a variety of tasks for a person with a physical disability.
- c. Application means an action by which a person indicates, in writing on a form prescribed by the department, his or her desire to receive GAGD.

2. FACTORS OF ELIGIBILITY - In order to be eligible for GAGD, an applicant shall:

- a. Reside in New York State;
- b. Be visually handicapped, hearing impaired or disabled;
- c. Be determined eligible for or in receipt of SSI benefits and/or additional State payments;
- d. Not have earned income exempted for maintenance of a guide, hearing or service dog pursuant to Federal law or regulation; and
- e. Maintain a guide, hearing or service dog.

Note: Since there is no criteria to identify an individual's specific disability on SDX, as they are categorized only as disabled, a physician's statement establishing handicapping condition is acceptable.

Note: Items a, c, and d can be verified by checking the State Data Exchange (SDX) or by contacting SSA.

Note: Item "e" will be difficult to verify in the absence of a face-to-face interview. Therefore, the applicant's signed application will be sufficient unless there is clear evidence to the contrary in which case a collateral contact must be made.

3. DETERMINATION OF ELIGIBILITY

- a. Eligibility shall be determined on the basis of information contained on the [LDSS-3087](#) Application/Recertification Guide/Service Dog Food Program. If the applicant uses "X" for a signature, a witness must also sign the application before eligibility can be determined.
- b. A face-to-face interview shall not be required of applicants for GAGD.
- c. The verification shall include documentation of the facts alleged in the application, including:
 - (1) The applicant's eligibility for SSI and/or additional State payment. The State Data Exchange (SDX), State Online Query (SOLO) or SDX-SSI Individual status screen on WMS can be used to verify SSI eligibility or the eligibility for State payments.
 - (2) Blindness, deafness or disabling condition. A physicians statement establishing a handicapping condition is acceptable verification.
 - (3) Maintenance of a guide/service dog. This will be difficult to verify in the absence of a face-to-face interview. Therefore, the applicant's signed application will be sufficient unless there is clear evidence to the contrary in which case a collateral contact must be made.
 - (4) Lack of earned income exempted for maintenance of a guide/service dog pursuant to Federal law or regulation.
- d. Recipients must be advised of their responsibility to immediately inform the local district of any change affecting eligibility including change of address.

4. GRANTING OF GAGD

- a. Applications must be processed promptly and a decision made within 30 days.
- b. A grant must be issued in the amount of a \$35 monthly cash payment to eligible individuals.

5. AUTHORIZATION

- a. A State-prescribed authorization form must be marked GAGD to identify it as a grant of assistance for guide/service dogs.
- b. The authorization amount must not exceed \$35 a month.

- c. Grant amounts must not be prorated.

6. RECERTIFICATION

- a. All factors of eligibility listed in Section 2 above shall be re-evaluated and verified at a minimum of every six months.
- b. The GAGD application and recertification form [LDSS-3087](#) shall be used for recertification.
- c. Recertification shall be completed by mail. A face-to-face recertification shall not be required.
- d. Form [LDSS-3087](#) must be mailed to the recipient 60 days prior to the recertification date. The Letter for [LDSS-3087](#), [LDSS-3097](#) should be superimposed with the local social services district's letterhead and must accompany form [LDSS-3087](#).
- e. Recipients shall be required to report changes of circumstances between recertifications.

7. REIMBURSEMENT

- a. Expenditures properly made by social services districts under this section, including costs of administration, shall be reimbursed by the State in an amount equal to 100 percent of such expenditures.

8. NOTIFICATION AND FAIR HEARING

- a. The social services official shall inform each applicant for GAGD in writing of the determination made by the social services district.
- b. An applicant/recipient for GAGD shall be informed in writing of his or her right to appeal to the department and request a fair hearing when his or her application is denied or the GAGD case is closed.
- c. The written notice must state the specific reason for denial or termination of GAGD benefits.

9. RECORDS and REPORTS

- a. Each social services district shall maintain case records and report claiming and caseload information as requested by the department to insure compliance.
- b. The local social services district must maintain a case record containing the application and all subsequent actions taken in the case.
- c. The local social services district must designate one individual in temporary assistance to be a contact person for the purpose of this assistance.

10. WMS INSTRUCTIONS

- a. Payment for GAGDis supported on WMS as payment type "A4".
- b. The GAGD application, [LDSS-3087](#), accommodates data entry on WMS.
- d. Payment type "A4" is only allowed in WMS case types 16 (SNA-cash), 17 (non-cash SNA) and 18 (EAA).

References

[02 ADM -02](#)

76 ADM 110

6 [INF- 25](#)

TA Energy Manual Section IX

7 [LCM -04](#)

[attachment](#)

[10-INF-11](#) T

CHAPTER 13: CALCULATING THE GRANT

A. THE BUDGETARY METHOD

1. **CALCULATING RECURRING GRANT** – The budgetary method must be applied to the individual case to determine eligibility and amount of the grant.
 - a. When the estimate of regularly recurring needs exceeds the available income and/or resources the difference is to be known as the **budget deficit (D)**. When the available income and/or resources exceed the estimate of regularly recurring need, the difference is known as a **budget surplus (S)**.
 - b. An individual or family is entitled to TA and care when a budget deficit exists; however, a household is not entitled to any cash assistance when there is a budget deficit of less than \$10, although the household is considered in receipt of TA.
 - c. When the investigation has been completed and need established on a continuing basis, the regularly recurring cash grant shall meet the full “budget deficit”, except that when the estimate of regularly recurring need and/or the amount of the assistance (based on Office Regulations) do not equal a whole dollar amount, the amount(s) shall be rounded down to the next whole dollar amount.
 - d. When an item, such as shelter for heating, domestic energy, etc. is paid by voucher or restricted grant, the amount paid shall be deducted from the ensuing regularly recurring cash grant.
 - e. When the budget deficit increases between periods covered by the last regularly recurring grant, a special grant shall be made for the difference. This shall include the allowance necessary to provide on a prorated basis for an additional member of the household or for a member of the TA household who returns home for a visit (\$4 per day per child).
- Note: All monies or orders granted to persons as TA or care cannot be surrendered or transferred and shall be exempt from levy and execution under the laws of the state.**
2. **BUDGET DEFICIT OF LESS THAN \$10** – No grants issued, to any TA applicant/recipient in any month in which the amount of need less any available income results in a budget deficit of less than \$10 for the month.
 - a. TA cases not receiving a cash grant because the budget deficit is less than \$10 for the month will remain eligible for MA, social services and where appropriate, be required to participate in work activities. In instances where the case grant is determined to be zero, or any amount less than \$10 as a result of the rounding down of the budget deficit, the case must remain open and the family will still be eligible for MA, social services, and where appropriate, be required to comply with work registration requirements other than work experience.

The following examples are circumstances where a cash grant of less than \$10 must be made:

- (1) A TA individual/family has a budget deficit of \$28 per month. The local district recovers an over payment of \$20. Since the budget deficit for the month prior to any adjustment is more than \$10, the client would receive the \$8 benefit.
 - (2) A TA recipient has a budget deficit of \$100 of which \$95 is restricted and sent directly to a vendor. Since the assistance for the month totals more than \$10, the client would receive the \$5 benefit.
- b. The \$10 payment provision does not apply to special needs payments which are issued on an irregular basis as long as the recipients combined grant and special needs payment for the month are at least \$10.
3. **CALCULATING NEEDS** – SSDs must calculate the total monthly household needs of an applicant/recipient, including any special needs. If the total monthly needs do not equal a whole dollar amount, the local district must round the amount down to the next whole dollar amount.
- a. The standard of need used in the gross income test, in determining an applicant's/recipient's eligibility for TA, in the step-parent deeming calculation, or in the alien sponsor deeming calculation, is not rounded down to the next whole dollar amount.
 - b. For applicants/recipients (A/R's) in Level I and Level II Congregate Care facilities, the payment standards are the SSI Benefit Levels. If the A/R in need of Level II substance abuse treatment is temporarily absent from his or her family home, the Level II standard is included as an additional need in the family budget.
 - c. Local districts must then apply the total monthly gross income, after applicable exemptions and disregards, against the household needs. The amount of the resulting deficit, if not a whole dollar amount, must be rounded down to the next whole dollar amount.

Note: The income is not rounded down to the next whole dollar amount.

4. **CHANGE IN ELIGIBILITY OR BENEFIT** – All SSDs must adjust TA grants to reflect date specific changes in eligibility or benefit entitlement. This is true for all cases except when a timely report of new or increased earnings is made. Then, the district must apply the administrative processing period. For additional information about the administrative processing period, please see this Section #9. For all changes except changes resulting from the timely report of new or increased earnings:
- a. SSDs are required to immediately adjust the grant when a recipient experiences a change in circumstances. It is not appropriate to automatically adjust a recipient's grant to coincide with the start of a new payment quarter. The change in grant must be made to coincide with the effective date of the timely (or when appropriate, adequate) notice.

- b. SSDs are required to calculate an over/underpayment from the effective date of the notice if benefits cannot be prorated because they have already been sent to the recipient/vendor.

5. **DATE SPECIFIC ELIGIBILITY RULES** – The fundamental rule of date specific eligibility is that eligibility or entitlement to a specific benefit amount may change on any given date within a month. This will occur for a number of reasons. For example, a case member may leave the household, resulting in a reduced benefit amount, or an entire case may lose eligibility for failure to comply with a procedural requirement.

- a. Under date specific eligibility, SSDs must immediately initiate action to adjust the grant when the recipient experiences a change in circumstances. It is not appropriate to wait to adjust a recipient's grant until the start of a new payment cycle.
- b. These procedures apply not only to recurring cash grants, but also to restricted payments such as vendor and two-party checks.
- c. The local district cannot adjust the grant until the appropriate timely and adequate notice is provided. The actual change in grant must coincide with the effective date of the notice.

For example, a recipient fails to recertify on June 26 and the local district sends a discontinuance notice that same day which is effective July 6. Therefore, the recipient would be entitled to benefits through July 5, unless the recipient recertified or established a "good cause" reason for not recertifying.

- d. It is not necessary to include the specific amount of the prorated benefit in the notice of intent. If a CNS Notice is not sent it is necessary to indicate:

- (1) What the change in the grant is,
- (2) When it is effective, and
- (3) The number of days the client will receive each rate.

For example, Mary Johnson is receiving an FA grant of \$300 semi-monthly for herself and three children. When the local district discovers that it does not have a Social Security Number for one of Mary's children, it requests that Mary provide a number for the child or apply for a SSN and provide verification that she has done so. When Mary doesn't provide the requested verification and does not tell the worker there is a reason why she cannot do so, the worker sends Mary a timely reduction notice (by using CNS Code F21) deleting her and the child from the grant effective June 20.

6. **PRORATION RULES** – When a case is closed or benefits are reduced, the TA grant must be prorated so that only those benefits to which the recipient is entitled, if any, are provided. Any benefits that have been provided for a period in which the recipient was no longer eligible for benefits or eligible for lesser benefits must be recovered.

Proration rules are used to determine the portion of a benefit or a cash grant which a recipient is entitled to receive for any part of a month.

- a. To prorate a grant, the local district must first establish a daily rate. This is done by dividing a monthly amount by 30 days or a semi-monthly amount by 15 days. This daily rate is then multiplied by the number of days in the period for which the proration is being done. The result of this calculation rounded down to the nearest dollar is the prorated grant.
- b. A 30 day standard is used when prorating grants. This means that each month is considered to have 30 days regardless of the actual number of days in the calendar month. Likewise, semi-monthly periods are considered to have 15 days.

7. **PRORATING TA GRANTS** – SSDs must follow date specific eligibility rules when there has been a change in a recipient's circumstances. Using these rules, SSDs must prorate benefits to coincide with the effective date of the notice of intent to change or discontinue a grant.

- a. It may not always be necessary or possible to prorate a grant during a payment cycle. Changes in a recipient's circumstances which coincide with the start of a payment cycle can be processed using current procedures.

In addition, other factors, such as the cut-off date for entry into WMS and whether cash grants or vendor payments have already been sent to the client or vendor must be considered.

- b. In most instances, SSDs will be able to adjust the grant for date specific changes.

For example, a local district is notified on June 23 that an FA family is financially ineligible, because the mother has started receiving Social Security benefits in excess of the standard of need. A notice would be sent to discontinue benefits for July 3rd, and the family would receive prorated benefits for July 1 and 2.

If the family's monthly cash grant were \$300 and their monthly shelter voucher \$270, the prorated benefits would be determined as follows:

$\$300 \text{ cash grant} \div 30 \text{ days} \times 2 \text{ days} = \$20 \text{ prorated cash grant}$

$\$270 \text{ shelter voucher} \div 30 \text{ days} \times 2 \text{ days} = \$18 \text{ shelter voucher}$

A \$20 cash benefit and an \$18 shelter voucher would be provided for July 1st and 2nd.

- c. These same rules will apply to reductions, increases and discontinuances. For example, a parent and child are sanctioned from a three-person TA case for failure to apply for a Social Security Number for the child. The local district sends a reduction notice on June 26 effective July 6. The benefits from July 1 through 5 would be prorated at a three-person rate, and the benefits for July 6 through July 30 would be prorated at a one person rate. Note that this period only contains 30 days even though July has 31 calendar days, since a 30 day standard is used for TA. The use of a 30 day standard means the 31st day is ignored. If the reduction in grant is from \$600 to \$390 monthly, the prorated benefits would be determined as follows:

$\$600 \text{ (3 person rate)} \div 30 \text{ days} \times 5 \text{ days} = \100
 $\$390 \text{ (1 person rate)} \div 30 \text{ days} \times 25 \text{ days} = \325

Thus instead of receiving \$600 in July, the family would be entitled to receive \$425.

- d. Any request for assistance after a closing is considered a new application, even though a new application form is not required if the client reapplies within 30 days of case closing or application denial. For FA applications, TA benefits must be prorated from the date of compliance. For SNA, benefits begin on the 45th day after application. Therefore, for both case types, TA benefits are not restored to the date of closing.
- e. When a client fails to recertify, it is not acceptable to wait until the end of the current authorization period to close the case. The local district must provide adequate and timely notice as soon as possible and prorate the TA benefit to coincide with the effective date of the notice. If the benefit cannot be prorated because it has already been issued, then an overpayment must be calculated to reflect any benefits provided from the effective date of the notice.
- f. Proration rules do not apply to the child support pass-through payments.
- g. A pregnancy allowance is not prorated for the initial month of eligibility or the month the child is born. In these instances, the full monthly allowance is provided. For example, if a recipient's fourth month of medically verified pregnancy began March 21, the recipient is entitled to receive \$50 for March. The same holds if the child was born on March 21st.

However, if the local district is discontinuing a TA recipient, the pregnancy allowance must be prorated like all other TA allowances. For example, if a pregnant recipient's TA case is being closed effective June 6, the recipient would be entitled to five days of the pregnancy allowance, or $\$50 \text{ divided by } 30 \text{ days} \times 5 \text{ days} = \8.33 .

- h. Once a monthly rent voucher has been sent to a landlord, the local district must honor the full monthly amount. However, if the recipient was ineligible from the 10th of the month on, the local district must calculate an over payment for the portion of the monthly voucher which covers the period from the 10th through the 30th.
8. **OVER/UNDERPAYMENTS** – If TA benefits cannot be prorated because they have already been sent to the recipient/vendor, the local district will be required to calculate an over/underpayment.

For example, a single SNA client is receiving \$300 in rent as a two-party check and \$25 semi-monthly as a cash grant. After the recipient fails to recertify on June 29, the local district sends a discontinuance notice on July 1, effective July 11th. The local district cannot prorate benefits for the period from July 1 to July 10 since both the monthly rent check (\$300) and the semi-monthly cash grant (\$25) have already been sent. Therefore, an overpayment exists from July 11 through 30 and from July 11 through 15 for the cash grant. This would be calculated as follows:

Client received \$325 for the month (rent and cash grant)
Client should have received \$300 (monthly rent) ÷ 30 days x 10 days = \$100
\$25 (s/m cash grant ÷ 15 days x 10 days = \$16.66
Overpayment \$325 - \$116.66 - \$208.34

SSDs must also be aware that for financial changes in circumstances, such as those related to income, resources, lump sums, etc., the change in entitlement to benefits often predates the effective date of the notice. For example, a client may have been ineligible for several months because of unreported income, even though the local district is just now discontinuing assistance. In these instances, the overpayment must be calculated back to the month in which the change occurred.

Note: SEE [TASB CHAPTER 22](#) FOR ADDITIONAL INFORMATION ON OVERPAYMENTS.

9. **CALCULATING INCOME: SEE [TASB CHAPTER 18](#)**

WMS INSTRUCTIONS

a. **PRORATION PROVISIONS** – WMS Issue Code "P - PRORATE" identifies an amount to be prorated on screen 6 of the LDSS-3209. The following requirements apply to the use of "Issue Code - P":

- (1) The case type must be 11 (FA), 12 (non-cash SNA-FP), 13 (FA-FC), 16 (cash-SNA), 17 (non-cash SNA- FNP), 18 (EAA) or 19(EAF).
- (2) The payment type must match a corresponding recurring payment type, except that 69 will match a 05 or K1 payment type. The payment types below are valid with Issue Code P: 10, 11, 12, 14, 25, 26, 28, 29, 30-38, 40, 46-50, 54-56, 58, 59, 62-64, 66, 69, 71, 81, A6, A7, C7, D2, E1, E3, E5, E7, R0-R7, R9, T1, T2, Q1, Q2, Q4, Q6 (see WMS Code Cards for definition).
- (3) The amount must match a corresponding recurring payment line.
- (4) The WMS Payment Schedule Code must = "M" or "S".
- (5) The WMS Payment Schedule Code must match a corresponding recurring payment line, ("M" or "S" will match a blank on the recurring line).
- (6) For a "pre-change" proration with a "from" date equal to 01 or 16, an historical recurring line must exist, and the "from" date of the proration pay line must be equal to the "old" recurring "to" date plus one day.
- (7) For a "post-change" proration with a "from" date other than 01 or 16, a non-historical recurring line must exist, and the "to" date of the proration pay line must be equal to the "new" recurring "from" date minus one day.
- (8) The "from" and "to" dates on the proration pay line must be equal to the same month.

- (9) If a "pre-change" proration line and a "post-change" proration line exist, the "to" date of the "pre-change" proration line and the "from" date of the "post-change" proration line may not overlap.
- (10) Upon error-free transmission of a prorated payment line, the Issue Code will be changed to "2 – Once Only", and the amount will be changed to an amount equal to the proportional share (30 days for monthly, 15 days for semi-monthly) of the amount based on the number of days in the effective period.
- (11) The above change to Issue Code and Amount will not take place until all of screen 6 is error-free in order to facilitate identification and error correction. After an error-free transmission of screen 6 and Issue Code and Amount are changed, screen 6 must be re-transmitted. This is to allow an opportunity to review the prorated amount and make necessary adjustments to the input documents to reflect the newly authorized amount.

B. DETERMINING THE AMOUNT OF THE GRANT

1. **FIRST FA PAYMENT** – The amount of the initial FA grant of recurring financial assistance must be computed starting with the date of establishment of FA eligibility or the 30th day after the date of application, whichever is earlier.
 - a. Determining the amount of the initial grant, the monthly budget deficit must be prorated to reflect the number of days in the month in which there was initial coverage, based on the TA monthly standard of 30 days.
 - b. A first FA payment must be made as soon as possible, but not later than within 30 days of the date of application. When eligibility has not been established, but an immediate need is determined to exist, an emergency grant of assistance must be made.
2. **FIRST SNA PAYMENT** – SSDs must compute the amount of the initial grant of recurring SNA financial assistance beginning on the 45th day from application, with the application date as day one. State reimbursement will not be made for payments prior to the 45th day unless such payments are required to meet emergency circumstances. SSDs are not required to make SNA recurring grant payments before the 45th day at local expense.
 - a. This 45-day application period does not apply to payments required to meet emergency circumstances which include, but not limited to:
 - (1) No food;
 - (2) No shelter;
 - b. Upon the 45th day from application filing date, if shelter has not been paid, the applicant would receive maximum shelter allowance regardless of the day of the month. The payment is reimbursable as Safety Net Assistance.
 - c. Threat of eviction;
 - d. No fuel for heating during the SSD's cold weather period;
 - e. A utility disconnect notice and scheduled for shut-off within 72 hours or utilities have already been disconnected;
 - f. Lack of items necessary for health and safety when there are no resources, such as family and community resources, available to meet the emergency need.

Lack of items necessary for health and safety includes residential substance abuse treatment and items needed to remove barriers to self-sufficiency.

Payments to SNA applicants to meet these emergency circumstances are eligible for State reimbursement as long as all other requirements in Office regulations are met. Such emergency grants must be justified in the case record.

Under the "SNA Applicant Job Search Program," participants must be provided with transportation monies when needed to make the required job contacts. These funds are to be distributed prior to the 45th day.

3. RENT

- a. If the initial month's rent is already paid, it will not be considered in the standard of need for purposes of determining the initial month budget deficit, except when such rent was paid from income that is being budgeted. However, any cash deficit is prorated for the number of days of eligibility in the month of acceptance. No rental amount is deducted prior to prorating the grant.
- b. If a client borrows money from a legally responsible relative to pay rent during the month of application and the money is used to pay all or part of rental expense, the local district budgets only the unpaid portion, if any, as the client's shelter expense in determining of eligibility and amount of entitlement for that month. If all, or a portion of the income is not used to pay rent, then the amount not used is unearned income (ABEL unearned income code "99-Other"). The fact that the legally responsible relative is only loaning the rent money to the TA recipient does not impact on the situation
- c. For the local district to pay a full monthly agency maximum rental expense at application, there does not have to be an emergency shelter situation. If the rental payment is necessary and the client is eligible for a grant, the SSD can provide the full month shelter expense, up to the local district shelter maximum.

INCOME MUST BE BUDGETED IN ACCORDANCE WITH THE INSTRUCTIONS FOUND IN [CHAPTER 18](#).

C. USE OF THE BUDGET WORKSHEET

1. DEFINITIONS

- a. **PRO-RATING** – The process of calculating an amount for the specified number of days which are fewer, or more than, the regular period for which the need was established.

EXAMPLE: Pro-rating the amount of a monthly grant for a 20 day period. Monthly assistance divided by 30 days equals one day, multiplied by 20 days equals 20 days prorated assistance.

- b. **PROPORTIONATE SHARING** – The pro-rating of allowance and income amounts so that each segment of the household is charged to its appropriate program.

EXAMPLE: A household of three, one of which receives SNA and the other two receive FA.

- c. **AVERAGING** – The process of determining a budget item amount when there are a series of varying amounts over a period of time.

EXAMPLE: When an applicant/recipient's income is different for each week of a four-week period. Add the four pay periods, then divide by four to arrive at an average weekly pay.

- d. **CONVERTING** – The process of calculating the income amount received for a period which is shorter than the period of coverage on which the budget is based. ABEL will systematically perform conversion from data entered in the "Earned Income" section of the ABEL input screen based on the frequency ("F") code and "Gross" amount fields.

EXAMPLE: Convert weekly income to a monthly income equivalent by multiplying the weekly amount by 4.333 or a bi-weekly amount by 2.166.

3. An ABEL budget must be completed for each new or reopened TA case.
4. The budget shall be recalculated whenever there is a change in the needs, income or allowance schedules of the SSD.
5. It is important to store on the system, and retain a paper or electronic record, of budgets calculated which establish ineligibility or eligibility. Such information is useful for case reviews required as the result of a court suit, fair hearing decision or change in policy.
5. Exceptions for completion of the ABEL budget are listed in the ABEL manual, Section G (Budget Limitations/Special Procedures). Such budgets may be calculated and stored as Bottom-Line Budgets on WMS. If ABEL Budgets are not available, the recipient/applicant is to receive copies of Form [LDSS-548](#), Budget Worksheet-Public Assistance.
6. ABEL budget information is found in appropriate CNS notice.

D. FILING UNIT – PERSONS INCLUDED IN THE TA HOUSEHOLD

The following definitions shall apply to the filing unit provisions only:

1. FILING UNIT DEFINITIONS

- a. Filing Unit – Filing unit refers to those individuals who are required to be included in the TA household and case count.
- b. Dependent Child – A child under 21 years of age living with parent(s) or other caretaker relative.
- c. Minor Dependent Child – A dependent child, who is under 18 years of age.
- d. Parent – Natural (biological) or adoptive parent, but not step-parent.
- e. Sibling – Blood related (at least one common parent) or adoptive brother or sister under the age of 18 but not step-brother or step-sister (no blood relation).
- f. Minor Parent – Parent under age 18.

2. FEDERAL FILING UNIT REQUIREMENT

The filing unit rule dictates that certain persons are required to participate in a case whether they choose to or not. This ensures that all appropriate income and resources will be counted toward financial eligibility. The applicant or recipient must include:

- a. His or her minor dependent children in the application.
- b. A minor dependent child applying for temporary assistance requires certain other household members residing in the same dwelling unit to apply as well, they include:
 - (1) Natural or adoptive parents,
 - (2) blood-related or adoptive brothers and sisters (who are also minor dependent children) under 18.

Example of filing unit requirement:

Ms. Jones has two minor children, Molly, age 4 and Sam, age 9. She has applied for assistance only for herself and 4 year old Molly. She receives child support for Sam. However, under the filing unit requirement, Ms. Jones, Molly and Sam must all be included in the TA household.

3. EXCEPTIONS TO THE FILING UNIT

- a. A parent cannot be required to include the following relatives of a child in his/her application for assistance,

- b. Blood related siblings 18 and over,
- c. Step-Parents, in instances where a step-parent does not apply for assistance, current stepparent deeming procedures apply. (See [TASB Chapter 18, Section P](#))
- d. Step-siblings,
- e. Parents and siblings receiving SSI, see this Chapter, Section H.
- f. Aliens who do not meet eligibility criteria (i.e., ineligible, illegal, undocumented), individuals ineligible due to the lump sum provision, and children receiving exempt adoption subsidies. Aliens who fail to meet the citizenship and alien age requirements must be budgeted in accordance with this [Chapter, Section F](#).
- g. **RECIPIENTS OF LUMP SUM PAYMENTS** – These cases must continue to be budgeted in accordance with the lump sum provisions specified in 81 ADM-55, 84 ADM-39 and Office Regulation 352.29(h) and [TASB Chapter 18, Section V](#). Persons not in the assistance unit during the month of lump sum receipt must be budgeted as a separate assistance unit. For example, a newborn would be a case of one. (85 ADM-33)
- h. A child on whose behalf an adoption subsidy is paid unless including the child and the adoption subsidy payment will increase the TA benefit to the family.
- i. A child in receipt of foster care benefits.

Exemption Example: Ms. Smith is applying for FA for herself and her two minor dependent children Martha and Stewart. She has recently remarried and her new husband Carl does not wish to apply. Filing unit policy allows Carl, the step-parent, to be a non-applicant. However, Carl is financially responsible for his wife and two step-children. As a result, Ms. Smith must supply verification of Carl's income and that income will be deemed. **Note:** When Ms. Smith and her husband have a child of their own, the filing unit rules will require Carl to apply with the rest of the family because the common child will draw the step-parent and siblings into the case.

- 4. **SAME SEX MARRIAGE AND THE FILING UNIT** – When applicants for and recipients of TA claim and verify the status of their same-sex marriage, filing unit rules continue to apply. In those instances, where the same-sex partner of a custodial parent whose children have no blood relationship and were not legally adopted by his/her spouse, filing unit rules dictate that his/her same-sex spouse be treated as any other step-parent.
- 5. **ALIENS AND THE FILING UNIT** – Some aliens mandated into the filing unit may require a separate co-op case due to alien eligibility rules.

Example: A child born in the U.S is eligible for Family Assistance (FA) but one of the child's parents is an alien who may require a separate Safety Net Assistance (SNA) co-op case due to the alien eligibility rules.

6. FILING UNIT: NON-PARENT CAREGIVER:

- a. The non-parent caretaker relative is not a mandatory filing unit member. A Non-parent caregiver of a non-applying child is not required to apply for the child in his/her care because there are no legal lines of responsibility.
- b. Non-parent caregiver is not required to have legal custody or guardianship of the child in his/her care. When the non-parent caretaker relative does not have legal custody, the available documentation must clearly establish that the non-parent caretaker relative is exercising parental responsibility. The following examples demonstrate exercising parental responsibility.
- c. A non-parent caretaker relative can continue to be included in the filing unit when a natural parent is in the same household and is not exercising parental responsibility. See [91 INF-12](#).
- d. When a non-parent caretaker relative has legal custody of a child that is a clear indication that the parent is not exercising parental responsibility. In such cases, the filing unit would include both the natural parent and the non-parent caretaker relative with the non-parent caretaker relative designated as case payee. Both the non-parent caretaker relative and the parent would be identified by the individual categorical code "13-FA Dependent Relative". See [91 INF-12](#).

Example of a child with a non-parent caregiver

Phyllis Darwin is the caregiver of her minor grandchild, Sylvia. Ms. Darwin is applying for TA only for herself because Sylvia receives child support. Ms. Darwin is a relative non-parent caregiver and is exempt from the filing unit requirement. She may apply for and, if otherwise eligible, receive FA without having her granddaughter Sylvia on the case.

E. FAILURE TO COMPLY WITH FILING UNIT REQUIREMENTS

If the parents and siblings of the applying minor dependent child who are required to file an application for assistance fail to do so or fail to comply with all other eligibility requirements, (other than those for which sanctions are imposed as specified in [this Chapter, Section N](#)) the entire family is ineligible for assistance.

FILING UNIT EXAMPLES:

1. Harlan resides with his girlfriend, Loretta, their child in common, Beverly, and Wilfred, his child from a previous relationship. Harlan wants TA for himself alone. Loretta is employed full-time and does not want TA. Harlan must apply for both of his children. Loretta will be drawn into the filing unit by her daughter, Beverly. The eligibility of the household will be determined by counting any income (after appropriate disregards) against the needs of the household. If the other household members will not apply, Harlan is ineligible.
2. Roberta is applying for TA for herself. Also in the house is a 7-year old grandchild, Trevor, who is in the care of Roberta. No one else lives in the household. Roberta does not have to apply for Trevor because Roberta is not Trevor's parent.
3. William and two of his children, Donald (age 15) and Kathy (age 12), are applying for TA. William's older daughter Angela is 17, not in school, earns \$600 per month, and does not want to apply for assistance. Angela contributes \$200 per month to help out with household expenses. Since Angela is a minor dependent child, she must be included in the filing unit and her entire income (\$200) would be budgeted as income to the household. If Angela was 18 years or older, she would not be a required filing unit member. She would be treated as a self-maintaining non-legally responsible individual and her actual contribution (\$200) would be budgeted as income to the household.
4. Melody is applying for TA only for her 8-year old daughter, Tayla. Matthew, her husband, is willing to support Melody, but is not Tayla's father and feels that Tayla is not his responsibility. Filing unit rules do not require step-parents to apply with minor dependent children. However, as the natural parent, Melody is required to apply with Tayla. Matthew is subject to step-parent deeming procedures.
5. Juan is applying for his grandson, Enrique (age 12), whose mother has been incarcerated. Enrique's half-sister, Carmen (age 14), has recently moved in. Carmen's father is paying Juan \$300 per month to help with Carmen's expenses. Juan receives Social Security Retirement benefits and does not want assistance for himself or Carmen. Filing unit rules require that blood-related brothers and sisters who are also minor dependent children apply together. Carmen and Enrique are blood-related through a common parent. Juan is not a parent and is not required to apply. The money received on Carmen's behalf will be budgeted as child support income for the household.
6. Michelle lives with her two children, Tim (age 11) and Nadine (age 14). Tim receives SSI and Nadine receives child support. Michelle does not want to apply for either child. Michelle does not have to include Tim because he is exempt from filing unit requirements due to receipt of SSI. Nadine must be included in the case. The eligibility

of the two-person filing unit will be determined using the income of both filing unit members, including the child support.

7. Naomi and her son Nathan (from a previous relationship) live with Oscar and his son Omar (from a previous relationship). Naomi and Nathan are in receipt of TA. Omar and Naomi wed and have a child, Penelope. All three children are under 18 years of age. Penelope draws in Nathan and Omar because they are blood-related siblings. Nathan and Omar draw in their respective parent. All five individuals in the dwelling unit must be part of the filing unit and included in the case.
8. Lupe applied for TA for her nephews, Angel (age 2) and Luis (age 5). Lupe does not wish to apply for assistance. Also in the household is Luis's half-sister, Jonita, who is 17 years old. Jonita receives \$600 in monthly Social Security Survivor's benefits. Since minor dependent children are applying (Angel and Luis), Jonita must also apply. Because Jonita is a minor dependent sibling she is included in the filing unit and her Social Security Survivor's benefit (\$600) is budgeted against the entire filing unit. Lupe is not a parent and is not required to be part of the filing unit.
9. An aunt applied for TA for her 2 and 5 year-old nephews. Also in the household is the 5-year-old's half-sister who is 17 years old. The 17-year-old receives \$400 in monthly Social Security Survivor's benefits. Since minor dependent children are applying, the 17-year old sibling must also apply since she is also a minor dependent child and her SSA benefits are applied against the entire filing unit household.
10. Jean Walker resides in NYC in a household with her boyfriend, Jim, their four-year-old common child, Tommy, and Jean's eight-year-old daughter, Linda, who is from a previous relationship. Jim receives \$75.00 weekly in Unemployment Insurance Benefits. Jean has applied for assistance for herself and Linda. Tommy must apply because his blood related sibling is applying. He in turn pulls his father, Jim, into the filing unit. Jim's income is budgeted against the entire filing unit.

F. CO-OP CASES

1. DEFINITIONS

- a. **CO-OP CASE** – This applies when two or more assistance units in the same dwelling unit are eligible for separate grants of TA.
- b. **LEGAL LINES OF RESPONSIBILITY** – A legally responsible relative is a spouse for spouse or a parent (including step-parent) for a child under 21.
- c. **ECONOMIC UNIT**
 - (1) If there are no legal lines of responsibility between the cases, the SSD must determine if the household is a single economic unit or separate economic unit.
 - (2) A single economic unit is determined to exist if the head of household of each assistance unit state that the assistance unit:
 - (a) Pool income and resources; and
 - (b) Purchase and prepare food together; and
 - (c) Share the cost of household expenses, such as utilities, fuel, insurance, and car maintenance.
 - (3) Separate economic units are determined to exist if a head of household states that some, but not all, of the above arrangements apply to their household.
 - (4) Households may change their financial living arrangements at any time. The worker must document the change in the case record.

- 2. **SINGLE ECONOMIC UNIT – PRORATION OF NEEDS** – When the adults in the co-op cases indicate that they are functioning as a single economic unit and there are no legal lines of responsibility between members of either case, all items of need are prorated EXCEPT shelter. Each case would receive the lesser amount of the prorated actual cost or the maximum shelter allowance for the number of individuals in each particular case. This calculation is completed by ABEL for more information see ABEL manual Section G

3. SEPARATE ECONOMIC UNIT – PRORATION OF NEEDS

- a. When the adults in the co-op cases indicate that they are functioning as a separate economic unit NO items of need are prorated, including shelter.
- b. Do not prorate the shelter allowance of a case which resides with another TA case when the assistance units reside as a separate economic unit and each has a bona fide separate landlord tenant relationship.

An example of a bona fide separate landlord tenant relationship is when each unit has a separate lease with the landlord which establishes the rights and obligations of that tenant and which are unaffected by the actions of the other tenant.

- c. Each case receives a full grant for the number of household members in that case. However, the total amount of the shelter allowances for each case cannot exceed the actual shelter allowances for the entire household. When this occurs, amounts will be prorated so that the total amount does not exceed the actual cost.
- d. The proration indicator “S” is entered to indicate separate economic units.

4. PRORATION OF FUEL ALLOWANCE FOR CO-OP HOUSEHOLDS

- a. For co-op cases with legal lines of responsibility or co-op cases that are single economic units. If an adult member, who is the tenant and customer of record, documents responsibility for payment of a heating bill, the monthly fuel for heating allowance will be prorated between the cases.
- b. For separate economic units, **if an adult member, who is the tenant and customer of record, documents responsibility for payment of a heating bill**, an allowance for fuel for heating allowance will be allowed for the case responsible for payment of fuel costs based on the number of individuals in that household. The other household in the cooperative case will not be allowed any fuel cost.
- c. If tenant and customer of record for the heating bill cannot be documented no fuel allowance will be given to any assistance unit.

5. PRORATION OF WATER ALLOWANCE FOR CO-OP HOUSEHOLD – This allowance must be prorated among the assistance units sharing the same dwelling unit, regardless of whether the units form a single economic unit.

- 6. Proration of legally responsible individual's income. When budgeting cooperative filing unit cases in which a member of one cooperative case is legally responsible for members of the other cooperative case, the legally responsible individual's income must be prorated between his/her legal dependents in his filing unit and those in the cooperative case. To accomplish this proration on ABEL the following procedure must be applied:
 - a. Enter in the DP-HH (Number of Dependents in Household) field the total number of applying legal dependents regardless of which cooperative case they are in. This includes the legally responsible relative.
 - b. As each cooperative case is budgeted, enter in the DP-CA (Number of Dependents in Case) field only the number of applying legal dependents in that case. The legally responsible relative must be included only when budgeting the case in which contains him/her. This information is located in ABEL Manual Section G, Subsection 2(b)(iii).

- c. The legally responsible individual's earned income is entered on the budgets of both cooperative cases using TA Earned Income Source "22 Earnings of a LRR in Co-op Case".
 - d. Unearned income is entered on both budgets using a TA Unearned Income Source "72-Income of a LRR in Co-op Case".
7. **ADDITIONAL ALLOWANCES** – Do not prorate additional allowances for any other recurring special need included in the standard of need including pregnancy allowance.
8. The following chart summarizes the prorated items of need and ABEL codes:

CO-OP DESCRIPTION	PRORATED ITEMS OF NEED	ABEL ENTRY – SHELTER "PRO" FIELD
Legal responsibility between cases	All items of need (including shelter) are prorated	Leave "PRO" field in ABEL blank
Single economic unit with no legal responsibility	Full shelter: all other items of need (basic allowances) prorated	Enter "N" in "PRO" field
Separate economic units/no legal responsibility	Full allowances for all items of need including shelter	Enter "S" in "PRO" field

9. **NOTE: Co-Op budgeting does not apply to TA recipients in Level I, Level II and Level III Congregate Care facilities. Each recipient is to be budgeted as a separate household.**
10. **EXAMPLES OF CO-OP CASES**

a. **EXAMPLE 1: LEGALLY RESPONSIBLE RELATIVE**

An 18-year-old mother of one and her sister, a 19-year-old mother of two are applying for assistance in Albany County. They reside in their mother's household, who is able to support her daughters. The grandmother charges \$200.00 per month to meet the shelter expenses with heat, for the 18 year olds child, and \$290.00 per month to meet the shelter expenses with heat, for the 19 year olds two children.

Since minor dependent children are applying for assistance, the parents are required to apply, making filing units of 2 and 3. The mothers are 18 years of age or over, so the grandmother's income cannot be deemed available to the filing units, but the grandmother's income can be used to meet the mothers' needs. The grandmother is legally responsible for her daughters until they are 21 years of age. The mothers are one economic unit and are budgeted cooperatively.

BUDGET

Bottom Line budgets must be done giving the 18 year olds family 2/5 Basic Allowance, HEA and SPMNT, and the 19 year olds family 3/5 Basic Allowance, HEA and SPMNT. The children's actual shelter is totaled and prorated 1/3 and 2/3. This

amount is compared against the prorated shelter maximum for 5 (1/5 and 2/5). The mother's pro-rata shares of the Basic, HEA and SPMNT is counted as income.

18-year-old		
HH = 2	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$213.60
HEA		19.08
SPMNT		14.80
SHELTER	\$163.33	<u>77.20</u>
TOTAL NEEDS		\$324.00
UNEARNED INCOME SOURCE 88		<u>123.74</u>
CASH GRANT		\$200.00 (ROUNDED)
SEMI		\$100.00

\$213.60		
19.08		
<u>14.80</u>		
\$247.48	=\$123.74	UNEARNED INCOME SOURCE 88

19-year-old		
HH = 3	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$320.40
HEA		28.62
SPMNT		22.20
SHELTER	\$326.67	154.40
TOTAL NEEDS		\$525.00 (ROUNDED)

UNEARNED INCOME SOURCE 88		<u>-123.74</u>
CASH GRANT		401.00(ROUNDED)
SEMI		\$200.50
\$320.40		
28.62		
<u>22.20</u>		
\$371.22 ÷ 3	= \$123.74	= UNEARNED INCOME SOURCE 88

b. EXAMPLE 2: HOUSEHOLD AS ONE ECONOMIC UNIT WITH ESSENTIAL PERSON RECEIVING A SEPARATE GRANT

A 21-year-old mother of one and her 28-year-old brother are applying for assistance in Albany County. The rent charge for the apartment is \$500.00.

BUDGET

Consider that the household states that they reside as one economic unit, and the 28-year-old brother is considered an Essential Person (FA-EP). This budget must be done as a bottom line budget. To find the correct amounts for the bottom line budget, first do the budget as co-op budgets.

Mom and Child		
HH = 3, CA = 2	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$224.00
HEA		20.00
SPMNT		15.33
SHELTER	\$500.00	219.00
TOTAL NEEDS		<u>\$478.00(ROUNDED)</u>
EP Brother		
HH = 3, CA = 1	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$112.00
HEA		10.00
SPMNT		7.67
SHELTER	\$500.00	214.00
TOTAL NEEDS		<u>\$343.00(ROUNDED)</u>

*Use shelter proration indicator N. That will allow for the proration of the allowances other than shelter. The shelter allowances are determined first by prorating the ACTUAL. In this example, \$500 2/3 = \$333.33. The brother's 1/3 share of the actual

rent is \$166.67. Since \$333.33 is more than the shelter maximum for 2; mom and child get the shelter maximum for two persons (\$219.00). Since \$166.67 is less than the shelter maximum for one person, determine if there is still any unmet shelter need. ($\$500 - 219 = \281.00) The brother's shelter allowance will be no less than his pro-rata share of the actual rent but it can be, as in this example, the unmet shelter need up to the shelter allowance for one person (with children), \$214.00. The total rent paid to the household is $\$219 + 214 = \433.00 . On the bottom line budget, enter the totals of both coop budgets in the appropriate fields. For example, for the basic allowance, enter \$300.00. For the shelter allowance, enter \$433.00. For the total needs, enter \$785.00 (total of \$454 and \$331.)

c. EXAMPLE 3: SEPARATE ECONOMIC UNITS – NO LEGAL LINES OF RESPONSIBILITY

A 21-year-old mother of one and her 28-year-old brother are applying for assistance in Lewis County. The rent charge for the apartment is \$500.00.

BUDGET

Consider that the household states that they reside as separate economic units, and the 28-year-old brother is considered an Essential Person (FA-EP). This budget may be done as a single budget.

FA Budget		
HH = 3, CA = 3	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$410.00
HEA		36.60
SPMNT		28.00
SHELTER**	\$500.00	390.00
TOTAL NEEDS		\$864.00(ROUNDED)

** There is one Danks Essential Person (EP). A Danks EP is a person who is eligible for SNA, resides with a FA family, is not legally responsible for any member of the FA unit, and lives as a separate economic unit from the FA family. In this example, there is one Danks EP, so the worker would enter "1" in the proration indicator field on ABEL. The result of that proration indicator is that the ABEL budget will provide the full allowances for two persons plus the full allowances for one person. The shelter allowance will be determined by ABEL using the same method as described in Example 5.

Do not prorate additional allowances for any other recurring special need included in the standard of need.

d. EXAMPLE 4: LEGAL LINES OF RESPONSIBILITY

Mr. and Mrs. Thompson reside together and Mr. Thompson is the step-father of Mrs. Thompson's two children. Mrs. Thompson and her two children are in receipt of an FA grant. Mr. Thompson is currently unemployed and although he could be considered an essential person and included in the FA case, he has opted to receive a separate grant. The rent receipt and heating bill are in Mr. Thompson's name.

As there are legal lines of responsibility in this household, the monthly heating fuel allowance is prorated between the two cases; Mr. Thompson receiving 1/4 and Mrs. Thompson 3/4. Since there are legal lines of responsibility, each case receives a prorated shelter allowance based on case size.

e. **EXAMPLE 5: NO LEGAL LINES OF RESPONSIBILITY**

Mrs. Koreman and Ms. Ford share a rented one family home. Both women are in receipt of FA, Mrs. Koreman for herself and her three children, Ms. Ford for herself and her two children. The monthly rent is \$325 and does not include heat or utilities. Mrs. Koreman is the tenant of record and customer of record for the utility bill (heat and domestic). The heat source is natural gas.

As Mrs. Koreman is responsible for payment of the utility bill, she will be provided with a monthly natural gas fuel allowance based upon her case count of four. As Ms. Ford has no direct responsibility for payment of the heating bill, she will not be provided a monthly fuel allowance.

Since both TA cases do not have bona fide landlord tenant relationships and there are no legal lines of responsibility, each household is eligible to receive a shelter allowance based on rent as paid up to the agency maximum for the number of persons in each case.

On ABEL budgets, the worker enters shelter Proration Indicator "S" for each case, Fuel Type "1 -Natural Gas" for Mrs. Koreman and Fuel Type "X-No Fuel Allowed" for Ms. Ford.

If these cases had claimed to reside as one single economic unit with no legal lines of responsibility, the worker would use shelter Proration Indicator "N" for each case and Fuel Type "1-Natrual Gas" for both cases. Both cases would receive a non-prorated shelter allowance (no legal lines of responsibility), a prorated Basic, HEA, SHEA and a prorated fuel allowance (single economic unit).

G. SPECIAL CASES

1. **FA ESSENTIAL PERSONS (EP)** – The grant made to a recipient of FA shall include the needs of any other individual living in the same home if such needs are taken into account in determining the need of the FA child or relative, provided that such individual has applied for and is eligible to receive SNA and the individual's presence is essential to the FA household.

The decision as to who is essential to the household rests with both the FA head of household and the individual(s) being considered as an EP. If either party disagrees that the person is essential; the person who is eligible for SNA will be removed from the FA case and will receive SNA in a separate cooperative case.

In such cases when an EP is included in the FA grant, the total amount paid to the FA family must equal the amount the household would have received if the FA Essential Person were budgeted as a separate cooperative case. In other words, although there is one FA case, the grant may equal the amount received if there were two separate cooperative cases, one of which contained the Essential Person. Also see [TASB Chapter 9, Section P](#).

Note: The policy in the above paragraphs is the result of Danks v. Perales (85 ADM-9).

H. SPECIAL INSTRUCTIONS

1. ABEL

a. Needs

- (1) Shelter Proration Indicator "S" is used in budgeting cooperative cases where there are no legal lines of responsibility and there are separate economic units (i.e., Danks Cooperative Cases).
- (2) Shelter Proration Indicator "N" is used when there are no legal lines of responsibility and there is a single economic unit.
- (3) Fuel will be the non-prorated allowance for the number of individuals in the Case Count when Shelter Proration Indicator "S" or "N" is used with an effective from Date of 4/16/86 or later.
- (4) Fuel Type "X" gives the Shelter Allowance and no fuel allowance. When fuel type "X" is utilized, the TA case's shelter expense is allowed up to the local district's shelter allowance maximum; no fuel allowance will be given.

b. Income – The following income source codes pertain to this section:

Earned Income Source Code "22 - Earnings of a LRR" to be prorated for a co-op case. Other Income Source code "72 – Income of a LRR" to be prorated for a co-op case.

I. FEDERAL REPORTING REQUIREMENTS

Non-applying legally responsible relatives who live with the applying individual(s), who are not required to apply and who have income sufficient to meet their pro-rata share of needs are still subject to the requirements to provide information about income and resources. In addition, these non-applying legally responsible relatives must, as a condition of eligibility for the case, provide their social security number. These individuals must be entered as part of the WMS case if the case is subject to the requirements of [01 ADM-4](#) "Reporting Requirement for TANF Assistance: Reg. 351.1(b)(2)".

J. ALLEN BUDGETING

Unless required to be in the TA household as specified in TASB this Chapter, [Section H](#), a spouse may choose whether or not to apply for assistance. The income and presence in the home of a legally responsible relative who chooses not to apply for or who is ineligible for assistance for a reason other than a sanction specified in TASB this Chapter, [Section H](#) must be considered. Such persons include, but are not limited to, persons who are ineligible for TA by reason of their immigration status or their receipt of non-recurring lump sum income. The TA budget for a household residing with such a legally responsible relative is calculated as follows (Allen budgeting): See ABEL manual Section G.

1. For example, Mr. Smith, an SNA recipient, resides with his SSI wife. If they were both on SNA, their needs would be \$500. Therefore, Mr. Smith's prorated needs are \$250 (\$500 divided by 2). Assuming Mr. Smith has no other income, his SNA grant would be \$250. Mrs. Smith's SSI is not applied to the \$250 needs of Mr. Smith, regardless of the amount of her SSI benefit.
2. For ABEL budgeting purposes, the SSI household member is included in the "Number in Household" field on the TA input screen and only the non-SSI members are entered in the "Number in Case" field. ABEL will prorate the SNA recipients' needs accordingly. The legally responsible spouse or parent's SSI income is not entered in the TA budget. SNAP should be provided through a separate SNAP-Mix case.

Note: For information on SSI recipients living with SNA applicants/recipients for whom they are not legally responsible see this Chapter, Section N.

3. The resources of the TA household include the non-applying person's resources regardless of the amount of such person's income. With respect to a non-applying person who is in receipt of SSI, resources which are exempt for purposes of SSI are not taken into consideration.
4. There is an important distinction between "a minor dependent child" and a "minor parent". When a minor parent and his/her child live with his/her non-applying parents and siblings, the minor parent does not draw family members into his/her filing unit. The reason for this is that the minor parent is drawn into the unit only because he/she is the parent of an applying minor dependent child.

If, however, the above situation was reversed and the minor parent's own parents were applying for assistance for themselves and their dependent children (other than the minor parent), the minor parent, as a sibling of an applying minor dependent child, is drawn into the filing unit. If the minor parent were not applying for or receiving assistance for his/her child, the child would be excluded from the filing unit, because the child is neither the parent nor the sibling of an applying dependent child.

K. “THREE GENERATION HOUSEHOLD” BUDGETING

1. THREE GENERATION HOUSEHOLDS (see budget examples 1 and 2)

- a. **MINOR PARENT UNDER 18 YEARS OF AGE** - With respect to an applying minor dependent child whose parent is under age 18 and living with the child, the minor dependent child and such minor parent shall be considered members of the same TA household. The local district shall deem any income of the minor parent's own non- applying parent(s) to such TA household when they reside together in the same dwelling unit. Such income shall be deemed to the same extent as income of a stepparent under Office Regulation 352.14. (See TASB Chapter 18, Section P)
- b. **MINOR PARENT 18, 19 or 20 YEARS OF AGE** – With respect to an applying minor dependent child whose parent is 18, 19 or 20 years old, the minor dependent child and such parent shall be considered members of the same TA household. If the parent's own parents reside in the same dwelling, they are legally responsible for their child up to the age of 21, and are expected to meet their child's needs, including shelter. However, the parent's own parents are not responsible for their grandchild.
- c. **NORMAL ASSUMPTION (see Budget Example 4)**
If the minor parent aged 18, 19 or 20, or the parents indicate orally or in writing that the parents are able to meet the minor parents' needs, this shall be noted in the case record and no further inquiry need be made as to the parents' actual income.
- d. **REFUTE NORMAL ASSUMPTION (see Budget Example 5)**
If the parents indicate that their income is insufficient to meet the minor parents (age 18, 19 or 20) needs, then an off-line deeming computation must be completed to determine if the parents have income that must be applied against the needs of the applying minor parent.
- e. **GRANDPARENT CONTRIBUTION (see Budget Example 6)**
If the parents indicate that they contribute an amount which is greater than the minor parents' needs, this shall be noted in the case record.

NOTE: If the minor parent is in receipt of SSI, the income of the minor parent's own parents is not deemed available to the grandchild who is applying.

2. BUDGET EXAMPLES FOR “THREE GENERATION HOUSEHOLDS”

The following budget examples are not all inclusive but provide direction for the correct use of the shelter proration indicator and unearned income source codes used in three-generation budgeting.

When completing ABEL budgets for three-generation households it is necessary to use the codes to produce the correct budget for the household's situation. The following shelter proration indicator and unearned income codes are used in three-generation budgeting.

- a. Shelter Proration Indicator, "P - Prorate Parent's Share of Needs".
- b. Shelter Proration Indicator, "C - Prorate Children's Share of Shelter Needs".

- c. Other/Unearned Income Source Codes:
 "85 - Deemed Income of a Grandparent"
 "86 - Contribution of a Grandparent"
 "88 - Parent's Share of Needs (PA Only)"
 "89 - Parent's Share of Needs Less than Prorated Share"

EXAMPLE 1: MINOR PARENT UNDER 18

A 17-year old minor parent is applying for TA for her one-year old child in Albany County. Also, in the household are the minor parent's mother and father who have a monthly combined pension of \$1500.00. Their rent is \$500.00. Since a minor dependent child (the one-year old) is applying, the 17-year old minor parent is also required to apply. Income of the minor parent's own non-applying parent(s) must be deemed because they reside in the same household.

When deeming, the filing unit's shelter costs are limited to the total household's actual shelter costs minus that allowed in the deeming process. This is per 83ADM-30.

- a. The first step is to determine the non-applying member's needs. In this example there are 2 non-applying household members.

No. of Non-Applying members = 2	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$252.00
HEA		\$22.50
SHEA		\$17.00
SHELTER (with children)	\$500.00	\$219.00
TOTAL NEEDS		\$510.00

- b. The second step is to determine the amount of deemed income. In this example the deemed income is \$990.00 which is the non-applying household member's income of \$1,500.00 monthly pension minus the non-applying household members needs of \$510.00.
- c. The shelter amount used in the budget is \$281.00. This is because the shelter costs are limited to the total household's actual shelter costs (\$500.00) minus that allowed in the deeming process (\$219.00). The deemed income is entered as unearned income using unearned income code "85 - Deemed Income from a Grandparent (PA Only)".

The ABEL budget appears below.



Mrs. Jones is employed and earns \$600.00 per month. Rick's father pays \$400.00 per month support. The court order directs that \$100.00 per month is spousal support and \$300.00 per month is child support for Rick. The family rents an apartment for \$425.00 per month. Heat is included.

Donna is applying for assistance for her son and herself. Since Donna is a minor parent, she does not draw her brother, Rick, and her mother into the filing unit. She herself is required to apply as the parent of an applying minor dependent child. So, the only household members that must apply are Donna and Josh.

- | | | |
|--|---------------|-------------------|
| No. of Non-Applying members = 2 | ACTUAL | ALLOWANCES |
| BASIC ALLOWANCE | | \$252.00 |
| HEA | | \$22.50 |
| SHEA | | \$17.00 |
| SHELTER (with children) | \$425.00 | \$219.00 |
| TOTAL NEEDS | | \$510.00 |

- b. The second step is to determine the amount of deemed income. In this example the Income to be used in the deeming process is earned income of \$600.00 per month and \$100.00 spousal support. The child support for Rick is not used in the calculation since he is not legally responsible for his sister and nephew, or a required filing unit member. The earned income disregard of \$90.00 is allowed.

The amount of net income available for deeming is \$610.00 (\$600.00 earned income minus \$90.00 disregard plus \$100.00 spousal support).

The deemed income is \$100.00, which is the non-applying household member's net income of \$610.00 minus the non-applying household members needs of \$510.00.

- c. The shelter amount used in the budget is \$206.00. This is because the shelter costs are limited to the total household's actual shelter costs (\$425.00) minus that allowed in the deeming process (\$219.00). The deemed income is entered as unearned income using unearned income code “85 - Deemed Income from a Grandparent (PA Only)”.

The ABEL budget appears below.

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File Edit Connection Setup View Help

WBGTPA										** PA BUDGET **		VERSION		DIST ALBA		04/13/2017		
CASE NAME										CASE NO.		OFC	UNIT	WORKER	TRAN	CASE	IVD	
EXAMPLE 2										SCRATCHPAD		AA	BB	CC	02	11		
HH	CA	DP-HH	DP-CA	HC	LF	PI	SI	PSP	PSF	***** EARNED INCOME *****								
02	02									#	LN	30I	30M	SRC	FRQ	D	HRS	CCR
TY	R	ACTUAL		ALLOW														
		BASIC		25200		1:												
		ENRGY		2250		2:												
		SPMNT		1700		**** OTHER INCOME ****												
01		SHELT	20600	20600	01	85	M	10000		0	0	0	0	0	0	0	0	
		WATER	0	0				0	0	0	0	0	0	0	0	0	0	
0		FUEL	0	0				0	0	0	0	0	0	0	0	0	0	
		OTHER	0	0	TOTAL NET				10000	0	0	0	0	0	0	0	0	
		OTHER	0	0	\$\$\$\$ PA GRANT				\$\$\$\$	0	0	0	0	0	0	0	0	
		OTHER	0	0	TOTAL NEEDS				49700	0	0	0	0	0	0	0	0	
TOTAL NEEDS				49700	TOTAL INC				10000	0	0	0	0	0	0	0	0	0
***** RECOUPMENT *****										CD / AMT D		39700	0	0	0	0	0	
TY	BALANCE	%	MO	AMT	REM	RECOUPMENT												
	0	00.0		0	0	UTIL/RES												
	0	00.0		0	0	SHELT/RES												
	0	00.0		0	0	RESTRICTED												
RECALC	00.0		0	SEMI CASH				19850	050117	TO	053117	* EFFECTIVE DATE *						
FS	CASE NO.	SEMI N-CASH				0	DATE STORED				/	/						

Row=24 Col= 80

POLL

24.80

uts UT560 Connected

3.1 RSA with 128-bit AES

int1://ruebtp.cdfa.state.ny.net:443

2:35 PM 4/13/2017

EXAMPLE 3: MINOR SIBLING APPLYING WITH A SIBLING WHO IS A MINOR PARENT UNDER AGE

If we change the circumstances of the same household shown in example 2 we can illustrate another important point and further clarify the distinction between minor parent and minor dependent child.

An Albany County household consists of Donna Smith, age 17 and her son Josh, age one, Donna's mother Rita Jones and Donna's brother Rick Jones, age 14. Mrs. Jones is employed and earns \$600.00 per month. Donna's father pays \$300.00 per month support. The family rents an apartment for \$425.00 per month. Heat is included. Mrs. Jones files an application for TA for Rick. Since Rick is a minor dependent child he pulls in his mother, Mrs. Jones, and his minor sibling, Donna. In this instance Donna, as a sibling to an applying minor dependent child must also apply. This in turn draws Josh into the filing unit as he is Donna's child.

WBGTPA ** PA BUDGET ** VERSION DIST ALBA 04/18/2014

CASE NAME CASE NO. OFC UNIT WORKER TRAN CASE IVD

EXAMPLE 4 SCRATCHPAD AA BB CC 02 11

HH CA DP-HH DP-CA HC LF PI SI PSP PSF ***** EARNED INCOME *****

02 02 P # LN 30I 30M SRC FRQ D HRS CCR

TY R ACTUAL ALLOW 1: 2:

BASIC 25200

ENRGY 2250 ***** OTHER INCOME ***** 0 GROSS 0

SPMNT 1700 LN SRC F AMOUNT EXEMPT 0 TAXES 0

01 SHELT 30000 10950 88 M 14575 0 0 NYS DIS 0

0 WATER 0 0 0 0 0 0 WORK EXP 0

0 FUEL 0 0 0 0 0 0 EXEMPT 0

OTHER 0 0 TOTAL NET 14575 0 CH CARE 0

OTHER 0 0 \$\$\$\$ PA GRANT \$\$\$\$ 0 CH CARE 0

OTHER 0 0 TOTAL NEEDS 40100 0 CH CARE 0

TOTAL NEEDS 40100 TOTAL INC 14575 0 DISREGARD 0

***** RECOUPMENT ***** CD / AMT D 25500 0 TOT DED 0

TY BALANCE % MO AMT REM RECOUPMENT 0 0 UNAVAIL 0

0 00.0 0 0 UTIL/RES 0 0 NET INC 0

0 00.0 0 0 SHELT/RES 0

0 00.0 0 0 RESTRICTED 0 * EFFECTIVE DATE *

RECALC 00.0 0 SEMI CASH 12750 010113 TO 013113

FS CASE NO. SEMI N-CASH 0 DATE STORED / /

Row=24 Col= 80 POLL

EXAMPLE 4: MINOR PARENT (18-20 YEARS OLD) NORMAL ASSUMPTION

A 19-year old mother applies for TA for her one-year old child in Albany County. Also in the household are the mother's parents and her eight-year old brother. The parents have earned income of \$1,200.00 monthly and rent a heated apartment for \$400.00 per month. The minor parent and her child are charged \$300.00 per month for shelter with heat.

Since the mother is over 18, the normal assumption is that the 19-year old's parent(s) can meet her share of the needs. This is because the 19-year old's parents are legally responsible for her until age 21.

The 19-year old is not entitled to a shelter allowance, since her parents are still legally responsible for providing her. Therefore, the filing unit's shelter is based only on the child's pro-rata share of rent.

Enter Shelter Proration Indicator "P-Prorate Parent's Share of Needs" in the shelter proration indicator field. ABEL will generate the prorated shelter allowance for the child(ren)

in the case (assuming one 18 to 20-year old dependent parent). In addition, the 18 to 20-year old's prorated share of the Basic Allowance, the Home Energy Allowance and the Supplemental Home Energy Allowance plus the un-prorated amount of any TA Additional Needs Allowances entered on the budget, will be generated as TA Unearned Income Source 88 (Parent's Share of Needs).

The ABEL budget appears below.

WBGTPA ** PA BUDGET ** VERSION DIST ALBA 04/18/2014

CASE NAME CASE NO. OFC UNIT WORKER TRAN CASE IVD

EXAMPLE 4 SCRATCHPAD AA BB CC 02 11

HH CA DP-HH DP-CA HC LF PI SI PSP PSF ***** EARNED INCOME *****

02 02 P *****

TY R ACTUAL ALLOW # LN 30I 30M SRC FRQ D HRS CCR

1: BASIC 25200 2:

ENRGY 2250 ***** OTHER INCOME ***** 0 GROSS 0

SPMNT 1700 LN SRC F AMOUNT EXEMPT 0 TAXES 0

01 SHEL 30000 10950 88 M 14575 0 0 NYS DIS 0

WATER 0 0 0 0 WORK EXP 0

0 FUEL 0 0 0 0 EXEMPT 0

OTHER 0 0 TOTAL NET 14575 0 CH CARE 0

OTHER 0 0 \$\$\$\$ PA GRANT \$\$\$\$ 0 CH CARE 0

OTHER 0 0 TOTAL NEEDS 40100 0 CH CARE 0

TOTAL NEEDS 40100 TOTAL INC 14575 0 DISREGARD 0

***** RECOUPMENT ***** CD / AMT D 25500 0 TOT DED 0

TY BALANCE % MO AMT REM RECOUPMENT 0 0 UNAVAIL 0

0 00.0 0 0 UTIL/RES 0 0 NET INC 0

0 00.0 0 0 SHELTER/RES 0

0 00.0 0 0 RESTRICTED 0 * EFFECTIVE DATE *

RECALC 00.0 0 SEMI CASH 12750 010113 TO 013113

FS CASE NO. SEMI N-CASH 0 DATE STORED / /

Row=24 Col= 80 POLL

EXAMPLE 5: REFUTE NORMAL ASSUMPTION – INCOME INSUFFICIENT TO MEET THE NEEDS OF THE MINOR PARENT (18-20 YEARS OLD)

A 19-year old mother applies for TA for her one-year old child in Albany County. Also in the household are the mother's parents and her eight-year old brother. The parents state they do not have income sufficient to meet the minor parent's share of needs. The parents have earned income of \$800.00 per month and rent a heated apartment for \$400.00 per month. The minor parent and her child are charged \$300.00 per month for shelter with heat.

- The first step is to determine the 19-year old minor parent's share of need.

	ALLOWANCES HH=2	19-year olds share of need
BASIC ALLOWANCE	\$252.00	\$126.00
HEA	\$22.50	\$11.25
SHEA	\$17.00	\$8.50
SHELTER (with children)	\$219.00	0.00
TOTAL NEEDS	\$510.00	\$145.75

- b. The second step is to determine the non-applying member’s needs. In this example there are three non-applying household members.

No. of Non-Applying members = 3	ACTUAL	ALLOWANCES
BASIC ALLOWANCE		\$336.00
HEA		\$30.00
SHEA		\$23.00
SHELTER (with children)	\$400.00	\$309.00
TOTAL NEEDS		\$698.00

- c. The third step is to determine the amount of deemed income. In this example the Income to be used in the deeming process is earned income of \$800.00 per month. The earned income disregard of \$90.00 is allowed. The amount of net income available for deeming is \$710.00 (\$800.00 minus the \$90.00 disregard).

The deemed income is \$12.00 which is the non-applying household member’s net income of \$710.00 minus the non-applying member’s share of needs of \$698.00.

- d. The final step is to compare the amount of deemed income to the minor parent’s share of needs. If the deemed amount is:
- less than the minor parent’s share of needs, enter proration indicator “C - Prorate Children’s Share of Shelter Needs” in the shelter proration indicator field and enter the amount of the deemed income as unearned income code “89-Parent’s Share of Needs Less Than Prorated Share (PA Only)”.
 - zero, there is no deemed income to enter. Only enter proration indicator “C - Prorate Children’s Share of Shelter Needs” in the shelter proration indicator field.
 - equal to or more than the minor parent’s share of needs, enter proration indicator “P- Prorate Parent’s Share of Needs” in the shelter proration indicator field. ABEL will generate the prorated shelter allowance for the child(ren) in the case (assuming one 18 to 20-year old dependent parent). In addition, the 18 to 20-year old’s prorated share of the Basic Allowance, the Home Energy Allowance and the Supplemental Home Energy Allowance plus the un-prorated amount of any TA Additional Needs Allowances entered on the budget, will be generated as TA Unearned Income Source 88 (Parent’s Share of Needs).
- e. In this example, the deemed income of \$12.00 is less than the minor parent’s share of needs of \$145.75. Therefore, a shelter proration indicator of “C-Prorate Children’s Share of Shelter Needs” is entered in the shelter proration indicator field. The deemed income is entered as unearned income using unearned income code “89-Parent’s Share of Needs Less Than Prorated Share (PA Only)”.

The ABEL budget appears below.

EXAMPLE 6: GRANDPARENT CONTRIBUTION GREATER THAN THE NEEDS OF THE MINOR PARENT (18 – 20 YEARS OLD)

a. The first step is to determine the 19-year old minor parent's share of need.

b. The second step is to determine if the amount that the grandparents contribute is greater than the minor parent's share of needs. In this example the grandparents contribute \$150.00 which is greater than minor parent's share of need of \$145.75.

c. A shelter proration indicator of “C-Prorate Children’s Share of Shelter Needs” is entered in the shelter proration indicator field. The deemed income is entered as unearned income using unearned income code “86 Contribution from a Grandparent (PA Only)”.

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File Edit Connection Setup View Help

WBGTPA          ** PA BUDGET **          VERSION          DIST ALBA  04/12/2017
CASE NAME          CASE NO.          OFC  UNIT  WORKER  TRAN  CASE  IVD
EXAMPLE 6          SCRATCHPAD        AA   BB    CC      02    11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF          ***** EARNED INCOME *****
02 02                      C                      #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R                      ACTUAL      ALLOW      1:
                      25200
                      2:
                      BASIC          2250  **** OTHER INCOME ****          0  GROSS          0
                      ENRGY          2250  LN SRC F  AMOUNT EXEMPT          0  TAXES          0
                      SPMNT          1700  01  86 M   15000          0  NYS DIS          0
01  SHELT          12500  10950  01  86 M   15000          0  WORK EXP          0
O   WATER          0      0      0      0          0  EXEMPT          0
   FUEL          0      0      0      0          0  CH CARE          0
   OTHER          0      0      0      0  $$$$ PA GRANT $$$$          0  CH CARE          0
   OTHER          0      0      0      0  TOTAL NET          15000          0  CH CARE          0
   OTHER          0      0      0      0  TOTAL INC          15000          0  DISREGARD          0
   TOTAL NEEDS          40100          0  CD / AMT D  25100          0  TOT DED          0
***** RECOUPMENT *****          RECOUPMENT          0  UNAVAIL          0
TY BALANCE  %  MO  AMT  REM          UTIL/RES          0  NET INC          0
   0 00.0          0      0  UTIL/RES          0
   0 00.0          0      0  SHELT/RES          0
   0 00.0          0      0  RESTRICTED          0 * EFFECTIVE DATE *
RECALC          00.0          0  SEMI CASH          12550  050117 TO 053117
FS CASE NO.          SEMI N-CASH          0  DATE STORED  /  /

Row=24 Col= 80
POLL
24.80  uts UTS60 Connected 3.1 RSA with 128-bit AES int://nwbsp.ohd.state.ny.net:443 2:19 PM 4/12/2017

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L. CHILDREN VISITING TEMPORARY ASSISTANCE HOUSEHOLDS NOT HAVING LEGAL CUSTODY

The following policy applies to determining eligibility of children who are in the legal custody of someone other than the TA recipient but whom occasionally returns to the TA household for a visit. Examples of such situations are:

- A foster care child in the custody of the local commissioner or of OCFS returns to the parent's home each weekend on Services approved visit.
- Children who visit the home of the non-custodial TA parent as part of a divorce decree granting the non-custodial parent specific visitation rights.

1. PROVIDING A VISITOR'S ALLOWANCE

- a. When a child who is not in the legal custody of the TA recipient visits the recipient's household, the child must not generally be considered a member of the TA household. However, if no provision is made by the custodial parent or other party having legal custody of the child, the TA recipient is entitled to a per diem allowance of \$4.00 per visitor for each day the child(ren) is visiting. The child need not spend the night to be considered to be visiting the household.
- b. A visitor's allowance can only be provided when a parent does not have custody of the child. In joint custody cases, legal custody is usually shared by both parents. However, if one parent can be established as the primary caretaker as defined in [TASB Chapter 9, Section I](#), then the other parent can receive a visitor's allowance, since that parent is not considered to have custody of the child. Of course, the non-custodial parent must meet all other visitor's allowance criteria.
- c. If a child visits a parent that is temporarily residing in a hotel, that parent would be entitled to the \$4.00 per day visitor's allowance, as long as the parent was in receipt of assistance and did not have custody of the child. In addition, these families residing in hotels/motels and receiving a restaurant allowance would also be entitled to a prorated restaurant allowance for the visiting child.

2. **AVERAGING THE VISITOR'S ALLOWANCE** – If the child's visits occur on a regular basis, the local district may provide a regular, on-going allowance based on the average number of days visited each month.

EXAMPLE: If one child visits the non-custodial parent's household each weekend (two days a week), the local district may determine the monthly amount of the visitors allowance by multiplying two days a week by \$4.00 = \$8.00 and multiplying this weekly figure by 4.33 to arrive at a monthly amount of \$34.64. It is not necessary to determine whether a given month has four weekends or five in such a case.

Note: The special need payment to cover the increased needs of the visiting child is not considered part of the family's standard of need. Therefore, these allowances must not be included in determining whether the family passes

the gross income test, nor in determining the financial eligibility of an applicant for TA.

3. CLAIMING INSTRUCTIONS FOR A FOSTER CHILD VISITING A TA HOUSEHOLD

- a. **TITLE IV-E FUNDS** – When a TA recipient is entitled to a visitor's allowance to cover the cost of a visit from a foster care child whose foster care is funded under title IV-E of the Social Security Act, the allowance shall not be paid out of TANF monies, even if the TA family is in receipt of a TANF funded grant. If the family is otherwise eligible for FA, the allowance for the visit of the title IV-E foster care child must be authorized and claimed as a federally non-participating (FNP) payment (WMS Special Claiming code "P"). This is because federal title IV-E foster care regulations specifically forbid payment of TANF on behalf of a child in any month in which the child's foster care was claimed under title IV-E.
- b. **CHILD WELFARE FOSTER CARE FUNDS** – The above restriction does not apply to TA families of children whose foster care is provided out of Child Welfare Foster Care funds. The visitors allowance must then be paid out of the same category as the family's regular TA grant.

Note: TA Households Having Legal Custody – A child who has not been removed from the parent's custody but is temporarily absent from the household to attend school, visit relatives, attend summer camp or for some other similar reason, is entitled to a full grant of assistance as long as the child's full needs are not otherwise met in accordance with Office Regulation 352.30(a).

4. TEMPORARY ASSISTANCE SHELTER AND FUEL NEEDS FOR CHILDREN IN FOSTER CARE

Chapter 747 of the Laws of 1989 requires SSDs to continue that portion of the TA grant intended to meet the cost of shelter and fuel for heating when a TA recipient child is placed in foster care and the Child Services Plan includes a goal of discharge to a parent, legally responsible relative or other member of the TA assistance household. For more information, see [91ADM-1](#).

WMS INSTRUCTIONS

Authorization for the visitor's allowance must be done as a separate payment line on the LDSS-3209 with payment type code D-2 (Child Visitation Allowance).

M. PERSONS NOT INCLUDED IN THE TA HOUSEHOLD OR CASE COUNT

1. **SANCTIONED/INELIGIBLE INDIVIDUALS – INCREMENTAL METHOD:** The incremental budgeting method is the method in which the sanctioned or ineligible individual is removed from the temporary assistance household and case count. For example, if one member of a three-person case is sanctioned under this method, the household count and the case count are changed from 03 to 02. See [01 INF-12](#). This method is used for the following sanction or ineligible reasons:

- a. Failure to obtain a Social Security number (SSN) [18 NYCRR §NYCRR §§ 352.30(d)(i)];

Note: In addition, since furnishing a SSN is a condition of eligibility, a child on whose behalf an application is made, is not eligible for assistance if the parent or caretaker fails to cooperate in furnishing or applying for a SSN for the child.

- b. Failure to execute a deed, mortgage or lien [18 NYCRR § 352.30(d)(ii)] as required by the local district.
- c. Failure to apply for or use employee group health insurance benefits as specified in [18 NYCRR § 352.30(d)(iii)].
- d. When any applicant for or recipient of TA refuses without good cause to pursue SSI benefits for himself or herself or for a member of the TA household. Good cause exists if such individual is physically or emotionally unable to complete the SSI application process, the local district shall provide any services that are necessary to insure that the individual is assisted in making the SSI application. In such instance, that individual shall not be denied TA and care; [18 NYCRR § 352.30(f)]. See [11 ADM-01](#)
- e. Failure to make a timely report of a minor's absence within five days of when it becomes clear that the minor will be absent for 45 or more consecutive days without good cause [18 NYCRR § 351.2(k)(4)].
- f. Job Quit/Reduction in Earning capacity to qualify for TA (applicant only) [12 NYCRR § 1300.13(a)].
- g. Failure of an individual who is exempt from employment requirements to comply with an assignment to restore his/her self-sufficiency [12 NYCRR § 1300.12(a)].
- h. Intentional Program Violations (IPVs) (see [TASB Chapter 6, Section D.](#))
- i. Failure of a pregnant or parenting unmarried minor (under age 18) to comply with living arrangement requirements. [18 NYCRR § 369.2(i)].
- j. Failure of an unmarried minor parent (under age 18) to cooperate with education requirements [18 NYCRR § 351.2(k)(1)].

- k. Conviction in federal or state court for receipt of simultaneous benefits [18 NYCRR § 351.2(k)(2)].
 - l. Fleeing felons/probation/parole violators [18 NYCRR § 351.2(k)(3)].
2. When an individual has been disqualified for any of the reasons cited above, the income (after appropriate disregards) of such an individual shall be applied in full (non-prorated) against the needs of the eligible members of the filing unit.
 3. The income of a sanctioned person must not be budgeted against the remaining case members if the person being sanctioned is not a filing unit member or a legally responsible relative.
 4. A sanctioned/ineligible individual must comply with eligibility requirements to the same extent as a non-sanctioned case member in order to allow the local district to establish ongoing eligibility for other unit members. For example, a parent who is under a sanction for failure to sign a lien must still meet recertification requirements for the children, must verify income and resources, etc.
 5. When determining the monthly TA grant and allowances for a TA household, adults and children residing with an SSI beneficiary must be considered a separate household from the SSI beneficiary. The SSI recipient's income must not be counted in determining eligibility or degree of need and their presence must not be counted in the TA household count or case count when:
 - a. The household is categorically eligible for FA (case type 11) including Safety Net Assistance, Federally Participating (case type 12)

Example: A husband, wife, and a 6-year-old child in common reside together and the child is an SSI recipient. The family is in receipt of FA. The case does not include the SSI child's presence or income. The case is budgeted as a household (HH) of 2 and case (CA) of 2.
 - b. The household is categorically eligible for Emergency Assistance to Needy Families (case type 19). SSI income is not used to determine the HH income limit or EAF eligibility criteria but once a household is determined to meet all of the eligibility requirements of EAF any SSI recipient's income that is retained is considered a resource and must be used to alleviate or end the household's immediate or emergency need.
 - c. The household is categorically eligible for Safety Net Assistance (case type 16) including Non-Federally participating (case type 17) only when the household would be eligible for a federal category of assistance (because there is a child in the case who meets the definition of a TANF child) except that they have exhausted the State 60-month time limit for the receipt of cash assistance. These households are also known as "MOE eligible" households.

(1) Example: Manny and Mary Moore resides with their three children Jack age 9, Raven age 15, and Sammy age 17. Raven is in receipt of SSI. The family is in receipt of SNA Non- Cash (case 17) because they have reached their State 60-

month time limit. The household is categorically eligible for FA therefore they are MOE eligible. Raven's income or presence is not counted in the case. The case is budgeted as a household (HH) of 4 and case (CA) of 4.

- (2) Example: A husband, wife, and a 12-year-old child in common reside together and the wife is an SSI recipient. The family is in receipt of SNA (case type 16) after exhausting TANF-funded benefits and transitioning to SNA. Because this is an SNA/MOE case, we would not include the SSI wife or the wife's income in the case. Therefore, the case is budgeted as a household(HH).
- (3) If the SSI recipient is a "legally responsible relative" (LRR) and/or there is no child in the case who meets the definition of a TANF child (under age 18 or age 18 and in full-time secondary school or the equivalent) Rice Budgeting applies where the SSI recipient is included in the household count, but not the case count. (See Rice Budgeting, [94ADM-10](#)).

Example: a husband and wife reside together. Both were in receipt of TA until the wife began receiving SSI benefits. Since the wife is a legally responsible relative the SSI recipient is included in the household count but not the case count, therefore, the case is budgeted as a household (HH) of 2 and case (CA) of 1.

- (4) No SNA case that is eligible to be claimed for Maintenance of Effort (MOE) can have the Rice proration applied even if the child is not active on the case.
- (5) If a SNA recipient lives with a non-legally responsible relative in receipt of SSI "Swift" budgeting must be applied. See [94ADM-10](#).
- (6) SSI income must be considered when determining a household' eligibility for ESNA 125% income limit
- (7) SSI income is used when determining AIDSbudgeting
- (8) When determining undue hardship SSI income by non-TA household members must not be counted as income. The net SSI is used, the gross is not used.

6. A RETROACTIVE SSI INVISIBILITY (Underwood and Morgan v. Blum) (85 ADM-31)

When an individual who has income applies for or receives TANF Funded benefits, his/her income is applied in determining eligibility and degree of need for the TANF Funded household. If such individual then applies for SSI and is subsequently found eligible, that individual is determined to be "invisible" and the TANF funded household is re-budgeted accordingly for the future.

When the individual is determined eligible for SSI he is issued an initial retroactive SSI payment back to the date he had applied for SSI benefits. The amount of this initial payment is reduced by the amount of income received by the SSI individual during the retroactive period.

In the case of Underwood and Morgan v. Blum, it was shown that the income of the SSI applicant is unfairly counted twice:

- a. Initially in determining the needs of the TANF Funded household (beginning with the month in which the SSI applicant filed an application for SSI); and
- b. Then in determining the SSI retroactive payment (SSI reduces the retroactive check by the amount of income received by the SSI applicant during the pending period).

As a result of this settlement, SSDs must, in certain situations, make a re-computation of the degree of need for the remaining TANF Funded household members for the period covered by the initial retroactive SSI payment. This budgeting method will be referred to as "retroactive SSI invisibility" and is required only when:

- a. The TANF Funded applicant/recipient has income; and
- b. Is determined eligible for SSI and receives a retroactive SSI benefit; and
- c. The re-computation results in a determination that the previous TANF Funded grant was less than the newly computed grant amount.

Note: The SSI recipient has to have been included in the TANF Funded household and have his income used to reduce the family's grant in order for the remaining members of the household to be possibly eligible for retroactive TANF Funded payments. ("All Commissioner" Letter [12/13/85])

Note: Lump sum retroactive SSI payments made to TANF Funded applicants/recipients, without continuing SSI eligibility, must not be counted as income or a resource for TANF Funded purposes in the month paid or the following month.

7. **BUDGETING RETROACTIVE SSI INVISIBILITY** – Retroactive SSI invisibility is the figure used to re-determine the amount of the underpayment to be issued to affected TANF Funded households containing individuals who were subsequently determined eligible for SSI, who had net income applied towards the total household needs.

EXAMPLE:

FA household of four, one person applied for SSI benefits on January 1, 1999:

HOUSEHOLD SIZE 4	
BASIC ALLOWANCE	\$433.00
HEA	38.70
SPMNT	30.00
SHELTER (4 PERSON MAXIMUM)	270.00
NEEDS FOR 4 (ROUNDED)	\$771.00
NET INCOME RECEIVED BY SSI APPLICANT	<u>-150.00</u>
FA GRANT (ROUNDED DOWN)	\$621.00

In April, the individual receives an initial payment from SSI which includes retroactive benefits for January, February and March. Re-determine the FA household's benefits as if the individual had been receiving SSI since January.

HOUSEHOLD SIZE 3	
BASIC ALLOWANCE	\$336.00
HEA	30.00
SPMNT	23.00
SHELTER (3 PERSON MAXIMUM)	245.00
NEW GRANT	\$634.00
PREVIOUS GRANT	621.00
MONTHLY UNDERPAYMENT	13.00

Since the FA household's previous grant is less than the new grant, the FA household has been underpaid and must be issued a payment equal to the difference in the grant levels for the period for which SSI issued retroactive benefits to the SSI recipient; in this example, \$13 x 3 months = \$39.

Note: Adjustments must only be made when the previous grant is less than the new grant.

Note: Retroactive SSI invisibility does not apply to non TANF funded cases (case types 16 and 17).

8. **SELF-MAINTAINING NON-LEGALLY RESPONSIBLE INDIVIDUALS** – Self-maintaining non-legally responsible household members who are not applying for TA are not included in the household or the case counts. Budgeting of households containing such an individual must be handled as follows:

- a. **BUDGETING RENT** – Rent must be budgeted as paid by the TA applicant/recipient, up to the appropriate county rent maximum for the TA household. If the non-applying individual pays a portion of the rent, that amount must be subtracted from the actual rent/shelter cost, and the remainder must be considered the rent paid by the TA applicant/recipient. (18 NYCRR § 352.3)

EXAMPLE: Mrs. Smith and her 2 children receive FA. Mrs. Smith has no outside income. Mrs. Smith's brother lives with the family and is self-supporting. He pays half of the \$250 per month rent. The rent maximum for 3 people is \$309. The FA household's shelter cost is \$125.00 (\$250-\$150 paid by brother).

- b. **BUDGETING INCOME** – If the non-applying individual provides cash payment solely to meet the needs of the members of the TA household, the cash payment is considered income to the household. The non-applying individual's other income and resources are invisible for TA budgeting purposes. If the recipient states at a later time that the self-maintaining, non-legally responsible individual's payments to the household have changed or will change, the TA case must be re-budgeted accordingly.

EXAMPLE: Mrs. Brown and her 2 children receive FA and live with Mrs. Brown's aunt. The FA family's rent expense is \$245 per month. The aunt is self-supporting. The aunt gives Mrs. Brown \$25 a month to purchase food for the Brown children. Mrs. Brown has no other income. The \$25 is countable income in the TA budget. The income source is payment type "18" (Income from Friends or Non-Legally Responsible Relatives).

9. **NON-APPLYING STEP-PARENT AND HIS/HER NON-APPLYING DEPENDENTS –** Non-applying step-parents are not included in either the household or case counts when budgeting a TA case. Instead, the income of the step-parent is deemed in accordance with the formula set forth in [TASB Chapter 18, Section P](#). Any non-applying dependent of the step-parent who is not required to be in the filing unit and whose needs were taken into account in determining the amount of the deemed income is also excluded from both the household and the case counts.
10. **NON-APPLYING PARENTS AND SPOUSES WITH INCOME INSUFFICIENT TO MEET THEIR NEEDS (INCLUDING LEGALLY RESPONSIBLE ILLEGAL ALIENS) –** When a non-applying spouse or parent (not including step-parents) of a child between the age of 18 and 21 has income insufficient to meet his own needs, the budget shall be computed based on the remaining persons in the grant. This policy also applies to illegal alien parents or spouses of U.S. citizens or of persons legally residing in the U.S. Also see this Chapter, [Section F](#).

EXAMPLE: Mary Allen and her 18-year-old twins (not in full-time secondary school) are applying for assistance. Her husband Joseph earns \$150 per month and does not wish to apply for assistance. There is no filing unit requirement since no minor dependent child is applying. Therefore, budgeting procedures outlined in Office Regulation 352.30(e) (referred to as Allen budgeting) must be applied:

Step 1 - Determine if non-applying spouse has income sufficient to meet needs.

BASIC ALLOWANCE (1/4 OF 4)	108.25
HOME ENERGY ALLOWANCE	9.68
SPMNT	7.50
RENT ALLOWANCE (ALBANY COUNTY) BASED ON \$348 MAXIMUM	66.75
TOTAL NEEDS (ROUNDED DOWN)	192.00
GROSS INCOME	150.00
WORK EXPENSE	90.00
% DISREGARD (SNA CASE-NO MINOR DEPENDENT CHILD OR PREGNANT WOMAN)	0.00
NET INCOME	60.00
NEEDS	192.00
NET INCOME	-60.00
DEFICIT (INCOME INSUFFICIENT TO MEET NEEDS)	132.00

Step 2- Since the father's income is insufficient to meet his own needs, he is not included in the budget and his income is disregarded.

BASIC ALLOWANCE (FAMILY OF 3)	\$336.00
HOME ENERGY ALLOWANCE	30.00
SPMNT	23.00
RENT ALLOWANCE (ALBANY COUNTY)	309.00
TOTAL NEEDS	698.00
INCOME	0.00
PA GRANT	\$698.00

Note: If the twins were under age 18, the husband would have to be included in filing unit because minor dependent children are applying for assistance.

REFERENCES

SSL-137

[01 ADM-13](#)

[01 ADM-04](#)

[97 ADM-23](#)

[Attach 1-11](#)

[Attach 12](#)

[Errata](#)

[94 ADM-10](#)

[93 ADM-08](#)

[92 ADM-42](#)

[92 ADM-30](#)

[Errata](#)

[92 ADM-26](#)

[92 ADM-20](#)

[91 ADM-1](#)

89 ADM-49

85 ADM-51

85 ADM-33

85 ADM-31

85 ADM-09

84 ADM-10

83 ADM-46

83 ADM-37

82 ADM-78

82 ADM-75

81 ADM-27

81 ADM-01

80 ADM-82

351.2

351.25

351.8

352.29(f)

352.3

352.30

352.30(a)

352.30(b)

352.30(e)

352.32

352.32(e)

369.2

369.3

[99 INF-02](#)

[93 INF-10](#)

[91 INF-12](#)

[91 INF-03](#)

88 INF-59

"All Commissioner" Letter (3/18/86)

"All Commissioner" letter (12/13/85)
"All Commissioner" Letter (9/12/84)

Related Items

Public Law 97-248

Chapter 548 - Laws of 1983

Folsom v. Blum

Riddick v. Blum

Swift v. Toia

Underwood and Morgan v. Blum

352.14

352.29(f)

352.29(h)

352.30(a)

85 ADM-33

84 ADM-39

83 ADM-30

81 ADM-55

81 ADM-39

81 ADM-01

CHAPTER 14: STANDARD OF NEED

A. GENERAL

The estimate of need for any applicant or recipient shall include all items of need as specified in Office regulations for persons in the circumstances under which such items are allowed. The amount to be included for each item of need shall be the appropriate amount provided in accordance with schedules and other provisions in Office regulations. To the extent that an item offered is otherwise provided, it shall not be included in the estimate of need, but the manner in which such item is provided shall be recorded. [352.31(a)].

B. STATEWIDE STANDARD OF MONTHLY NEED

1. The eligibility for TA of all persons who constitute or are members of the TA household is determined by applying the statewide standard of monthly need as follows:
 - a. Regular recurring monthly needs, exclusive of shelter, fuel for heating, home energy payments, and the supplemental home energy allowance
 - b. The applicable amount of money for shelter (i.e., maximum shelter allowance for family size, the cost of temporary housing, the cost of temporary hotel/motel, residential programs for victims of domestic violence, Congregate Care facilities, etc.) , fuel for heating, home energy payments, and supplemental home energy allowances required monthly and
 - c. In addition, where a need is documented, the standard of need shall include the cost of the required item(s) according to Social Services Law and Office Regulations. These items are:
 - (1) Additional costs of meals for persons who are unable to prepare meals at home (restaurant allowances and home delivered meals)
 - (2) Cost of water charge for a recipient
 - (3) Occupational training and incentive training allowances
 - (4) Purchase of necessary and essential furniture for the establishment of a home
 - (5) Replacement of furniture and clothing lost in a fire, flood or other like catastrophe
 - (6) Essential repair or replacement, if less expensive, of heating equipment, cooking stoves and refrigerators
 - (7) Miscellaneous shelter costs, such as rent security, exterminator fees, finder's fees, furniture storage, etc.
 - (8) Costs of services and supplies already received
 - (9) Purchase of service costs, such as day care, homemaker and housekeeper services
 - (10) Camp fees
 - (11) Payment of life insurance premiums
 - (12) Other items as established in Part 352 of Office Regulations (352.1).

For the purposes of such monthly grants and allowances under FA, SNA-FP or EAF, children or adults residing with an SSI beneficiary must be considered as a separate household from the SSI beneficiary.

2. INTERPRETATION

The local district shall use the established Office schedules when providing those items of need covered by the schedules. These are:

- a. [Schedule SA-2a](#) (Statewide Monthly Grants and Allowances, Exclusive of Home Energy Payments)
- b. [Schedule SA-2b](#) (Statewide Monthly Home Energy Payments)
- c. [Schedule SA-2c](#) (Monthly Supplemental Home Energy Allowance)
- d. [Schedule SA-4a](#) (Initial or Replacement Cost of Essential Household Furniture, Furnishings, Equipment and Supplies)
- e. [Schedule SA-4b](#) (Replacement Cost of Clothing)
- f. [Schedule SA-5](#) (Restaurant Allowance and Home Delivered Meals)
- g. [Schedule SA-6a](#) (Monthly Allowance for Fuel for Heating - Not Natural Gas)
- h. [Schedule SA-6b](#) (Monthly Allowance for Fuel for Heating - Natural Gas)
- i. Local Agency Monthly Shelter Shelter Allowances Schedule With Children
- j. Local Agency Monthly Shelter Shelter Allowances Schedule Without Children.

3. STATEWIDE MONTHLY HOME ENERGY ALLOWANCE

- a. The monthly allowance for home energy needs is to be budgeted as part of the standard of need in determining eligibility and degree of need for all applicants and recipients of temporary assistance.
- b. Excluded are those persons (applicants/recipients not living in their own homes) who are eligible for a personal needs allowance in a room and board situation or in approved facilities.
- c. The HEA is provided to all recipients who receive a pre-added allowance, regardless of whether the recipients pay for their heat and/or utilities separately.
- d. The only temporary assistance recipients who are not budgeted for the HEA are those recipients who do not live in their homes and who receive a room and board payment and an allowance for personal needs.
- e. Schedule SA-2b provides a supplemental payment to cover increases in the costs of energy. Home Energy Allowances (HEA) should not be confused with the Heating Allowances covered in the Energy Manual / HEAP Manual.
- f. Schedule SA-2b is listed below.

SCHEDULE SA-2b

Number of Persons in Household

Each Additional

<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>	<u>Person</u>
\$14.10	\$22.50	\$30.00	\$38.70	\$47.70	\$55.20	\$7.50

4. STATEWIDE MONTHLY SUPPLEMENTAL HOME ENERGY ALLOWANCE

- a. Effective January 1, 1986, the supplemental home energy allowance (SHEA) is budgeted as a separate allowance in determining eligibility and degree of need for all applicants for and recipients of TA.
- b. Schedule SA-2c provides an additional supplemental payment to cover increases in the costs of energy.
- c. The SHEA should not be confused with the Heating Allowances covered in the Energy Manual/HEAP Manual or the Home Energy Allowance (HEA).
- d. The SHEA is provided to all recipients who receive a Basic Allowance, regardless of whether the recipients pay for their heat and/or utilities separately.
- e. The only TA recipients who are not budgeted for the SHEA are those individuals residing in either room and board situation or approved facilities. as outlined in Office Regulation 352.8(a) & (b).
- f. Schedule SA-2c is listed below.

Schedule SA-2c

Monthly Supplemental Home Energy Allowance (SHEA)

Number of Persons in the Household:

Each Additional

<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>	<u>Person</u>
\$11	\$17	\$23	\$30	\$37	\$42	\$5

5. MONTHLY ALLOWANCE FOR SHELTER

- a. Each local district shall provide a monthly allowance for rent in the amount actually paid but not in excess of the appropriate maximum of such district for each family size.

- b. The shelter allowance is based upon whether there is a child in the household, household size and district.
 - c. For the local agency monthly shelter allowance schedule with children [see 03 ADM-07 Temporary Assistance New Shelter Allowance and Related Changes, Attachment A](#).
 - d. For the local agency monthly shelter allowance schedule without children see [03 ADM-07 Temporary Assistance New Shelter Allowance and Related Changes, attachment B](#).
 - e. If rent has not been paid for the month in which the case is accepted, a non-prorated shelter allowance, not to exceed the appropriate local district maximum monthly shelter allowance, must be provided to retain the living accommodation.
 - f. The [LDSS-3668: "Shelter Verification"](#) may be mailed directly to a landlord at the time of application, recertification or when a change of residence occurs.
6. **RETAIN HOUSING** - An allowance for household expenses shall be made for a period not in excess of 180 days when it is essential to retain a housing accommodation and to maintain the home to which a recipient temporarily receiving care in a medical facility is reasonably expected to return upon discharge from such facility.
- a. Payments shall not continue for more than 45 days unless the local district has:
 - (1) reviewed the recipient's status within 45 days following placement in the medical facility; and,
 - (2) determined that the recipient is expected to remain in the facility for not more than 180 days; and,
 - (3) determined that the recipient is likely to return to the home following discharge.
 - b. The basis for these conclusions shall be documented in the case record.

7. **WATER CHARGE**

When the recipient is obligated to pay for water as a separate charge to a vendor, an allowance must be made for the additional amount required to be paid.

Note: When the sewer charge is included as a portion of the water bill, usually as a percentage of the water used, it is considered a water charge. In such a situation, that portion of the water bill attributed to sewer charges should be paid and included in the recipient's water allowance. Sewer charges that are separate from the water bill remain excluded from the water allowance. ("All Commissioner" Letter 5/15/86)

8. **SEWER, WATER AND/OR GARBAGE DISPOSAL** - When a recipient is obligated through a lease agreement to pay for sewer, water (except when paid as a separate

charge to a vendor) and/or garbage disposal charges, or a homeowner recipient incurs sewer or garbage disposal charges, an allowance must be made to the extent that the total of the shelter allowances plus such charge or charges does not exceed the appropriate maximum.

As a result of a settlement in the case of Henley v. Romano and Perales, Office Regulations 352.3(b) and 352.4(b) were amended to require local districts to provide an allowance for water charges to both homeowner recipients and tenant recipients who are obligated to pay water charges as a separate charge.

9. **WATER ALLOWANCES FOR TENANT RECIPIENTS** - Local districts must continue to provide a separate water allowance to tenant recipients who are billed directly by a vendor.
10. **NO MAXIMUMS ON WATER ALLOWANCES** - Office regulations do not permit local district maximums on the amount of separate water allowances when the recipient is billed directly by a vendor. Since there is no State Standard, local districts must provide the water allowance in the amount paid by the recipient to the vendor.
11. **DISCONTINUANCE OF SUPPLY OF WATER** - Section 89-b of the Public Service Law (Chapter 198 of the Laws of 1979) specifies that a water-works corporation shall not discontinue the supply of water to a TA recipient, for non-payment, if payment for such service is to be paid directly by the local district. A municipal water system is not considered a water-works corporation for this purpose.

In accordance with Public Service Law Section 50, the PSC promulgated new regulations (16 NYCRR 14) setting forth the rights and responsibilities of certain residential water customers in such areas as application for service, deferred payment agreements, deposits, billing procedures and back-billing, late payment charges, equipment inspection and complaint handling. These PSC regulations became effective January 21, 1991.

12. **AFFECTED CORPORATIONS** - These rules only apply to private waterworks corporations with gross annual revenues in excess of two hundred fifty thousand dollars. There are currently only 14 of these corporations in New York State, which are listed below. This number may change periodically.
 - a. Country Knolls Waterworks, Inc., Saratoga County
 - b. Fisher's Island Waterworks Corp., Suffolk County
 - c. Heritage Hills Water Works Corp., Westchester County
 - d. Jamaica Water Supply Co., Nassau County
 - e. Kiamesha Artesian Spring Water Co., Sullivan County
 - f. Long Island Water Corp., Nassau County
 - g. New Rochelle Water Co., Westchester County

- h. New York-American Water Co., Inc., Nassau County
- i. NY Water Service Corp., Nassau County
- j. Oswego Water Works, Tioga County
- k. Sea Cliff Water Co., Nassau County
- l. Shorewood Water Corp., Suffolk County
- m. Spring Valley Water Co., Inc., Rockland County
- n. Sterling Forest Water Corp., Orange County

13. CORPORATIONS RESPONSIBILITIES - The regulations require the waterworks to notify a local district of the name and address of the customer receiving water services in the following situations:

- a. The customer or all members of his/her household is blind, disabled, 62 years of age or older, or 18 years of age or under and
 - (1) Service is to be terminated and the utility has been unable to personally contact the adult resident within 72 hours before the scheduled termination to attempt to create a plan that would avoid termination and arrange for payment. (The waterworks is required to continue service for at least 15 business days after providing this notice, unless notified by the local district that other arrangements have been made) or,
 - (2) Service has already been terminated and the waterworks is later notified that the customer's household meets the criteria in a. above, and the waterworks has been unable, within 24 hours of receiving this notification, to personally contact the customer or to create a plan.
- b. During cold weather periods for premises with heat-related services when:
 - (1) Prior to scheduled termination, the waterworks determines that a resident may suffer a serious impairment to health or safety as a result of termination. Evidence that a person may suffer serious impairment to health or safety includes any of the following:
 - (a) Dependency due to age, poor physical condition or mental incapacitation,
 - (b) Use of life support systems such as dialysis machines or iron lungs,
 - (c) Serious illness, or
 - (d) Disability or blindness, or

- (2) Service has already been terminated and the waterworks has been unable to make an onsite personal visit with the customer and the waterworks does not have reasonable grounds to believe the customer has vacated the premises, or,
- (3) Service has been terminated because of unsafe equipment and it is impractical for the waterworks to eliminate the unsafe condition and the waterworks determines that the resident may suffer a serious impairment.

14. LOCAL DISTRICT RESPONSIBILITIES - When local districts are notified by the waterworks, the local district must:

- a. Attempt to contact the customer within 24 hours to determine if the scheduled termination of water services will cause an emergency situation.
- b. Determine the customer's eligibility for assistance if an emergency situation will result from the scheduled termination of water services and if temporary alternative living arrangements are necessary. If eligible must assist the person in obtaining safer living quarters. A referral to services for money-management assistance may also be warranted.
- c. Respond to the waterworks corporation, within 15 days of receiving the notice from the waterworks corporation, whether or not an emergency situation will result.

15. LIAISON REQUIREMENT - Each local commissioner in the affected local districts must designate a staff person to function as liaison to the waterworks corporation(s) in the local district to ensure timely and effective implementation of these procedures.

Affected local districts should also develop a referral form to be used by the waterworks which contains basic essential information regarding the customer household being referred. The [Notice of Utility Referral to DSS \(LDSS-2338\)](#) can be used.

16. PAYMENT OF WATER CHARGES - Currently, Office regulations authorize the payment of a separate allowance to cover water charges for TA recipients who have a direct obligation to a vendor. However, there is no authority for the payment of water bills arrears under EAF, ESNA, EAA, FA or SNA.

References

352.1
352.2
352.3
352.6(b)
352.6(e)
352.8
352.31(a)

[03 ADM -7](#)

[Attachment A](#)
[Attachment B](#)
[Attachment C](#)

[92 ADM-12](#)

[91 ADM-38](#)

[Attachment](#)

[90 ADM-38](#)

85 ADM-49

84 ADM-42

81 ADM-26

[93 INF-2](#)

[91 INF-66](#)

88 INF-59

"All Commissioner" letter (5/15/86)

"All Commissioner" letter (11/3/83)

Related Items

Allowance for Persons Not Living in Their Own Homes (TASB)

352.4

83 ADM-30

Office Schedules (TASB)

Home Energy Allowance (TASB)

Persons Included in the TA Household Count Only (TASB)

Statewide Monthly Home

Energy Payments (TASB)

Fuel Allowance (TASB)

ABEL Transmittal 85-11

Payment for Rent (TASB)

Client Security Deposits (TASB)

Owned Property (TASB)

Deeming When Stepparent Is Not Applying (TASB)

ABEL Transmittal 84-8

CHAPTER 15: ENERGY ASSISTANCE/SERVICES

A. ENERGY ASSISTANCE/SERVICES

Per [00 ADM-2](#), all Energy/HEAP policy is now contained in the new Energy/HEAP Manual. To request a copy of the [Energy Manual](#) / [HEAP Manual](#), please contact the Temporary Assistance Bureau at: 474-9344.

References

[00 ADM-2](#)

CHAPTER 16: ADDITIONAL/SPECIAL NEEDS

A. ESTABLISHMENT OF A HOME

Allowances for the purchase of necessary and essential furniture (including household furnishings, equipment and supplies) required for establishment of a home for persons eligible for temporary assistance are made available provided provision of these items cannot otherwise be secured.

Such an allowance shall be provided only when, in the judgment of the local district officials, one of the following conditions exists:

1. An individual or family temporarily housed in a motel/hotel, homeless shelter, residential program for victims of domestic violence or other temporary accommodation to which the individual or family has been referred by the local district is being permanently re-housed in unfurnished accommodations and suitable furnished accommodations are not available.
2. An unattached individual whose needs cannot be met under Emergency Assistance to Adults (EAA) is discharged from an institution, is determined to be capable of maintaining an apartment in the community, and suitable furnished accommodations are not available.
3. An adult whose needs cannot be met under Emergency Assistance to Adults is discharged from an institution and wishes to rejoin his family, which needs additional furniture to provide adequate shelter for him.
4. A child is returned to his/her parents, and additional furnishings are necessary for the provision of adequate shelter for the child.
5. An individual's or family's living situation adversely affects the physical and/or mental health of that individual or family, and it is essential that the individual or family be re-housed in unfurnished housing accommodations in order to safeguard their health, safety, and well-being.

In re-housing individuals and families, the local agency maximum monthly shelter allowances apply.

The allowances set forth in Schedule SA-4a are the maximum allowances for initial or replacement costs of essential household furniture, furnishings, equipment and supplies.

SCHEDULE SA-4a

Living Room	\$182
Bedroom:	
with single bed	\$145
with two single beds	\$205
with double bed	\$184
Kitchen	
(excluding appliances)	\$142 (plus \$12 for each person)
Range	\$182

Refrigerator	\$182 (or \$258 for four or more persons)
Bathroom	\$ 6 (plus \$4 for each additional person)
Other Equipment	
Cabinet for linens	\$ 22
Stove for heating	\$ 72 (or \$82 for five or more persons)

ESTABLISHING THE FACTS

Documentation of the need for such furniture shall be fully recorded in each case record.

B. REPLACEMENT OF FURNITURE OR CLOTHING

Allowances for the partial or total replacement of furniture or clothing which has been lost in a fire, flood, or other like catastrophe are provided when needs cannot otherwise be met through assistance from relatives or friends or from other agencies or other resources.

The intent of this policy is to allow for the partial or complete replacement of clothing and furniture, depending upon what was verified as lost in the fire/disaster. (Allowances shall not exceed the amounts listed under Schedules SA-4a and SA-4b.)

When the fire or other disaster occurs, the local district is responsible for verifying that the fire/disaster actually occurred and that the applicant's/recipient's belongings were in the apartment and are no longer usable. The facts and circumstances regarding such replacement must be fully documented in the case record.

SCHEDULE SA-4b

Replacement Cost of Clothing

Birth through 5 years	\$48
6 through 11 years	\$73
12 through adult	\$89

C. EQUIPMENT REPAIRS

Each local district must provide for the essential repair of heating equipment, cooking stoves, and refrigerators used by persons in need of TA in their homes, provided provision cannot otherwise be made. Replacement may be authorized when it is less expensive than repair. Such allowances for cooking stoves and refrigerators cannot exceed the amounts authorized under [Schedule SA-4a](#).

Note: Local districts can obtain several estimates of repair/replacement costs for the above items. The obtaining of several estimates in order to discover the lowest responsible bid is in line with the public policy of expending monies in the most efficient and open manner.

Note: A hot water heater is considered to be essential heating equipment.

Note: The repair or replacement if less expensive of heating equipment, cooking stoves and refrigerators in rental situations where such repair/ replacement is the responsibility of the landlord should only be made when efforts to have the landlord make the repairs/replacement have failed and when it is an extreme emergency, e.g., health or safety of clients are in jeopardy. If the landlord does not agree to repay the local district for such repairs/ replacement, legal action, including seeking a lien, should be pursued by the local district.

The intent of this policy is to provide the applicant/recipient with the repair or replacement if less expensive, of heating equipment, cooking stoves and refrigerators used in their homes.

The repair of such equipment can be made as a direct payment to the applicant/recipient, by voucher payment, or by other methods where the equipment is repaired or replaced.

The cost of repairs or replacements of cooking stoves and refrigerators shall not exceed the cost of replacement of such items as established on [Schedule SA-4a](#).

D. CHATTEL MORTGAGE-CONDITIONAL SALES CONTRACT

When the furniture or household equipment of an applicant who has not been a recipient of temporary assistance within the previous six months preceding the application is essential to making his/her shelter accommodations habitable, but where such furnishings are presently encumbered by a chattel or a conditional (installment) sales contract, every effort shall be made to have deferred, cancelled, or reduced the payment obligations connected with their continued possession.

Failing all such efforts, an allowance may be made for a compromised settlement of payments due; or, if no settlement can be reached, essential payments may be authorized, provided they do not exceed replacement costs of the furniture/equipment as established by [Schedule SA-4a](#).

The intent of this policy is to try to insure that essential furniture purchased under some contract is not lost because of failure to meet the payments by the applicant. Many times these contracts are such that, failing to meet a minimal payment, the family or individual loses his furnishings. In such case, the local district would have the contractor accept a set amount to satisfy the contract or to reduce the payment amounts.

Depending on the circumstances (particularly the cost to the district of replacing the furnishings), and, where a mutually acceptable arrangement can be worked out with the contractor, a grant may be authorized to secure such essential furnishings.

E. SUPPLEMENTAL JOBS ALLOWANCE

SUPPLEMENTAL JOBS PAYMENTS – The local district must provide a monthly allowance to supplement the income of a TA household when the household experiences a net loss of cash income due to the acceptance of employment by a JOBS participant who is a member of the household, when such acceptance is required by the local district. A net loss of cash income occurs when the monthly gross income of the household, subtracting necessary actual work-related expenses, is less than the cash assistance the household received in the month in which the offer of employment was made. The supplement must equal the monthly net loss of cash income that would occur if the supplement were not paid to the household.

1. Gross income includes, but is not limited to:
 - a. Earnings,
 - b. Unearned income, and,
 - c. Cash assistance.
2. Cash assistance means the budget deficit.
3. Necessary actual work-related expenses are the actual, verifiable and unreimbursed expenses directly related to maintaining employment.
 - a. Such expenses include, but are not limited to:
 - (1) Mandatory payroll deductions such as federal, State and local taxes, social security taxes, disability insurance and union dues;

Note: The amount of taxes must be manually calculated and should reflect only the amount paid for dependents who may be legally claimed on tax returns.

- (2) Tools, materials, uniforms and other special clothing required for the job;
 - (3) Mandatory fees for licenses or permits fixed by law;
 - (4) Deductions for medical insurance coverage;
 - (5) Child day care up to the local market rate; and,
 - (6) Transportation, including the cost of transporting children to and from child day care, except that the amount for use of a motor vehicle must be computed on a mileage basis at the same rate paid to employees of the local district and must only be allowed when public transportation is not available.
 - b. Such expenses do not include:
 - (1) Meals;
 - (2) Business-related depreciation;
 - (3) Personal business and entertainment expenses;
 - (4) Personal (not work related) transportation;
 - (5) Purchase of capital equipment; and,
 - (6) Payments on the principal of loans.

4. To determine if there is a net loss of cash income, the following procedures must be followed for all participants in the month in which employment is offered:
 - a. Budget the earned income including earned income from the new job prospectively in accordance with current budgeting procedures (i.e., allowing the \$90 work disregard, percentage earned income disregard); the resulting cash deficit if any will represent total cash assistance.
 - b. Add any unearned income (for example: UIB, SSA, Worker's Compensation, Disability Insurance, etc.) to the cash assistance.
 - c. Determine gross monthly earned income and subtract any necessary actual work-related expenses. Add resulting sub-total to sub-total as detailed in paragraph b above.
 - d. Compare total of paragraphs a, b, & c as detailed above to TA needs prior to accepting the new job. If total "Cash Income" is less than TA needs prior to having earned income budgeted, issue supplement up to this TA need.
5. The following examples illustrate the net loss of cash income determination:

EXAMPLE 1

Mr. John Doe applies for TA for himself and his two dependent children from the Suffolk County Department of Social Services. Mr. Doe has no other income. See the budget below for grant determination. Mr. Doe is determined eligible effective 05/01/10.

Budget for FA case of 3 in Suffolk Co. w/o other income.

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WBGTPA      ** TA BUDGET **          VERSION          DIST SUFF 05/01/2010
CASE NAME          CASE NO.    OFC  UNIT  WORKER  TRAN  CASE  IVD
DOE, JOHN          SCRATCHPAD  11   111   EGR      02    11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF          ***** EARNED INCOME *****
03 03                                     #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R              ACTUAL    ALLOW          1:
          BASIC          26800          2:
          ENRGY          3000  **** OTHER INCOME ****          0  GROSS          0
          SPMNT          2300  LN SRC F  AMOUNT  EXEMPT          0  TAXES          0
01  SHEL  50000  44700          0      0          0  NYS DIS          0
          WATER      0      0          0      0          0  WORK EXP          0
0   FUEL          0      0          0      0          0  EXEMPT          0
          OTHER      0      0          TOTAL NET          0  CH CARE          0
          OTHER      0      0          $$$$ TA GRANT $$$$          0  CH CARE          0
          OTHER      0      0          TOTAL NEEDS  76800          0  CH CARE          0
          TOTAL NEEDS  76800          TOTAL INC          0  DISREGARD          0
***** RECOUPMENT *****          CD / AMT D  76800          0  TOT DED          0
TY BALANCE  %  MO  AMT  REM  RECOUPMENT          0  UNAVAIL          0
          0 00.0          0      0  UTIL/RES          0  NET INC          0
          0 00.0          0      0  SHEL/RES          0
          0 00.0          0      0  RESTRICTED          0 * EFFECTIVE DATE *
RECALC      00.0          0          SEMI CASH  38400  050110 TO 093010
SNAP CASE NO.          SEMI N-CASH          0  DATE STORED  /  /

```

EXAMPLE 2

Mr. Doe begins working in June and will receive \$1,000 in gross wages for the month. His first pay is received May 15th (under initial earnings policy this income is not counted until June 1st). See the budget below for grant determination. Mr. Doe is entitled to receive the \$90 standard disregard and the percentage disregard.

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WBGTPA      ** TA BUDGET **      VERSION      DIST SUFF 06/01/2010
CASE NAME      CASE NO.      OFC UNIT  WORKER  TRAN  CASE  IVD
DOE, JOHN      SCRATCHPAD  11   111    EGR     02    11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
03 03                                     # LN 30I 30M SRC FRQ D HRS CCR
TY R          ACTUAL    ALLOW
          BASIC        26800
          ENRGY        3000  **** OTHER INCOME **** 100000 GROSS      0
          SPMNT        2300  LN SRC F AMOUNT EXEMPT      0 TAXES      0
01  SHEL  50000  44700      0      0      0 NYS DIS      0
          WATER      0      0      0      0  9000 WORK EXP      0
0   FUEL      0      0      0      0      0 EXEMPT      0
          OTHER      0      0      TOTAL NET      0      0 CH CARE      0
          OTHER      0      0  $$$$ TA GRANT $$$$      0 CH CARE      0
          OTHER      0      0      TOTAL NEEDS  76800      0 CH CARE      0
          TOTAL NEEDS  76800      TOTAL INC  43680  47320 DISREGARD      0
***** RECOUPMENT *****      CD / AMT D  33100  56320 TOT DED      0
TY BALANCE  % MO AMT REM RECOUPMENT      0      0 UNAVAIL      0
          0 00.0      0      0 UTIL/RES      0  43680 NET INC      0
          0 00.0      0      0 SHEL/RES      0
          0 00.0      0      0 RESTRICTED      0 * EFFECTIVE DATE *
RECALC      00.0      0      SEMI CASH  165500  060110 TO 093010
SNAP CASE NO.      SEMI N-CASH      0      DATE STORED / /

```

Net Loss of Cash Income Determination

\$1,000 gross mo. earned income for June

- 125 fed. tax for June
- 12 union dues for June
- 75 soc. sec. tax for June
- 8 dis. ins. for June

\$780 subtotal

- 80 trans. costs for June

\$700 subtotal

+331 cash assistance received for June

\$1031 total "cash income"

\$768 needs prior to income budgeted

-1031 total "cash income" received for June

\$263 no supplement owed for June as "cash income" > deficit prior to income budgeted for June

EXAMPLE 3

Same as above example 2. However, Mr. Doe must drive his car 40 miles roundtrip per workday. The following illustrates the net loss of cash income determination.

\$1,000 gross mo. earned income for June

-125 fed. tax for June
-62 state tax for June
-12 union dues for June
- 8 dis. ins. for June
\$ 780 subtotal
- 199 trans. costs for June (40 mi. x \$.23/mi.(co. rate) x 5 days x 4 and 1/3 wks in June)
\$ 581 subtotal
+ 331 cash assistance received for June
\$ 912 total "cash income"
\$ 768 needs prior to income budgeted
- 912 total "cash income" received for June
\$ -144 no supplement owed for June

6. The net loss of cash income determination applies only for the month in which employment is offered. Because of the availability of the earned income disregards, transitional benefits, and supportive services, it is anticipated that the number of affected cases will be minimal.
 - a. For those participants who are determined ineligible for a net loss of cash income supplement, no further action is necessary.
 - b. For those participants who are determined eligible for a net loss of cash income supplement, this determination must be done on a monthly basis until there is no longer a need for a net loss of cash income supplement, even if the TA case is closed.
 - c. The participant who may be entitled to a net loss of cash income supplement must document on a monthly basis actual work related expenses and income that are taken into consideration for the net loss of cash income determination.
 - d. The participant who may be entitled to transitional benefits and/or supportive services must apply for them before having those types of expenses included in the net loss of cash income determination (e.g., child day care, transportation).

F. STORAGE OF FURNITURE & PERSONAL BELONGINGS

An allowance for essential storage of furniture and personal belongings shall be made for circumstances such as relocation, eviction or temporary shelter so long as:

1. Eligibility for TA continues; and,
2. The circumstances necessitating the storage continue to exist.

There are times when an individual or a family has to relocate, is evicted or has other circumstances which require them to yield their homes. Arrangements must be made to protect their furniture and personal belongings.

There is no regulatory limit on the amount that can be paid for the storage. Additionally, Office Regulations do not place restrictions on the types of furniture and personal belongings that require storage.

G. CAMP FEES

Camp fees, when funds cannot be obtained from other sources, may be paid for children receiving FA or SNA-FP not in excess of a total cost of \$400 per annum per child and not to exceed \$200 per week. These payments are not considered income for Supplemental Nutrition Assistance Program.

H. RESTAURANT ALLOWANCES

Each local district must provide for the additional costs of meals for persons lacking adequate cooking facilities, unable to prepare meals at home or those who do not otherwise receive meals in their residence in accordance with Schedule SA-5. A microwave and/or refrigerator is not adequate cooking facilities.

NOTE: If meals are being provided in the place in which the person is residing (congregate care, shelter, etc.) the person is not eligible to receive a restaurant allowance.

However, there may be special and unusual circumstances where an applicant/recipient may not be able to partake of one or more meals in such a situation because of work, educational or other reasons deemed necessary by the local district. When arrangements cannot be made to accommodate (i.e., bagged lunches or off-hour meals) the individual's needs, a restaurant allowance should be provided for missed meals.

SCHEDULE SA-5

RESTAURANT ALLOWANCE SCHEDULE

Monthly allowances to be added to appropriate monthly grants and allowances for combinations of restaurant meals and meals prepared at home or meals otherwise provided in the residence, including sales tax.

Dinner in a restaurant	\$29.00
Lunch and dinner in a restaurant	\$47.00
All meals in a restaurant	\$64.00
Additional special restaurant allowance as described below	

The following persons already receiving a restaurant allowance must receive a special monthly allowance of an additional thirty-six dollars:

1. Any woman with a medically verified pregnancy, or
2. A person under eighteen years of age, or
3. A person under nineteen years of age and a full-time student regularly attending a secondary school or in the equivalent level of vocational or technical training if, before such person attains age nineteen, such person may reasonably be expected to complete the program of such secondary school or training.

I. HOME DELIVERED MEALS

An allowance in the amount of \$36 shall be provided for home delivered meals only to current recipients of SSI, FA and SNA only under the following conditions:

1. The individual is in danger of suffering from malnutrition because the individual lacks the mobility, skills, or incentive to prepare and eat adequate meals alone.
2. The individual is in danger of institutionalization due to the inability to prepare adequate meals.
3. When home delivered meals are available to homeless persons or families placed in shelters or in hotels/motels without cooking facilities and where the shelter or hotel/motel is inaccessible to restaurants.

J. BURIAL COSTS FOR INDIGENT DECEASED PERSONS

The local district provides for burial when a TA recipient or other indigent person dies leaving no funds or insurance sufficient to pay the cost and there are no relatives, friends or other persons liable or willing to take responsibility for the burial expense.

Each local government sets a limit on the amount of money that can be spent on the burial of indigent persons in its district. This limit defines an "indigent burial". If money is spent above this limit, the burial is not an indigent burial. A contract is usually made with the Undertakers Association or other burial agent who will provide services at specified rates. Burial costs include all reasonable expenditures incidental to the proper burial of a deceased poor person, including such items as the purchase of a plot, clothing, transportation of the body to the place of burial, mortician services, and preparation and closing of the grave.

It is strongly suggested that, in all cases, the local district obtain a copy of the itemized bill that the undertaker performing the burial keeps on file for inspection by the Health Department to prevent any possible abuse.

1. RESPONSIBILITY FOR BURIAL

- a. **RELATIVES:** Legally responsible relatives (LRR's) who are able to pay are primarily responsible for burial costs. If LRR's are unknown or cannot be reached at the time of the burial and the expense is borne by the local district, the local district is required to recover any monies that the LRR's are able to pay. LRR's include a spouse or a parent of a child who is under 21 years of age.
- b. **LOCAL DISTRICT:** With the exceptions noted below, the local district responsible for furnishing TA or care to the person in life must provide for the care, removal and burial of the body of the deceased. If a dispute arises over which local district is responsible for a burial, the local district where the body is found must arrange and pay for the burial. Either district may then file for a fair hearing.
 - (1) **PLACEMENT RULE:** The local district which placed the deceased in a family home, boarding home, nursing home, convalescent home, hospital or institution outside of its territory and paid for the care directly or to the recipient is responsible for paying the cost of the burial [SSL 62(5)(b) and (c)].
 - (2) **MEDICAL RULE:** The local district, from which the deceased was admitted into a hospital, nursing home, intermediate care facility or other medical facility in another local district, is responsible for burial [SSL 62(5) (d)].
 - (3) **621 ELIGIBLES:** "621 Eligible" are persons who have spent 5 or more continuous years in a State Department of Mental Hygiene facility. Their burial arrangements are the responsibility of the local district "where found". 621 eligibility is determined solely by the New York State Office of Mental Health (OMH) and the New York State Office of Mental Retardation and Developmental Disabilities (OMRDD). This status is communicated to the local district by form OMH-5 or OMR-5. Contact the appropriate Psychiatric Center or Developmental Center Medical Records Office for these forms.

- (4) **TRANSIENTS:** The local district where the body is found is responsible for burial of transients and those persons whose local district of fiscal responsibility cannot be established. Remember to check the WMS system to find out if the deceased was receiving care from another local district.
- (5) **OXFORD HOME:** The Oxford Home for eligible veterans and their dependents includes a Department of Health skilled nursing facility (SNF) for New York State veterans only. (Persons who were admitted to the armed forces from New York State are considered to be New York State veterans). Residency is not gained in an SNF. To determine which local district buries a deceased veteran who resides in the Oxford Home, the following steps should be taken:
 - (a) Determine which local district the client was admitted from. This is the local district of fiscal responsibility.
 - (b) Contact the local veteran's organization in that local district. If the veteran's organization assumes responsibility for the burial they can enter a reimbursement claim at the local district.
 - (c) If no veterans' organization will assume responsibility, the local district from which the veteran was admitted is responsible for the indigent burial.
 - (d) If the veteran is from out-of-state, the local district where the deceased is found is responsible for burial.
- 2. **FISCAL IMPLICATION:** If no other funds are available, monies to pay for the burial come from the local district "Recovery Fund" (when the deceased has assets) and the local government tax base appropriation for indigent burials. State (and Federal) reimbursement is available for some burials.
 - a. **THE RECOVERY FUND:** The Recovery Fund consists of money collected by a local district as repayment for any TA or care granted during the deceased's lifetime. Insurance policies, liens or assignments, rentals from assigned properties, recoveries from LRR's contributions, etc., are placed in this fund. (Monies to pay for specific items are called refunds and are not a part of the recovery fund.) The local district fiscal officer who is in charge of the Recovery Fund keeps a record for each recipient. The local district may use up to \$500 of a deceased's recovery monies for burial. The balance of the cost or the whole cost if there are no client assets is paid from the local tax base appropriation.

As stated above, an insurance policy received by the local district is part of the Recovery Fund. However, if a policy is sent directly to the funeral director, the funeral director must subtract the total value of the policy from the burial rate set by the local district and submit the remaining amount as the total burial cost to the local district.

Note: When the deceased is entitled to a Social Security death benefit under Title II of the Social Security Act, the lump sum is sent by SSA to the spouse living in the household or to an eligible child of the deceased. The availability of this money should be explored in the recovery process.

- b. **STATE AND FEDERAL REIMBURSEMENT:** [90 ADM-5](#): State reimbursement is available for up to one half of the unrecovered cost of the burial. Reimbursement is not available for unrecovered costs that exceed \$900.

For example, in a situation where the local district pays \$1500 for a burial and \$500 of the deceased's recovery fund assets are applied toward the cost, \$900 could be claimed for reimbursement. This would result in \$261 State reimbursement for a local charge. If there are no assets in this case, the total amount of the claim is still limited to \$900, with State reimbursement of \$261.

Burial claims are reimbursable at 29% State/71% Local if the deceased is a local charge, with the exception of FA special needs claims.

Reimbursement for the FA applicant/recipient must be claimed as a special need under the FA program. ([See this Chapter, Section K](#)) FA reimbursement rates apply. That is, reimbursement claims up to the maximum of \$900 are paid by 100% federal funds.

- c. **VETERAN REIMBURSEMENT:** Reimbursement rates for the burial of indigent veterans are the same as for any other indigent person who is eligible under SSL 141. Veteran reimbursement provisions apply to honorably discharged members of the armed forces of the United States, as well as their minor children, parents, or the spouse or unremarried surviving spouse who dies without leaving sufficient assets to cover burial expenses.

To obtain reimbursement for veteran burials from the Department, the local Veterans Service Agencies (and other local agencies responsible for the burial of indigent veterans) should forward either paid bills or vouchers, depending upon local practice, to the local district so that these costs can be included on the monthly RF-2 claim. The voucher or bill should show for whom the burial was paid, when the burial took place, and total expenditures for the burial. The bills or vouchers should be kept on file by the local district for audit purposes as documentation supporting the claim. When the claim is settled, the State (and any Federal) reimbursement related to the veterans burials should be forwarded to the local veterans agency.

For further information see [90 ADM-5](#).

3. WHEN RELATIVES AND FRIENDS MAKE BURIAL ARRANGEMENTS

- a. If relatives or friends wish to arrange a more expensive funeral for the deceased than allowed as an indigent burial and they are willing to bear the expense, they can make arrangements directly with the undertaker. However, they will receive no reimbursement from the local district.
- b. When burial arrangements for a recipient of TA or care are made by relatives or friends and the expense of such burial does not exceed the amount allowed as an indigent burial, the local district may:
- (1) Reimburse them in whole or in part from the \$500 Recovery Fund limit, if the relatives or friends are required to pay the burial expense in order to arrange the burial. (A legally responsible relative must not be reimbursed for any part that the relative is able to pay.)

- (2) Pay part of the burial expense up to the local limit if this is permitted by local government policy. The local district must never pay more than the balance remaining to be paid after the total of the amounts paid or to be paid by all other sources, including payments made or to be made by legally responsible relatives who are able to pay.
- c. Relatives or friends of the deceased have a right to a fair hearing if they have paid for the burial arrangements and their claim for reimbursement is denied by the local district. [NYCRR 358-3.1(d)].

K. BURIAL OF DECEASED FA RELATED INDIVIDUALS

Department Regulations require that burial of an FA applicant/recipient must be claimed as a **special need** under the FA Program when:

1. The deceased was in receipt of FA at the time of death or would have been eligible if he/she had applied.
2. The deceased was a member of an FA household but was not receiving FA cash at the time of death because he/she was sanctioned or was an illegal alien.
3. The deceased was a single pregnant woman.
4. Because of the death, the deceased's family becomes FA eligible.

Note: If the deceased was not an FA recipient at the time of death, an FA application must be made on behalf of the deceased per section 350.1 of Office regulations.

L. BUDGETING TA ALLOWANCES

1. **TA ALLOWANCES** – Other TA Allowances, as categorized below, are part of the ongoing TA grant and as such, are, unless restricted, included in the amount of the ongoing (monthly or semi-monthly) regular recurring cash grant (WMS Payment Type 05). When restricted, other TA Allowances may be paid to recipients as a separate check or paid to others as a vendor payment.

Other TA Allowances included in the ABEL budget are as follows:

- a. 01 Restaurant Allowance – Dinner
- b. 02 Restaurant Allowance – Lunch-Dinner
- c. 03 Restaurant Allowance – Breakfast-Lunch-Dinner
- d. 06 Refrigerator Rental
- e. 09 Chattel Mortgages
- f. 13 Home Delivered Meals
- g. 14 Other Shelter Needs
- h. 17 Supplemental Child Care
- i. 18 Expenses Incident to Pregnancy

NOTE: Allowances, other than those listed above, require separate payment lines and are not to be included as part of the regular recurring grant (and are not included as part of the ABEL budget).

2. **EXCLUDED CODES** – The following codes are not included in the Eligibility Determination and are only considered as Needs after eligibility has been established:
 - a. "06–Refrigerator Rental", and,
 - b. "17–Supplemental Child Care"

Amounts associated with these two codes are also not used when computing recoupment amounts and are not included in needs when calculating the Gross Income Limit. For SNAP budgeting purposes, amounts associated with these two codes are not counted as income and are subtracted from the TA Grant Amount before it is used in the SNAP calculation.

3. **SYSTEM EDITS** – Several system edits are applied to entries made in the Other TA Allowance fields, restricting the use of certain allowances to certain shelter types, shelter proration indicators and amounts. The following matrix illustrates these edits.

CONDITIONS ALLOWED BY ABEL EDITS

RELATED TO ENTRIES IN THE OTHER TA ALLOWANCE FIELDS

Other TA Allowance Type	Allowance Amount	Allowable Shelter Type	Allowable Shelter Proration Indicator
01-03	Must be less than or equal to the maximum allowed times the number in case	01-08, 11	C, N, S, 1-9
06	N/A	06	N/A
09	N/A	01-03, 07-10	N/A
13	Must be less than or equal to maximum allowed for number in case	01-03, 05-08, 11	C, N, S, 1-9
14	N/A	01-03, 07-08	N, S, 1-9
18	Must equal a multiple of \$50	N/A	N/A

M. REMOVAL OF AN INDIVIDUAL TO OTHER STATES OR COUNTRIES

1. **ALLOWANCES** – Allowances under the appropriate program (FA or SNA) must be made to applicants for or recipients of TA who are removed to another state or country in accordance with paragraph 2 below. Such allowances can only be made for the reasonable and necessary expenses of such removals, as authorized by paragraph 3 below.
2. **CONDITIONS** – Removal of a person to other States or to a foreign country shall be effected only when:

The person has residence in any other state or country, or otherwise belongs in another state or country, or has legally responsible relatives able, or friends willing, to support the person or aid in supporting the person in the other state or country; and,

In the judgment of the SSD the welfare of the person to be removed and the interest of the State will be promoted by the removal.

Local districts are reminded that they must document in the case record the reason for the removal and how the removal will benefit the applicant or recipient and State.

3. **REASONABLE AND NECESSARY EXPENSES** – New York State will reimburse local districts for the reasonable and necessary expenses of removing a person to another state or country at the rate of fifty percent after any federal reimbursement. The costs of the following items are reimbursable at the appropriate percentage when removing a person to another state or country.
 - a. Meals en route,
 - b. Transfer of baggage,
 - c. Transportation by bus, boat, train or by car or by any other means of conveyance as circumstances may warrant.

Such other reasonable and necessary expenses, including meals, lodgings, and transportation cost of an attendant, including his meals and lodging but excluding any charge for his time or service.

There is no standard allowance for the above items therefore local districts must determine what is reasonable on a case-by-case basis. Local districts are reminded that they must utilize the least costly but practical approach when approving the payment of expenses related to the cost of removals.

N. HOSPITALIZATION OF CHILDREN AFTER MEDICALLY READY FOR DISCHARGE

1. The policy described is intended to clarify the level of payment to be effectuated by a local district when a Medical Assistance eligible child under the age of 18 years remains hospitalized after he/she is:
 - a. Hospitalized beyond medical necessity and is awaiting discharge to a non-medical setting or his/her own home.
 - b. Hospitalized because of suspected abuse or maltreatment for when the authorized review agent denies the admission as being medically unnecessary or inappropriate.
2. **METHOD OF PAYMENT** – Payment for hospitalization beyond the point of medical necessity as determined by an authorized review agent will be made under Office Regulation 352.8 as a Safety Net Assistance room and board rate within the limitation indicated below and in [TASB Chapter 17, Section E](#), “allowance for persons not living in their own homes”. Payment will be made at a rate equivalent to the full per diem Medicaid rate.
 - a. **FIRST 10 CALENDAR DAYS** – Reimbursement to the local district under the Safety Net Assistance program will be available for a maximum of ten calendar days from the date that the local district was notified by the hospital that medical necessity for hospital care has been terminated and the child requires care in a non-medical setting.
 - b. **BEYOND 11 CALENDAR DAYS** – Beginning with the eleventh calendar day, after medical necessity has terminated, local district monies (100% local charge) must be used exclusively to effect payment to the hospital for the remaining portion of the child’s hospital stay. The local district remains liable for the full cost of care until the child is placed in a non-medical setting. Payment will be at a rate established by the local district.
3. **HOSPITAL NOTIFICATION PROCEDURES**
 - a. The hospital is required to provide telephone notification to the local district contact person(s) within on working day from the day that the authorized review agent’s determination was made that medical necessity ended, if foster care placement is necessary.
 - b. Such telephone notification should be immediately followed by written notification. This written notification should be initiated using the form DSS-3408 (Hospital Safety Net Assistance).
 - c. The Child Protective Services Office in each local district will serve as the contact point.
 - d. In the event that telephone notification is not provided within on working day, payment should not be made to the hospital for the number of days for which there is an absence of such telephone notification.
 - e. Further payment should not be made to the hospital in the absence of the aforementioned written notification.

- f. Each local district must maintain a telephone log as a control for payment purposes. The log should indicate the date of the telephone notification, the assigned authorization number (to be established by the local district), and the reason for extended hospitalization beyond medical necessity for each case in question, and any other elements desired by the district.
- g. The hospitals are being instructed by the New York State Department of Health to work with the district in determining at what point in time a child should be reported to the district as abandoned and a report made to the Central Register and/or local child protective services unit if plans for discharge to the child's home have not materialized and the child is, therefore, in need of placement in a non-medical setting.

4. SAFETY NET APPLICATION PROCESS

- a. Upon the determination by the authorized review agent that medical necessity no longer exists, and the child's condition does not warrant an alternative level of medical care, the hospital must complete an application ([LDSS-2921](#)).

NOTE: The application must be submitted to the local Department of Social Services by the end of the day following termination of medical necessity.

- b. For purposes of the ten day period or portion thereof, the application will be for short-term Safety Net Assistance. Under the short-term provisions allowing modification of investigation, it will be assumed support from legally responsible relatives is not available.

O. BROKER'S OR FINDER'S FEES, HOUSEHOLD MOVING EXPENSES AND SECURITY DEPOSIT

A local district shall provide funds for household moving expenses utilizing the least costly practical method of transportation, a rent security deposit, and/or brokers or finder's fees only when, in his judgment, one of the following conditions exists:

1. The move is to a less expensive rental property and the amount paid for a security deposit and moving expenses is less than the **amount of two years'** difference in rentals (see Examples 1 & 2 below), or
2. The move is necessitated by one of the following criteria:
 - a. The need to move results from a disaster/catastrophe and/or a vacate order placed against the premises by a health agency or code enforcement agency, or
 - b. The move is necessitated by a serious medical or physical handicap. Such need must be verified by specific medical diagnosis, or
 - c. The individual or family is rendered homeless as a result of having been put out by another occupant with whom they were sharing accommodations, or
 - d. The move is from temporary to permanent housing; or
 - e. The move is from permanent housing to temporary housing whenever necessary due to the unavailability of permanent housing, or
 - f. The move is from one temporary accommodation to another temporary accommodation whenever necessary due to the unavailability of permanent housing, or
 - g. The move is from an approved relocation site or to an approved cooperative apartment, or
 - h. There is a living situation which adversely affects the mental or physical health of the individual or family, and the need for alternative housing is urgent, and not issuing a security deposit, moving expenses and/or broker's or finder's fees would prove detrimental to the health, safety and well-being of the individual or family, and,
3. In addition to the conditions above, a local district can provide a security deposit and/or brokers or finder's fees only when an applicant or recipient is unable to obtain a suitable vacancy without payment of such allowances.

When non-payment of rent or client caused damages (confirmed by a pre-tenancy inspection and post-tenancy inspection necessitates the authorization of finder's or broker's fees or household moving expenses, such payment shall be considered as an overpayment made to the recipient and, as such, shall be recovered according to the provisions in Office Regulation 352.31(d) and [TASB Chapter 22, Section A](#). However, it is not an overpayment subject to recoupment/recovery if the rent was not paid due to a legitimate landlord/tenant dispute, a rent strike or as a result of a violation of law in respect to the building per Section 143-b of the Social Services Law, or if the recipient applied shelter allowances to the rent.

Note: Office Regulation 352.6 does not place a limit on the amount of the security deposit, broker's fees or finder's fees. Therefore, the amount of the security deposit and broker's or finder's fees should not be limited to the rent maximum when a higher amount is necessary to obtain housing.

EXAMPLE 1:

The Smith family currently pays \$150 per month for rent and wants to move to an apartment which rents for \$140 per month. The heat/utility bill is \$5 per month less at the new apartment.

Shelter difference over the two-year period:

(\$15 per month x 24 months) = \$360

Security Deposit	\$135
Moving Expenses	<u>\$100</u>
	\$235

In this case, moving expenses and security deposit will be authorized, as the shelter difference (\$360) exceeds the cost of the security deposit and moving expenses.

EXAMPLE 2:

The Mack family currently pays \$160 per month for rent and wants to move to an apartment which rents for \$150 per month. The heat/utility bills are the same at both apartments.

Shelter difference over the two-year period: (\$10 per month x 24 months) = \$240

Security Deposit	\$150
Moving Expenses	<u>\$135</u>
	\$285

In this case, unless the move is a result of one of the conditions outlined in section two above, moving expenses and security deposits will not be authorized since the shelter difference (\$240) is less than the cost of the security deposit and moving expenses (\$285).

REFERENCES

310.1(h)
352.6
352.6(f)
352.7(b)
352.7(c)
352.7(i)
352.7(m)
352.7(n)
352.7(o)
358-3.1(d)
620.3(a)

[96 ADM-5](#)
[Attachment](#)

[92 ADM-12](#)
[92 ADM-08](#)
[91 ADM-45](#)
[90 ADM-27](#)
[90 ADM-5](#)
87 ADM-14
87 ADM-7
81 ADM-60
76 ADM-121
74 ADM-20

[02 INF-39](#)
[95 INF-11](#)
[93 INF-29](#)
[91 INF-22](#)
89 INF 43
88 INF-59

[95 LCM-92](#)
91 LCM-181
91 LCM-131
90 LCM-156
89 LCM-214

Schedule SA-4a
GIS Message (91
IM/DC029) SSL 131-a(6)(c)
Chapter 1081 (Book 10)(Finance)
"All Commissioner" Letter
(3/5/86) SSL 141
SSL62

Related Item

79 ADM-12

76 ADM-31

76 ADM-27

CHAPTER 17: SHELTER

A. SECURITY DEPOSITS

1. **METHODS OF PAYING SECURITY DEPOSITS** - Whenever a landlord requires, as a condition of renting housing to a Temporary Assistance (TA) recipient, security against non-payment of rent or for damages, a local district official may secure the landlord by either of the following means:
 - a. An appropriate agreement between the landlord and the local district official. This is the preferred method and the only method allowed by law to secure a public housing unit for Applicant/Recipients (A/Rs).

Note: For information on TA recipients residing in public housing [see this Chapter, Section D.](#)

While there is no state mandated security agreement form, there are certain elements that must be included in the agreement which a local district develops. This includes, but is not limited to, the following:

- (1) The date of the agreement
- (2) The name and address of the landlord or the landlord's agent
- (3) Identification of the premises subject to the agreement
- (4) The amount of money the agreement represents
- (5) The conditions under which the local district would make payment under the agreement (i.e., non- payment of rent and A/R caused damages)
- (6) The conditions under which the local district would not make payment under the agreement (i.e., loss of rent due to A/R vacating premises without notice)
- (7) The name and address of the local district representative to whom request for payment should be made
- (8) The procedures a local district will use before a claim is paid (i.e., an investigation of the apartment for damages)
- (9) A/R case name and number
- (10) The time limit in which a claim must be submitted (i.e., 15 days after A/R vacates premises)
- (11) How long the agreement is binding after the A/R's TA case closes. For example, six months after the case is closed might be a reasonable time period. This would allow the landlord or the landlord's agent time in which to obtain a cash

security deposit from the A/R (in installments if necessary) to replace the security agreement.

- b. The deposit of money to an escrow account, not under the control of the landlord or landlord's agent, subject to the terms and conditions of an agreement between the landlord and the local district in such form as the Office may require or approve.
- c. **CASH SECURITY DEPOSITS** - If a rental cannot be secured using the above two methods and other suitable permanent housing in the area cannot be secured, local districts can issue a cash deposit to be held as security against non-payment of rent or for damages caused by the A/R on behalf of an A/R (who is otherwise eligible).

Note: In no case can temporary residence in a shelter, including those defined in Parts 900 or 1000 of Office regulations, a hotel/motel or any other such emergency or transitional residential facility be considered suitable housing for purposes of denial of a cash deposit.

When a cash security deposit is issued, the A/R is required to assign to the local district any right the A/R may have to the return of the cash deposit and any interest that accrues. Landlords or landlord's agents who receive cash security deposits must comply with Article 7 of the General Obligations Law. In addition, the landlord or the landlord's agent and local district should sign an agreement detailing the conditions under which the cash deposit can be kept by the landlord or the landlord's agent and the conditions under which it must be returned to the local district.

Office Regulation 352.6 does not place a limit on the amount of the security deposit. Therefore, the amount of the security deposit should not be limited to the rent maximum when a higher amount is necessary to obtain housing. ("All Commissioner" Letter - 3/5/86)

Note: When a landlord is secured by a means of cash security deposit and this deposit is paid directly to the landlord by a two-party check, the payment is considered to be a restricted payment, and is subject to the limitations set forth in Office Regulation 381.

- 2. **ELIGIBILITY REQUIREMENTS FOR PROVIDING SECURITY** - Security can only be provided when an applicant/recipient (A/R) is unable to obtain suitable permanent housing without it. The A/R must also meet one of the following criteria:
 - a. The A/R is moving to a less expensive property and the amount for security and moving expenses is less than the amount of a two-year difference in rentals.
 - b. The A/R is moving because of a disaster and/or a vacate order has been placed against the premises by a health agency or code enforcement agency.
 - c. The A/R has to move because of a serious medical or physical handicap (verified by a specific medical diagnosis).
 - d. The A/R is rendered homeless as a result of having been put out by another occupant with whom the A/R was living.

- e. The A/R is moving from temporary to permanent housing.
 - f. The A/R is moving from an approved relocation site or to an approved cooperative apartment.
 - g. The A/R is in a living situation which harms the mental or physical health of the A/R or a member of the A/R's family and the need to move is urgent, and not issuing security would harm the health, safety and well-being of the A/R or a member of the A/R's family.
3. **INSPECTION OF PREMISES** - Local districts must conduct or arrange for a pre-move and post-move inspection or survey of the premises to be secured before any recovery of security can be initiated if the security is lost due to damages.

It is acceptable to devise alternate means to the personal inspection of the premises by a local district official, provided that these alternate measures adequately address the pre-move and post-move inspection or survey requirement of the regulation.

Alternate measures may include but are not limited to:

- a. Existing inspections
 - b. Inspections conducted by local code enforcement agencies, other agencies or individuals, etc.
 - c. Documentation which is agreed to by the signature of the landlord and the recipient, which may include photographs, statements or invoices reflecting damages
 - d. Any damages noted during the pre-move inspection or survey must be recorded on a form developed by the local district.
4. **RECOVERY OF SECURITY DEPOSITS**
- a. **NON-PAYMENT OF RENT** - If because of non-payment of rent, a security deposit is retained by a landlord or money is paid to a landlord pursuant to a security agreement for non-payment of rent, this payment must be considered as an overpayment made to the recipient and, as such, shall be recovered.

However, it is not an overpayment subject to recoupment/recovery if the rent was not paid due to a legitimate landlord/tenant dispute, a rent strike or as a result of a violation of law in respect to the building per Section 143-b of the Social Services Law or if the recipient applied shelter allowances to the rent.

- b. **DAMAGES** - When a security deposit or monies under a security agreement are paid to a landlord for damages caused by a recipient, such payment must be considered an overpayment and must be recovered from a recipient, as provided the local district has conducted (or arranged for) a pre-tenancy and post-tenancy inspection or survey of the premises.

- (1) The condition of the premises must be noted during the pre-tenancy inspection or survey and must be recorded and agreed to by signature of the landlord, recipient and local district representative.
- (2) If the post-tenancy inspection or survey does not confirm that there are damages caused by the recipient, then cash must not be issued under a security agreement or, if a cash security deposit had been issued and the landlord retains it for alleged damages, the local district must make a diligent effort to recover the deposit from the landlord as allowed by law.
- (3) When the post-tenancy inspection or survey confirms that the recipient caused the damages, the local district must recover the deposit amount from the recipient.

c. **FROM LANDLORDS**

- (1) The circumstances in paragraphs a and b above are the only circumstances under which a security deposit paid by a local district can be retained by a landlord or recouped or recovered from a client. It is recommended that, whenever cash security is paid to a landlord, the local district and the landlord sign an agreement detailing that the security can only be retained for non-payment of rent or client caused damages. Cash security should be returned by the landlord to the local district if these two conditions do not exist when the tenant moves.
- (2) Article 7 of the General Obligations Law allows landlords to require security against a tenant's breach of a lease or rental agreement. A lease or rental agreement is between the landlord and the tenant only. Article 7 also requires landlords to deposit the security in a bank or trust company not to be mingled with other funds or to become an asset of the landlord.

Note: The local district can verify that a landlord places a cash security deposit in an escrow account in a bank by requesting the landlord to submit a copy of the deposit slip verifying that the security deposit was placed in escrow.

This law provides that until the security is retained by the landlord according to the terms of the lease or agreement (i.e., tenant moves owing rent), the security continues to be the money of the person making the security deposit. In the case of a local district paying a security deposit, the security deposit continues to be the money of the local district until it is retained by the landlord as per the agreement between the landlord and the local district.

- (3) Chapter 165 of the General Obligations Law requires local districts to make "diligent efforts" to recover security deposits from landlords who retain them in violation of law.

Examples of when a landlord retains a security deposit in violation of law would include:

- (a) Instances where a pre and post tenancy inspection do not corroborate a landlord's claims for tenant caused damages
 - (b) When the local district has verification that rent was paid for the period a tenant resided in an apartment and the landlord claims unpaid rent
 - (c) When the landlord retains the security for reasons other than those specified in the agreement between the local district and the landlord
 - (d) The local district has verification that the landlord commingled the security with other funds
 - (e) The rent was not paid because of a legitimate landlord/tenant dispute, a rent strike or as a result of the application of the Spiegel Act and the landlord has retained the cash deposit.
- (4) "Diligent efforts" would include such measures as:
- (a) Sending letters to the landlord or the landlord's agent requesting return of the cash deposit held in violation of law
 - (b) Referring the matter to a collection agency
 - (c) Taking the landlord to small claims court.

5. CLIENTS WITH A HISTORY OF DAMAGING APARTMENTS

- a. A local district cannot refuse to issue a security deposit when a client has caused damage to several prior apartments where security deposits had been issued if the recipient meets the criteria in [TASB Chapter 16, Section O](#).

If these conditions are met and housing cannot be secured without a security deposit, then a security deposit should be issued.

- b. Clients with a history of damaging apartments should be offered services or training that would help them deal with their responsibilities as tenants.
- c. A landlord can evict a recipient for damages, even if the rent has been paid up front, if the wording of the lease provides for this.

6. MISCELLANEOUS

- a. A recipient can have more than one security deposit at the same time. When a person is in the process of moving and he/she has a security deposit still being held by a landlord but also requires another one to secure a new apartment.
- b. A local district can pay an additional month's security deposit to a landlord if the landlord requires it and the payment will prevent an eviction.

- c. If a recipient moves out of an apartment and into a new one without informing the local district and pays a security deposit from borrowed funds, the local district does not have to reimburse the recipient for the security deposit.

However, if there were extenuating circumstances, such as the recipient applies for a security deposit and should have received it, but due to the local district's error or delay in processing the request, a security deposit was not received in time to secure the apartment. If the recipient then borrowed the money for the security deposit with the understanding that it would be paid back when the district issued a security deposit, then the local district should reimburse the recipient.

- d. Security cannot be paid to secure care in a certified or licensed residential facility.

- 7. **SYSTEM IMPLICATIONS - UPSTATE - WMS** - When recovering overpayments as described in [TASB Chapter 22, Section A](#) (Recovery/Recoupment from A/R for non-payment of shelter allowance or A/R caused damages), workers should use Recoupment Type 6 on the ABEL budgets.

B. SHELTER COSTS FOR APPLICANT/RECIPIENT-OWNED PROPERTY

1. **AMORTIZATION** - The amount required to amortize a mortgage on the applicant/recipient's property must be included in the carrying charges when the property is income-producing and the resulting carrying charges do not exceed the property income by an amount in excess of the maximum of the established rent schedule or when property is not income-producing but it is essential to retain the home of the applicant/recipient and the resulting carrying charges do not exceed the appropriate maximum of the established rent schedule.

Note: When practicable, local districts may exercise the rights prescribed in Section 106 of the Social Services Law concerning deeds or mortgages to be taken.

2. **CARRYING CHARGES** - On applicant/recipient-owned property used as a home, carrying charges must be met in the amount actually paid by the applicant/recipient, but not in excess of the appropriate maximum of the rent schedule, for the items of taxes; interest on mortgage; fire insurance; and garbage disposal, sewer and water assessments.

To estimate what portion of a homeowner's policy premium is attributable to fire insurance, a standard figure of 55% of the total premium may be used when the actual cost cannot be determined.

Note: Carrying charges may include sewer and/or garbage disposal charges.

3. **WATER CHARGES** - As a result of a settlement in the case of Henley v. Romano and Perales, Office Regulations 352.3(b) and 352.4(b) were amended to require local districts to provide an allowance for water charges to both homeowner recipients and tenant recipients who are obligated to pay water charges as a separate charge.

Note: When the sewer charge is included as a portion of the water bill, usually as a percentage of the water used, it is considered a water charge. In such a situation, that portion of the water bill attributed to sewer charges should be paid and included in the recipient's water allowance. Sewer charges that are separate from the water bill remain excluded from the water allowance. ("All Commissioner" Letter 5/15/86)

4. **WATERWORKS CORPORATIONS** - In accordance with Public Service Law Section 50, the PSC promulgated new regulations (16 NYCRR 14) setting forth the rights and responsibilities of certain residential water customers in such areas as application for service, deferred payment agreements, deposits, billing procedures and back-billing, late payment charges, equipment inspection and complaint handling. These PSC regulations became effective January 21, 1991.
 - a. **EFFECTED CORPORATIONS** - These rules only apply to private waterworks corporations with gross annual revenues in excess of two hundred fifty thousand

dollars. There are currently only 14 of these corporations in New York State, which are listed below. This number may change periodically.

- (1) Country Knolls Waterworks, Inc., Saratoga County
- (2) Fisher's Island Waterworks Corp., Suffolk County
- (3) Heritage Hills Water Works Corp., Westchester County
- (4) Jamaica Water Supply Co., Nassau County
- (5) Kiamesha Artesian Spring Water Co., Sullivan County
- (6) Long Island Water Corp., Nassau County
- (7) New Rochelle Water Co., Westchester County
- (8) New York-American Water Co., Inc., Nassau County
- (9) NY Water Service Corp., Nassau County
- (10) Oswego Water Works, Tioga County
- (11) Sea Cliff Water Co., Nassau County
- (12) Shorewood Water Corp., Suffolk County
- (13) Spring Valley Water Co., Inc., Rockland County
- (14) Sterling Forest Water Corp., Orange County

b. **CORPORATIONS RESPONSIBILITIES** - The regulations require the waterworks to notify a local district of the name and address of the customer receiving water services in the following situations:

- (1) The customer or all members of his/her household is blind, disabled, 62 years of age or older, or 18 years of age or under and:
 - (a) Service is to be terminated and the utility has been unable to personally contact the adult resident within 72 hours before the scheduled termination to attempt to create a plan that would avoid termination and arrange for payment. (The waterworks is required to continue service for at least 15 business days after providing this notice, unless notified by the local district that other arrangements have been made) or,
 - (b) Service has already been terminated and the waterworks is later notified that the customer's household meets the criteria in 'a.' above, and the waterworks has been unable, within 24 hours of receiving this notification, to personally contact the customer or to create a plan.
- (2) During the cold weather period for premises with heat-related services when:

- (a) Prior to scheduled termination, the waterworks determines that a resident may suffer a serious impairment to health or safety as a result of termination. Evidence that a person may suffer serious impairment to health or safety includes any of the following:
 - (1) Dependency due to age, poor physical condition or mental incapacitation
 - (2) Use of life support systems such as dialysis machines or iron lungs
 - (3) Serious illness
 - (4) Disability or blindness
 - (b) Service has already been terminated and the waterworks has been unable to make an onsite personal visit with the customer and the waterworks does not have reasonable grounds to believe the customer has vacated the premises.
 - (c) Service has been terminated because of unsafe equipment and it is impractical for the waterworks to eliminate the unsafe condition and the waterworks determines that the resident may suffer a serious impairment.
- c. **LOCAL DISTRICT RESPONSIBILITIES** - When local districts are notified by the waterworks, the local district must:
 - (1) Attempt to contact the customer within 24 hours to determine if the scheduled termination of water services will cause an emergency situation.
 - (2) Determine the customer's eligibility for assistance if an emergency situation will result from the scheduled termination of water services and if temporary alternative living arrangements are necessary. If eligible must assist the person in obtaining safer living quarters. A referral to services for money-management assistance may also be warranted.
 - (3) Respond to the waterworks corporation, within 15 days of receiving the notice from the waterworks corporation, whether or not an emergency situation will result.
- d. **LIAISON REQUIREMENT** - Each local commissioner in the affected local districts must designate a staff person to function as liaison to the waterworks corporation(s) in the local district to ensure timely and effective implementation of these procedures.

Affected local districts should also develop a referral form to be used by the waterworks which contains basic essential information regarding the customer household being referred. [The Notice of Utility Referral to DSS \(LDSS-2338\)](#) can be used.
- e. **PAYMENT OF WATER CHARGES** - Currently, Office regulations authorize the payment of an allowance to cover water charges for TA recipients who have a direct

obligation to a vendor. However, there is no authority for the payment of back water bills under any TA program.

5. **PURCHASE OF INTEREST IN A LOW COST HOUSING DEVELOPMENT** - A local district may approve a grant not to exceed \$2,500 toward the purchase of an interest in a cooperative unit in a low cost housing development, provided that the applicant/recipient's equity in such cooperative housing must be assigned to the local district.
6. **PROPERTY REPAIRS** - The cost of property repairs must be met when:
 - a. The property is income-producing, and the repairs are essential to maintain (retain) that status; or
 - b. The repairs are essential to the health or safety of the applicant/recipient.
7. **CLIENT PROPERTY DEEDED TO THE LOCAL DISTRICT** - Property on which a local district has taken a deed under the provision of Section 106 of the Social Services Law may be used to shelter either a TA recipient who conveyed such property or another recipient.

Except when used to shelter a surviving spouse of a former recipient who conveyed such property, the property shall be used to shelter other recipients only for a period of one year after the death of a recipient who conveyed such property. After the expiration of a six-month period from such date of death but on or before the expiration of such one year period, appropriate action shall be taken to initiate a sale of such property.

In cases in which property conveyed to a local district is used to shelter a recipient other than the recipient who conveyed such property or his surviving spouse, a reasonable rental for such shelter shall be determined. This rental shall be included in the grant of assistance of the recipient sheltered in the property, and the net amount of such rent in excess of all carrying charges paid for by the local district shall be credited to the amount required to redeem the property as provided in Section 106 of the Social Services Law [352.4(e)].

C. WELFARE OF TEMPORARY ASSISTANCE RECIPIENTS

In a manner consistent with Office regulations, TA shall be granted in such manner as best preserves the health and well-being of the TA household. Where there is concern that the living situation of a TA household may adversely affect the health and/or well-being of the household members, referral shall be made to the appropriate local district official or unit for investigation and provision of appropriate services and/or assistance. TA grants to otherwise eligible individuals shall not be delayed or terminated while such investigation is pending. Special consideration shall also be given to ensuring that the physical, mental and moral well-being of a child or minor receiving temporary assistance is safeguarded. In cases where housing accommodations are dangerous, hazardous, or detrimental to life or health because of violations of law, the local district has the power to withhold the payment of rent to the landlord.

Appropriate referrals are to be made whenever there is concern about the health or well-being of the TA household. Although this reflects current Office policy and is contained elsewhere in Office regulations as it applies generally to assistance and services provided by local departments of social services, this policy has not been explicitly stated in the context of TA budgeting regulations. Such an explicit statement is necessary with the elimination of pro-rata for recipients facing emergency housing situations to ensure that local districts have a means of dealing with any adverse situations that might occur when families take advantage of the higher assistance levels available to persons who share living accommodations.

1. PUBLIC HOUSING

An allowance for rent must be made for recipients who are tenants of city, State or federally-aided public housing up to the amount actually paid or an approved schedule amount, whichever is less. (Please refer to Office Regulation 352.3(d) or to the appropriate applicable schedules for your locality.)

As a result of a settlement in the case of McCoy v. Perales TA residents of Federally subsidized public housing authorities (PHAs) will be granted a shelter allowance based upon the housing authority's rent computation even if that rental obligation exceeds that provided in Office Regulation 352.3(d) if the Federally subsidized PHA computes the rental obligation as a percentage of gross or adjusted gross income. In determining rental allowances in federally subsidized public housing, local districts are required to use the following guidelines:

- a. If the housing authority bases its rent charges on the public housing rent schedule, then an allowance for rent must be granted as paid up to the schedule approved by the Office for that housing authority.
- b. If the public housing rent is based on income, then local districts must authorize the amount charged to the household up to the private housing maximum for the given household size.
- c. For mixed households, when the TA tenant is not the tenant of record and the rent is income based, the amount of rent allowed is the rent charged by the non-public

assistance (NPA) tenant of record with the following restrictions. The rental amount can never go above the lower of either:

- (1) The rent charged by the PHA
 - (2) The private housing maximum, for that household size
 - (3) For mixed households, when the TA recipient is the tenant of record and the NPA person contributes to the rent, the rent contribution is subtracted from the actual amount charged by the PHA. This is in accordance with the budget procedure of NPA persons living in a TA housing (Swift v. Toia)
 - (a) If this results in the rental amount being less than the public housing schedule, the lower amount is allowed.
 - (b) If this results in the rental amount being higher than the private housing maximum, the maximum is allowed.
2. **STATE HOUSING AUTHORITIES** - State housing authorities are Federally assisted, and as such, the McCoy vs. Perales case also applies to TA recipients who reside therein.
3. **UTILITY PAYMENTS** - Utility payments by tenants in public housing authorities up to the amount of the HUD utility allowance is not treated as rent for purposes of TA. Accordingly, when a public housing authority reduces a tenant's rent bill in an individually metered building to allow for the tenant's payment of utilities, the shelter payment on behalf of such a tenant will be rent as paid.

Example

Mr. and Mrs. Barrett and their five daughters reside in public housing in Erie County. All household members are in the assistance unit and there is no income other than TA.

The PHA charges rent according to the approved modified welfare rent schedule. For that PHA, the approved rent for 7 persons in a 4 bedroom apartment is \$245. Heat is included, but the Barretts must pay for utilities separately. The PHA calculates that the Barretts must have \$38 per month available to meet their utility bills. Therefore, the Barretts are required to pay \$207 to the PHA for rent ($\$245 - \$38 = \$207$)

The Barretts' shelter allowance is \$207. This is because the PHA charges according to the approved schedule, and \$207 is the amount they must actually pay.

4. **INTER-COMMUNICATION SYSTEM** - When a TA recipient resides in a public housing project equipped with an inter-communication system, as required by Section 50(a) of the Multiple Dwelling Law, a recurring payment of an additional fee for this device shall be allowed.
5. **SECURITY DEPOSIT** - Local districts must make provision for security for TA recipients residing in public housing only through a security agreement.

- a. No cash payments can be made nor can any security escrow accounts be established for this purpose under any TA program.
- b. Public housing for purposes of security deposits is housing owned and operated by the PHA.

Local districts may make vendor restricted payments to landlords for Safety Net Assistance (SNA) recipients residing in public housing.

6. **FAMILY SELF-SUFFICIENCY PROGRAM (FSS)** - The mission of the FSS Program which is administered by US Department of Housing and Urban Development (HUD) is to provide supportive services to enable participating families to achieve economic independence and self-sufficiency.

- a. Under this program, certain families living in public housing, or receiving Section 8 assistance enter into a contract which states the goals that the head of household wants to achieve and the steps that must be accomplished to achieve the goal.
- b. During the contract term, as income increases, a portion of any rent increase resulting from increased earnings is credited to an escrow account.

For Example: A FSS participant who is employed and whose wages increased would also pay more rent to the housing authority pursuant to a HUD formula.

- c. The aggregate amount of the increased rent would then be transferred to an escrow account. These escrow funds can not be paid to the family as long as they are receiving any Federal or State housing assistance or TA.
- d. The funds in the escrow account will not be released to the family unless they complete the terms of the contract. Families who move from HUD housing prior to completing the terms of the contract will not be entitled to the funds in the escrow account.
- e. Since the funds in the escrow account are not available to the family, the funds cannot be considered for the purpose of determining eligibility or degree of need for TA.

D. ASSISTANCE & ALLOWANCES FOR PERSONS NOT LIVING IN THEIR OWN HOMES (CARE & MAINTENANCE)

STANDARD OF ASSISTANCE FOR PERSONS NOT LIVING IN THEIR OWN HOME -

The Standard of Need includes an allowance to be provided by each local district for persons residing in the following living situations:

1. **ROOM AND BOARD SITUATION** - An allowance for each recipient or family purchasing room and/or board to cover the cost of board, room rent and other expenses, except where such items and services are furnished by a legally responsible relative or a recipient of TA. For each recipient or family purchasing room and/or board from an individual, family or from a commercially operated boarding house such allowance cannot exceed the sum of the statewide monthly grant and allowance, the statewide monthly home energy payments, the statewide monthly supplemental home energy payments, and the local district maximum monthly shelter allowance without children. In determining the room and/or board allowance local districts:
 - a. May not set district-wide maximums, other than the regulatory maximum, for room and board amounts. However, local districts should examine each room and board situation on its individual merits to determine if the amount charged is reasonable.
 - b. Must budget for room only the appropriate local shelter maximum.
 - c. Must base the allowance for families on the pre-add, home energy payment, supplemental home energy payment, and shelter allowance for that family size.
2. Approved Residential Programs for Victims of Domestic Violence - [See TASB Chapter 26, Section B.](#)
3. **MATERNITY HOME** - The allowance for each person residing in a maternity home shall be established at the lowest rate for which suitable care can be purchased from such facility.
4. **SAFETY NET ASSISTANCE FOR PERSONS IN PUBLIC SHELTERS FOR HOMELESS ADULTS** - [See TASB Chapter 27, Section A.](#)
5. **CONGREGATE CARE FACILITIES**
 - a. An allowance for each recipient receiving Level I, Level II or Level III care in a certified congregate care facility at the rate provided for care and maintenance under the supplemental security income program for SSI beneficiaries residing in the same facility, less the amount of any personal needs allowance included in the SSI rate.
 - b. An additional allowance for each FA recipient who meets the requirements of [TASB Chapter 9, Section O](#) concerning temporary absences from the home and who is receiving Level I, Level II or Level III care in a certified congregate care facility at the rate provided for care and maintenance under the Supplemental Security Income program for SSI beneficiaries residing in the same facility, less the amount of any personal needs allowance included in the SSI rate.

6. TYPES OF CONGREGATE CARE FACILITIES - The facilities included are:

a. Level I

Family type homes certified by an Office. Family-like smaller residential programs serving the mentally retarded, the mentally ill and the frail elderly, certified by the Office of Children and Family Services (OCFS), the Office of Mental Health (OMH) or the Office of People with Developmental Disabilities (OPDD).

b. Level II

Three levels of care through Residential Substance Abuse Treatment programs certified by the Office of Alcohol and Substance Abuse Services (OASAS):

- (1) Intensive Residential - patient resides and receives treatment at program, they are unable to maintain periods of abstinence without high levels of structure and supervision provided in the program;
- (2) Non-intensive Residential - which used to be called a half-way house - clients are able to go out for services including treatment and are more independent in scheduling, participating in work or work-related activities in the community;
- (3) Supportive Living - Clients have the skills to live in the community independently but lack a safe recovery environment. The supportive living is semi-supervised, provides support and usually case management while clients maintain a connection to a treatment program for a minimum of one hour per week.

c. Level III

- (1) Community residences (other than intermediate care facilities or respite care facilities) certified by the Department of Health (DOH), OMH or OPDD;
- (2) Supervised community residence and supportive community residences certified by OPDD;
- (3) Halfway houses, supervised living facilities and supportive living facilities certified by the OMH
- (4) Adult care facilities certified by DOH, including adult homes, residences for adults and enriched housing programs.

7. ELIGIBILITY FOR A CONGREGATE CARE LEVEL I, LEVEL II OR LEVEL III PAYMENT

- a. Level I - In order to be eligible for a Level I payment, an individual must be officially placed in a Level I facility by a local district, or by OMH, or OPDD. Placement can be confirmed by contacting the appropriate placing agency.
- b. Level II - In order to be eligible for a Level II payment, an individual must reside in a facility that is listed in the Congregate Care Directory and coded as being eligible for Level II payments.

- c. Level III - In order to be eligible for a Level III payment, an individual must be officially placed in a Level III facility by DOH or OPDD. Placement can be confirmed by contacting the appropriate placing agency.

8. PROVIDING TA FOR CONGREGATE CARE RESIDENTS

- a. FA - Whenever an individual enters a Level I, Level II or Level III certified facility, the local district must determine if the individual is eligible for FA benefits.

When determining how to authorize FA benefits for an individual in a certified Level I, Level II or Level III facility, local districts should take the following situations into account:

- (1) When both a parent and child are in a certified Congregate Care facility and:

- (a) The parent is receiving Level I or Level II care and the child(ren) is simply living with the parent in the Congregate Care facility, then only the parent receives the Level I or II rate.

The child(ren) receives a negotiated room and board rate plus the \$45 personal needs allowance (PNA) in a group residence or a basic PA grant (pre-add, Home Energy Allowances (HEA) and prorated shelter) in an apartment-like facility. Both the grants to the parent and child(ren) can be authorized under FA.

- (b) The parent and child(ren) are receiving Level I or II care, both the parent and child(ren) receive the Congregate Care Level I or II rate including the appropriate Level I or Level II personal needs allowance.

- (2) The child or adult temporarily leaves the FA household to receive care in a certified Congregate Care Level I or Level II facility. That individual is considered to be "temporarily absent" from the household and is thus eligible for FA benefits at the facility rate. An allowance equal to the rate for Congregate Care and an applicable PNA is included in the TA Standard of Need and provided to the recipient in the facility.

Note: The individual's basic needs (pre-add, HEA and SHEA [Supplemental Home Energy Allowance]) are met by the PNA, but the individual's shelter and fuel needs must continue to be included in the household's TA grant.

Note: The expressed purpose of this policy is to retain permanent shelter for the individual to return to. Therefore, shelter and fuel allowances should not be given to individuals temporarily absent from a household in temporary housing.

- b. **SNA** - If the household is not FA eligible, emancipated minors and adults who are eligible for Safety Net Assistance, are eligible to receive the Level I or II rate under the SNA program when they are receiving Level I or Level II care in a certified Congregate Care facility.

Underage minors (under age 16) who are not temporarily absent from an FA case can receive SNA only if the Congregate Care facility agrees to act as the protective payee for the child.

9. **CO-OP BUDGETING** - Co-op budgeting does not apply to recipients in Level I and Level II Congregate Care facilities. Each recipient is to be budgeted as a separate household.
10. **ROUNDING DOWN** - All TA grants are rounded down to the next lower whole dollar. Because the current SSI Congregate Care Level I Benefit Levels are not whole dollar amounts, the payment standards are the SSI Benefit Levels rounded down to the next lower whole dollar.
11. **APPROPRIATENESS OF PLACEMENTS** - Local districts can exercise a degree of control over the appropriateness of particular placements/admissions into congregate care facilities. The nature of this control varies with the type of facility and the particulars of the case.
 - a. OMH and OPDD Certified Facilities - Concerns regarding assessment of an individual's need, or the appropriateness of the placement/admission, should be addressed to the local facility.
 - b. Alcohol and Substance Abuse Treatment Facilities - While the local district may not have been directly involved in the placement/admission, the local district in accordance with Office regulations, retains the responsibility and authority to ascertain the appropriateness of such a placement.
 - c. DSS Certified Facilities - While the local district may not have been directly involved in the placement/admission, the local district retains the responsibility and authority to review the appropriateness of such a placement.
12. **EVALUATION FOR EMPLOYMENT** - Applicants/recipients for assistance must be evaluated for employment as required by Office regulations. The fact that an applicant is working, in and of itself, does not automatically mean residing in a Congregate Care facility is inappropriate. Sheltered work, for example, would usually be considered to be "working to capacity". Other work may be part of the therapeutic program in which the individual is participating.
13. **NEED TO PURSUE SSI ELIGIBILITY** - Because the rate paid for an applicant/recipient is now the same as the SSI rate, the financial incentive for the recipient and the facility operator to pursue an SSI claim has basically disappeared. Therefore, each local district, as a condition of eligibility, must insure that any applicant/recipient who reasonably appears to be eligible for SSI, pursue his/her claim. A denial of SSI benefits must be appealed, and all available administrative remedies must be exhausted.
14. **TEMPORARY ABSENCE** - In order to retain shelter for a recipient during a period of temporary absence in a medical facility, an allowance shall be made for a period not to exceed 15 days to an intermediate care facility, or 30 days to any other congregate care facility.

15. **RETROACTIVE PAYMENTS** - An allowance to meet the cost of room and board or care in a home for adults, maternity home, family home, convalescent home, home for the aged, intermediate care facility, or residential facility for the mentally retarded, 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:

- a. Such payment is essential to retain care in the facility, and no other facilities are available.
- b. The authorization for payment of such back bill receives written approval by the social services official, or such other administrative officer as he may designate, provided such person is higher in authority than the supervisor who regularly approves authorization.

Sections 522 of Executive Law of 1985 has been amended to authorize the Office of Children and Family Services (OCFS) to provide residential care in youth centers, schools and centers for infants born to female residents placed with the OCFS.

16. **TEMPORARY ASSISTANCE ELIGIBILITY** - Infants born to female residents placed with the OCFS in youth centers, schools and centers are not in the care and custody of the OCFS and are eligible for FA, if all other eligibility criteria are met. The following are the procedures to be used when applications are made for these infants:

- a. The county in which the OCFS facility is located shall take the application and determine eligibility for the infant.
- b. The county in which the OCFS facility is located shall charge back the temporary assistance and medicaid costs to the county which placed the mother using current procedures. The infant is considered a resident of the county which placed the mother.

17. **TEMPORARY ASSISTANCE RATE DETERMINATION**

It will be necessary for the county having financial responsibility for the infant to negotiate a rate with the OCFS per Office Regulation 352.8(b). The OCFS has prepared data on the cost of keeping these infants, and every effort should be made to negotiate a reasonable rate in a timely manner. You may wish to consult other agencies which had previous dealing with the OCFS, and the Office's Division of Temporary Assistance is available to help in these negotiations.

18. **TEMPORARY ASSISTANCE CHECK ISSUANCE**

If the mother is 16 years of age or over, she may be designated as grantee in behalf of the infant and can receive the temporary assistance check directly. However, the local district should consider issuing a two party temporary assistance check to the mother and the OCFS.

If the mother is under 16, she shall not be designated the grantee. The local district must issue a two party temporary assistance check to the mother and the OCFS.

Note: In no event shall the check go directly to the OCFS or an employee of the OCFS.

19. WMS INSTRUCTIONS

Amounts generated on ABEL as rates for Level I Congregate Care (Shelter Type 15), Certified Drug/Alcohol Treatment Facility - Level II (Shelter Type 10), Level II Congregate Care (Shelter Type 16) and OMH/OMR Supervised Apartments - Level II (Shelter Type 17) are equal to the applicable SSI rate rounded down to the next lower dollar.

On ABEL, the rate for Room and Board (Shelter Type 04), Residential Programs for Victims of Domestic Violence (Shelter Types 22 and 37) or Alcohol Treatment Facilities - Non Level II (Shelter Type 12) is the input amount rounded down to the next lower dollar. Rates for alcohol treatment facilities non-Level II are negotiated by their proprietors and local districts. Rates for residential programs for victims of domestic violence will be established by this Office.

E. PERSONAL NEEDS ALLOWANCE FOR PERSONS NOT LIVING IN THEIR OWN HOMES

1. TEMPORARY ASSISTANCE RECIPIENTS

- a. An allowance of \$45.00 per month for personal expenses, including clothing and incidentals, shall be granted to recipients living in any of the following living situations:
 - (1) Boarding homes
 - (2) Room and board arrangements
 - (3) Facilities certified by the Office of Alcohol and Substance Abuse Services (other than a Community Residence)
 - (4) Approved residential programs for Victims of Domestic Violence in which three meals per day are provided
 - (5) Non-Tier I and II homeless shelters in which three meals a day are provided

Note: Tier I recipients receive an allowance of the sum of the TA Basic, HEA and SHEA. Tier II recipients receive an allowance of \$63.00.

- b. An allowance of \$45.00 per month for personal needs shall be granted to infants born to those female residents who are placed with the Office of Children's and Family Services (OCFS) in youth centers, schools and centers. The OCFS has agreed to provide all necessary baby furniture for the infants, food and diapers.
 - (1) If the mother is 16 years of age or over, she may be designated as grantee on behalf of the infant and can receive the personal needs allowance check directly. However, the local district should consider issuing a two party personal needs allowance check to the mother and the OCFS.
 - (2) If the mother is under 16, she shall not be designated the grantee. The local district must issue a two party personal needs allowance check to the mother and the OCFS.

Note: In no event shall the check go directly to the OCFS or an employee of the OCFS.

- c. An allowance of \$40.00 per month for personal expenses, including clothing and incidentals shall be granted to recipients living in any of the following medical living situations:
 - (1) Intermediate care facilities
 - (2) Infirmaries
 - (3) Nursing homes

- (4) Similar medical facilities
- (5) The following list of alcoholism treatment centers (ATC) and Clinical Research Center:

<u>Program</u>	<u>Local District</u>	<u>City</u>
(a) Russell E. Blaisdell ATC	Rockland	Orangeburg
(b) Bronx ATC	Bronx	NYC
(c) Creedmoor ATC	Queens	NYC
(d) Kingsboro ATC	Brooklyn	NYC
(e) Mc Pike ATC	Oneida	Utica
(f) Richard C. Ward ATC	Orange	Middletown
(g) John L. Norris ATC	Monroe	Rochester
(h) Charles K. Post ATC	Suffolk	West Brentwood
(i) St. Lawrence ATC	St. Lawrence	Ogdensburg
(j) South Beach ATC	Richmond	NYC
(k) Margaret Stutzman ATC	Erie	Buffalo
(l) Dick Van Dyke ATC	Seneca	Willard
(m) Clinical Research Center	Erie	Buffalo

- d. An allowance for personal expenses, including clothing and incidentals, shall be granted to recipients living in Congregate Care Level I and Level II facilities. The Amount of this allowance, effective January 1, 2009 is:

- (1) \$130.00 for Congregate Care Level I Facilities (Family Care) which includes:

- (a) A family-type home licensed and supervised by a social services district;
- (b) A family care home certified by the Office of Mental Health or the Office of People With Developmental Disabilities.

- (2) \$150.00 for Congregate Care Level II Facilities (Residential Care) which includes:

- (a) A Community Residence certified by the Office of Mental Health, the Office of People With Developmental Disabilities, or the Office of Alcohol and Alcohol Abuse Services;

- (b) A Residential Substance Abuse Treatment program certified by the Office of Alcohol and Substance Abuse Services.
- (3) \$178.00 for Congregate Care Level III Facilities (Residential Care) which includes:
 - (a) A proprietary or not-for-profit Adult Home certified by the State Department of Health (DOH);
 - (b) A Residence for Adults certified by the State DOH;
 - (c) An Enriched Housing Program certified by the State DOH;
 - (d) A Residential Care Center For Adults certified by the Office of Mental Health.

Note: For SNA applicants/recipients required to participate in an appropriate rehabilitation program as required by Office Regulation 370.2 and [TASB Chapter 10, Section F](#) and who receive treatment in a certified congregate care *residential* treatment facility, local district must make all personal needs allowance payments as restricted payments to the program. The local district must also make arrangements with the programs to recover, as an overpayment, any accumulated personal needs allowance monies left in the account of SNA recipients who leave such programs prior to completion. Completion of the program is to be solely determined by the guidelines and rules of the program. For additional information on personal needs allowance see [09-INF-14](#), [Attachment 1 - PNA in Non-Medical Facilities](#), [Attachment 2 - PNA in Medical Facilities](#), [Attachment 3 - PNA in Non Med Fac - Fac Description](#), [Attachment 4 - Certifying State Facilities and Fund Sources Definitions](#).

2. **IN-KIND CONTRIBUTIONS** - When a facility provides some or all of the items for which the allowance is intended through an in kind contribution, the value thereof shall be computed and shall be applied to reduce the amount of the allowance.

When a facility does not provide needed personal items, including clothing, and a recipient is deemed incapable of managing funds, a protective payment shall be made, if feasible; if not, the local district shall meet such needs in kind.

3. **ROUNDING GRANTS** - The standards of assistance for recipients in Congregate Care Level I, Level II and III facilities are the SSI Benefit Levels rounded down to the next lower whole dollar. In addition, the total cash grant is also to be rounded down.

For purposes of budgeting for residents of congregate care facilities, this rule means that the sum of the recipient's PNA plus the grant for care and maintenance must equal a whole dollar amount.

4. **SSI RECIPIENTS** - The Personal Needs Allowance for SSI recipients in Congregate Care facilities is described in [TASB Chapter 19, Section O](#) and this Section.

WMS INSTRUCTIONS

1. **SHELTER TYPES (See ABEL Transmittal 89-3)** - When calculating budgets on ABEL:
 - a. Those described in Section 1a, (1) and (2) should be coded Shelter Type 04 (Room and Board)
 - b. Those described in Section 1a (3) should be coded Shelter Type 12 (Non-Level II Alcohol Treatment Facility)
 - c. Those described in Section 1c(1)(2)(3)(4) should be coded Shelter Type 09 [Medical Facility (\$40 PNA only)]
 - d. Those described in Section 1(d)(1) SSI Level I should be coded Shelter Type 15 (Congregate Care Level I Family Care)
 - e. Those described in Section 1(d)(2),(a), (b), (c), SSI Level II should be coded Shelter Type 16 (Congregate Care Level II - Not Drug/Alcohol Treatment or Apartment-like)
 - f. Those described in Section 1(d)(2)(d)(f) should be coded as either Shelter Type 42 (Congregate Care Level III) or, depending on the facility, Shelter Type 42 [Congregate Care Level III - Apartment-like (OMH/ OPDD Supportive/Supervised Apartments; DSS Enriched Housing)]
 - g. Those described in Section 1(d)(2)(e) should be coded Shelter Type 10 [Congregate Care Level II Drug/Alcohol Treatment Facility (Residential Treatment Center)]
 - h. Those described in Section 1a(4) should be coded shelter type 22. (Residential Programs for Victims of Domestic Violence, 3 meals per day);
 - i. Those described in Section 1a(5) should be coded Shelter Type 21 (shelter for homeless, 3 meals per day)
2. **PERSONAL NEEDS ALLOWANCE** - The Shelter Types listed above, when input, will cause ABEL to generate the correct Personal Needs Allowance for that Shelter Type, {i.e., \$40.00 (Shelter Type 09), \$45.00 (Shelter Types 04, 12), \$130.00 (Shelter Type 15), \$150.00 (Shelter Type 10), or \$178 (Shelter Type 42)}.

References

351.3
352.3(d)
352.3(e)
352.3(f)
352.32(e)
352.34
352.4
352.6
352.8
370.2
370.5

[06 ADM-3](#)
[97 ADM-01](#)
[93 ADM-10](#)
[93 ADM-2](#)
[92 ADM-26](#)
[91 ADM-44](#)
[90 ADM-38](#)
[90 ADM-18](#)
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[93 INF-11](#)
[92 INF-45](#)
89 INF-61
88 INF-11
86 INF-07
73 INF-27

92 LCM-112
91 LCM-77

"All Commissioner" Letter (6/2/96)
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GIS Message ([05 TA/DC042](#))
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Related Items

352.3(b)
352.31
352.8(b)
369.3(a)
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82 ADM-75
84 ADM-42
81 ADM-33

GIS-83 IM/DC005

ABEL Transmittal 97-4
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ABEL Transmittal 83-10
ABEL Transmittal 87-1
ABEL Transmittal 87-2

SSL 106

GIS Message (89 IM/DC004)

"All Commissioner" Letter - (3/5/86)
"All Commissioner" Letter - (8/29/84)

[Supplemental Nutrition Assistance Source Book](#)

CHAPTER 18: BUDGETING OF INCOME

A. VERIFICATION OF INCOME

The employment and earnings of an employed applicant/recipient must be verified, including the name and address of employer, social security number, work classification, date employment started, amount of gross and net wages, items covered by deductions, exemptions, and number of dependents claimed for income tax purposes.

At the initial determination of eligibility and at recertification, the income of the TA household shall be established by the local district.

An SSD examiner or investigator can use the eXpress service to verify employment data by accessing the Work Number employment verification link. The examiner or investigator can access this link directly through Centraport (internet access is not needed) or can access the link directly through the internet at: www.theworknumber.com. Once at the site, the examiner or investigator needs to enter only the Social Security Number. If any of the TALX employers have that Social Security Number (SSN) in their payroll database, the examiner or investigator would receive back a notice indicating that there is a positive employment match to the SSN. A SSD is not charged when a positive match is returned. A cost to the SSD is incurred only if the examiner or investigator selects the employer on the screen in order to obtain the detailed wage data associated with that SSN. The detailed wage verification from the eXpress service is “verified upon receipt”.

Although the TALX Corporation also offers a free fax-based service for income verifications, there are advantages to using the eXpress service: (1) the responses to SSN inquiries are instantaneous; (2) only the applicant’s or recipient’s SSN must be known to search the TALX database; and, (3) all employers associated with the SSN are returned. In contrast, the free fax based service can be searched on employer only—the SSD must know the employer, and the free fax-based service has a response time of five to seven days.

Note: Districts still have the option to verify employment directly with an employer through the use of the [LDSS-3707: "Employment Verification"](#) in lieu of the TALX service.

B. LIMITATIONS ON GROSS INCOME

1. Gross Income Test – No TA household shall be eligible for a grant in any month in which the household's total gross income before application of any disregards or exclusions exceeds 185 percent of the household's standard of need including special needs.
2. Needs Test – Net income can still not equal or exceed the standard of need after deducting the \$90 work disregard and a percentage (effective June 1, 2016, 50%) of the remainder of earned income. If net income equals or exceeds need, the recipient is ineligible.

In addition, an applicant's eligibility for TA must be determined without application of the percentage earned income disregard unless the applicant is reapplying and has been off assistance not more than four months. However, if the applicant would be eligible for assistance without the percentage disregard, the percentage disregard is granted in determining net income. (In other words, the disregard cannot make an applicant eligible who otherwise would not be, unless he or she has only been briefly separated from assistance).

3. Poverty Level Test – Gross earned and unearned income cannot exceed the current monthly poverty level. This provision only applies to recipients renting an apartment, living in their own home, living in Section 8 housing, living in public housing and certain types of room and board.

It does not apply to recipients residing temporarily in hotel/motels, domestic violence shelters, AIDS housing, congregate care facilities, etc. If a recipient residing in housing to which this provision applies, and has gross earned and unearned income in excess of the poverty level the recipient is ineligible.

ABEL will perform all three eligibility tests. For more information on any of the three eligibility tests see [97- ADM-23](#).

C. COMPUTATION OF THE STANDARD OF NEED FOR THE GROSS INCOME TEST

Any item of need included in determining eligibility and degree of need is also included in the standard of need for the gross income test. The standard of need is based on the family's actual needs (including special needs). The items of need to be used in determining the individualized standard of need include, but are not limited to, the following:

1. Basic allowance
2. Home energy allowance
3. Supplemental home energy allowance
4. Monthly allowance for fuel for heating (if heat is not included in rent) except in Section 8 Certificate households
5. Actual shelter cost (up to agency maximum) or for Section 8 Certificate cases, the appropriate shelter schedule amount
6. Home delivered meals
7. Fifty dollar pregnancy allowance
8. Restaurant allowance
9. Chattel mortgage
10. Water [352.3(b)] except Section 8 Certificate cases
11. Hotel/motel rates
12. Actual room and board costs (up to agency maximum)

Note: In cooperative cases, the income of each family unit is applied separately against that family's standard of need to determine if the income exceeds the limit.

D. INCOME INCLUDED IN THE GROSS INCOME TEST

The following earned and unearned income is counted towards the 185% limit, including, but not limited to, the following items:

1. The first \$100.00 or \$200 per month of current child or combined child and spousal support income received directly by households (including support payments collected and paid to the family by the child support enforcement program) applying for or receiving TA with one active child on the TA case must be disregarded in the determination of eligibility or standard of need.
2. HIV Peer Education Stipends – For FA and SNA, stipends provided to peer educators are excluded as income for TA purposes.
3. Garnishees
4. Excludable income such as earned income of FA or SNA dependent children who are students, but only as specified in [this Chapter, Section H](#).
5. Net boarder/lodger income
6. Income from the trust fund of any infant (not the fund itself)
7. Net profit from self-employment income

Note: With respect to self-employed persons, certain exclusions to gross income related to producing the goods or services are allowed. Those self-employment expenses directly related to producing the goods and services and without which the goods or services could not be produced must be excluded. However, items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment and payments on the principal of loans for capital assets or durable goods shall not be excluded. The amount remaining after the permissible exclusions is counted toward the gross income ceiling.

E. DEEMING OF A STEP-PARENT'S INCOME TO DETERMINE WHETHER THE TEMPORARY ASSISTANCE HOUSEHOLD PASSES THE GROSS INCOME TEST

The income for the gross income test consists of:

1. The sum of the deemed income from the step-parent
2. Plus the total gross income of the spouse
3. Plus any gross income of other applying household members
 - a. The income thus calculated is compared to 185% of the needs. This calculation is the same whether or not the spouse is included in the application.
 - b. In cooperative cases, the deemed income of the stepparent, plus the gross income of the spouse, is applied on a pro-rata basis against 185% of the needs of the applying persons for whom the step-parent and spouse are legally responsible. (Any additional gross income of applying members of each separate cooperative case is added to that case's pro-rata share of this income from the step-parent/spouse, and this combined income is used to perform the gross income for that cooperative case.)

F. COMPUTATION OF EARNED INCOME

1. DEFINITION AND COMPUTATION OF EARNED INCOME

- a. **EARNED INCOME** – The term earned income shall mean income in cash or in kind earned by an individual through:
- (1) The receipt of wages, salary
 - (2) Employer-provided sick pay benefits
 - (3) Union-provided sick pay benefits funded by the employer
 - (4) Severance pay
 - (5) Tip income
 - Employees are required to maintain a daily log of tips received.
 - Local districts may use this daily log to verify actual tips received each month.
 - (6) Commissions
 - (7) Roomer/Room and Boarder income
 - (8) Profits from activities in which he/she is engaged as a self-employed individual or as an employee. Such earned income may be derived from his/her own employment such as a business enterprise or farming; or derived from wages or salary received as an employee.
 - (9) AmeriCorps payments. For the treatment of AmeriCorps payments, [see this Chapter, Section S](#).
- b. **LUMP SUM** – Earned income may included earnings over a period of time for which settlement (lump sum payment) is made at one given time as in the instance of sales of farm crops, livestock or poultry. ([See this Chapter, Section V](#))
- c. **OTHER INCOME** – Income received by an individual on a contractual basis or income received intermittently on a quarterly, semi-annual or yearly basis must be prorated over the period of the contract or the period covered by the income with appropriate monthly exclusions.
- d. **COMMISSIONS, WAGES OR SALARY** – These are the gross earned income prior to deduction of any taxes or other personal and non-personal expenses incident to employment.
- e. **SELF-EMPLOYMENT INCOME** – This means the total profit from a business enterprise, farming, etc., resulting from the gross income received less the business

expenses, i.e., total cost of the production of the income as defined in [this Chapter, Section Y](#).

2. **TEMPORARY CHANGES IN EARNED INCOME** – When there is a temporary change in earned income, no adjustment will be made to the regularly recurring TA grant. However, districts must issue a supplement for changes in earned income that last for less than thirty days under the following conditions:
 - a. The recipient requests a supplement;
 - b. Verification of the reduced earned income amount has been provided no later than ten days after the month in which the reduction occurred; and,
 - c. The recipient has established that the reduction in earned income was beyond the recipient's control. Beyond the recipient's control means that the reduction resulted from:
 - (1) A mental or physical problem that the recipient had;
 - (2) The employer's determination to reduce hours of work or wages; or
 - (3) Other extenuating circumstances under which the recipient could not reasonably be expected to earn the same amount of income.
3. **BUDGETING OF NEW OR INCREASED EARNINGS** – When initial or increased earnings have been reported in a timely manner (i.e., within ten days after receipt of initial or increased earnings) there is a reasonable administrative time period that districts require to process the change. SSDs must not calculate income related overpayments until at least one full semi-monthly payment cycle has elapsed following the receipt and timely report of new or increased earnings.

The following examples will help to illustrate this process:

Example 1: Initial Earnings

John Smith is receiving cash SNA. On May 9, 2009, John starts a job. He receives his first pay on May 16th, which he reports to the SSD on May 25, 2009. The agency closes John's case for June 16th. No overpayment is calculated for the month of May or for the period from June 1, 2009 to June 15, 2009. Note, that if the entire month's rent had been issued on June 1st, there would be an overpayment at closing for the shelter allowance provided for the second half of June.

If the full monthly shelter allowance provided on June 1st was \$180, there would be a \$90 overpayment.

Example 2: Increased Earnings

Mary Jones is a FA recipient. She is working part-time at Wal-Mart. On May 1, 2009, Mary begins working full-time (first pay May 8, 2009) which she reports to the district on May 8th. The district reduces Mary's TA budget for June 1st. No overpayment is calculated for the month of May.

4. **COMPUTATION OF NET APPLICABLE INCOME** – In computing the amount of net applicable income applied against the estimate of needs, ABEL deducts the following from the gross amount of earned income:
 - a. The \$90 work disregard
 - b. If eligible, percentage earned income disregard of the remainder of the earned income (adjusted annually on June 1).
5. **APPLYING AGAINST NEEDS** – The net amount remaining must be applied against TA needs as anticipated income for the initial two months unless one of the following changes occur during the initial two months:
 - a. Loss of employment
 - b. Change in status of the recipient from part-time to full-time or conversely
 - c. A permanent increase or decrease in income
 - d. Permanent increase or decrease in number of hours worked per pay period
 - e. The recipient receives income from an additional source of any kind

6. **WMS INSTRUCTIONS**

Employer-provided sick pay benefits and union-provided sick pay benefits funded by the employer which are received by employed TA recipients are considered earned income, and are to be coded as Earned Income -01 "Salaries, Wages." Sick pay benefits received from private insurance, etc. are to be coded Other/Unearned Income Code 41 "Sick Pay." Severance pay is to be coded as Earned Income source code – 08.

7. **INTERPRETATION**

When the amount of the earned income is clearly established, Office regulations permit the application of certain disregards, deductions and exemptions for computing earned income in order to arrive at the amount of income available for budgeting.

Employer-provided sick pay benefits and union-provided sick pay benefits funded by the employer which are received by employed TA recipients are to be considered earned income, and they are subject to all earned income disregards allowed for regularly employed applicants/recipients, such as the earned income disregard.

G. VARIABLE WAGES/SALARIES AND CONTRACTUAL INCOME

1. **VARIABLE INCOME** – At the time of application, the amount of earned income used to calculate budgetary needs is the average income the district anticipates that the applicant will receive for each month of the initial authorization period. In determining the amount of average income, the income figures is based on an average of the verified income as reported for the preceding four weeks (after disregarding any unusually high or low pays), or an estimate based on the most current information available (i.e., hourly wage x # of weekly hours x 4.3333 weeks) when there has been a change in income or four weeks of wages are not available.
2. **CONTRACTUAL INCOME** – Districts average, over the number of months covered under the contract, income received by individuals paid on a contractual basis (i.e., teachers, cafeteria workers, school aids, etc.). Districts employ this method regardless of whether the employee chooses to receive the income in fewer months than the contract covers or whether the employer pays the wages in fewer months for the convenience of the employer.
3. **BUDGETING OF NEW OR INCREASED EARNINGS** – When initial or increased earnings have been reported in a timely manner (i.e., ten days after receipt of initial or increased earnings) there is a reasonable administrative time period that districts require to process the change. Districts must not calculate income related overpayments until at least one full semi-monthly payment cycle has elapsed following the receipt and timely report of new or increased earnings.

The following examples will help to illustrate this process.

Example 1: Initial Earnings

John Smith is receiving cash SNA. On May 9, 2009, John starts a job. He receives his first pay on May 16th, which he reports to the SSD on May 25, 2009. The agency closes John's case for June 16th. No overpayment is calculated for the month of May or for the period from June 1, 2009 to June 15, 2009. Note, that if the entire month's rent had been issued on June 1st, there would be an overpayment at closing for the shelter allowance provided for the second half of June. For example, if the full monthly shelter allowance provided on June 1st was \$180, there would be a \$90 overpayment.

Example 2: Increased Earnings

Mary Jones is an FA recipient. She is working part-time at Wal-Mart. On May 1, 2009, Mary begins working full-time (first pay received May 8, 2009) which she reports to the district on May 8th. The district reduces Mary's TA budget for June 1st. No overpayment is calculated for the month of May.

Note: Each applicant/recipient is responsible for providing verification of income, and subsequently, the applicant/ recipient is responsible for notifying the local district of any change in income.

4. EXEMPTION FROM ASSIGNMENT

a. EXEMPTION OF EARNINGS OF RECIPIENTS FROM ASSIGNMENT, INCOME EXECUTION AND INSTALLMENT PAYMENT ORDER

All wages, salary, commissions or other compensation paid or payable by an employer to a person while he/she is in receipt of temporary assistance or care or while he/she would otherwise need such assistance or care, shall be exempt from assignment, income execution or from an installment payment order under the laws of this state. This shall apply only so long as the temporary assistance or care continues or would be needed if the assignment, income execution or installment payment order were enforced. The claim of the creditor shall in all other respects remain unaffected.

- b. **LIABILITY OF EMPLOYER** – Any employer who does not comply with this provision after receiving written notification from a social services official shall be liable in an action by the recipient for the amount paid or withheld.

A SSD official shall also be required to notify the employer, in writing, of the termination of the receipt and need for temporary assistance and care of the employee involved. Upon receipt of such notice of termination the employer may commence or resume, as the case may be, payment and withholding under any assignment, income execution or installment payment order whose effectiveness was postponed or suspended.

c. SUGGESTED NOTICES

(1) RECEIPT OF TEMPORARY ASSISTANCE

TO: _____ (Employer)

Please take notice that _____ is a recipient of temporary assistance or care from this department and that his earnings are not subject to levy and execution by a judgment creditor and are exempt from garnishment pursuant to the provisions of Social Services Law, Section 137-a of the Laws of the State of New York.

(Dated) _____

_____, NY Social Services Official _____ County

(2) **TERMINATION OF TEMPORARY ASSISTANCE**

TO: _____ (Employer)

Please take notice that _____ is no longer a recipient of temporary assistance or care from the _____ County Department of Social Services.

(Dated) _____

_____, NY Social Services Official _____ County

5. **STUDENT EARNINGS – EXEMPT**

a. **DEFINITIONS**

- (1) **SCHOOL ATTENDANCE** – means attending school, college or university, a course of vocational or technical training designed to fit a person for gainful employment, or participation in the Job Corps program under the Job Training Partnership Act.
- (2) **PART-TIME** – school schedule equal to at least one-half of a full-time curriculum as determined by the educational authority.
- (3) **FULL-TIME EMPLOYMENT** – Employment that is normally recognized as full-time by industry-wide standards for that occupation in that locality. This does not include any work between school semesters, including during summer vacation.

Districts must disregard the full-time or part time earnings of a dependent child who is a full-time or part-time student when determining eligibility or degree of need for TA. This includes permanently disregarding these earnings when applying the gross income test (18 NYCRR 352.18).

A dependent child is defined in 18 NYCRR 369.2(c) and for these purposes is one who is attending a school, college or university, or a course of vocational or technical training designed to prepare a person for gainful employment or participation in Job Corps. Part-time attendance continues to be defined as a schedule equal to at least one-half of a full-time curriculum as determined by the educational authority involved. Districts must continue to consider Family Assistance essential persons under the age of 21 as dependent children for the purposes of applying this disregard. All gross full-time or part-time earned income of a non-dependent child who is a full-time or part-time student is considered when determining his/her eligibility or degree of need.

6. INCOME FROM FAMILY DAY CARE

- a. Many parents in receipt of TA want to work but are hesitant to leave their children. The option of becoming a family day care (FDC) provider, group family day care (GFDC) provider or an informal child care provider offers an employment opportunity for TA recipients who wish to work and stay at home with their children. By becoming FDC providers, GFDC providers or informal child care providers these TA recipients can enter the work force, reduce or eliminate their need for TA and achieve self-sufficiency.
- b. A number of incentives exist to encourage TA recipients interested in becoming FDC providers, GFDC providers or informal child care providers. Use of these incentives can increase the ability of local districts to recruit and retain regulated FDC providers.
- c. TA recipients who become FDC or GFDC providers can also access a variety of other services which are unavailable to informal child care providers. These services are also available to FDC and GFDC providers who are not in receipt of TA.
- d. In the case of applicants for or recipients of TA and care who provide family day care in their own home for children, income of five dollars per day for each child, excluding their own child may not be applied against the standard of need. FDC also includes informal child care and GFDC.
- e. The employed homemaker providing family day care is entitled to all the earned income disregards (\$90 plus percentage earned income disregard). The earned income disregards are applied after deducting the \$5 per day per child from the gross income.

H. OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES (OPWDD) FAMILY CARE PAYMENTS

OPWDD makes payments to family care providers. The following payments are either totally excluded or counted as unearned income or earned income (self-employment). For earned income, there are certain income disregards which could apply: (\$90 plus percentage earned income disregard) for eligible FA/SNA recipients.

1. Non-Medicaid Transportation Payment – Since this payment is to reimburse the family care provided for non-Medicaid transportation expenses and since this reimbursement rate is at the state mileage rate which is lower than the federal reimbursement rate, this is not considered income but the cost of doing business.
2. Personal Care Payment – This payment is described as compensation for service rendered and, therefore, must be considered earned income and should be budgeted as such in conformance with Office regulation 352.17.
3. Community Client Respite Payment – This payment must be considered room and board income to the provider and must be budgeted as earned income in conformance with Office regulation 352.31(a)(3) (i.e., \$60/month is exempt unless documented expenses exceed \$60 in which case the documented actual expense will be allowed as an exemption).
4. Damage Payment – This payment would not be considered income, provided it was only in an amount equivalent to costs incurred to repair damages caused by clients. Office regulation 352.16(a) would apply.
5. Trial Placement Payment – This payment is described as compensation and must be considered room and board earned income and budgeted as number 3 above.
6. Recruitment Stipend – This payment is described as compensation and must be considered earned income and budgeted as such.
7. Room and Board – This payment must be considered earned income.
8. Annual Vacation Respite – This payment must be considered as earned income and budgeted as such. However, funds actually paid to a secondary provider could be deducted as overhead under Office regulation 352.17.
9. Emergency Respite – This payment would not be considered income, provided it is intended only to cover the reasonable expenses of providing care and is actually paid to a secondary provider.
10. Educational Respite – This payment is treated as item 9 above unless the TA recipient is the secondary provider in which case it must be considered room and board income and budgeted as in item 3 above.
11. Recreational Transportation – This payment would not be considered income provided the amount was only to cover reasonable expenses of transporting clients. However, if

the amount of the payment was calculated as in item number 1 above. The same provider as described in the narrative under item number 1 must be followed.

12. Personal Needs Payments – This payment would not be considered income to the family care provider because it is intended to meet the personal needs of the family care resident and is solely intended for the resident's use.

I. EARNED INCOME DISREGARDS

1. **DEFINITIONS** – Definitions for the purposes of this section are:
 - a. Full-time Employment – Employment that is normally recognized as full-time by industry-wide standards for that occupation in that locality. This does not include any work between school semesters, including during summer vacation. [352.20(a)]
2. The income disregards must be applied sequentially as listed below:
 - a. \$90 Income Disregard – Local districts must disregard the first \$90 of monthly earnings for full and part-time employment (including those not employed throughout the month).
 - b. Earned Income Disregard (EID) – Local districts must disregard a percentage (changes June 1 each year to reflect the most recently issued poverty guidelines) of the remainder for eligible families. After these are budgeted against need, the remainder is the recipient's deficit. This is the grant amount to which the recipient is entitled.

Important Exception – The EID is only available from earned income up until earnings equal the poverty level. This means that individuals living temporarily in hotel/motels, domestic violence shelters, AIDS housing, congregate care facilities, etc. will only receive the EID from earnings up until the poverty level.
3. **NOT BUDGETING THE DISREGARDS** – The \$90 disregard, and the EID, do not apply to the earned income of an individual for any month in which one of the following situations exists:
 - a. The applicant or recipient voluntarily terminated employment or reduced earnings without good cause within the period of 30 days preceding such month.
 - b. The applicant or recipient refused, without good cause, within a period of 30 days preceding such month to accept employment in which the A/R is able to engage, offered by the State Employment Service or any other bona fide offer of employment.
 - c. A recipient failed, without good cause, to make a timely report of new or increased income. Where the local district does not discover the failure to make a timely report until after a payment has been made, the local district will recover the amount of the disregard in accordance with office regulations.

J. SPECIAL SITUATIONS

1. **CLOSED CASES** – An applicant's eligibility for TA must be determined without application of the percentage earned income disregard unless not more than four months have elapsed since such person was off assistance. If eligible without the percentage disregard, the new enhanced disregard is granted in calculating the net earned income.
2. **SELF-EMPLOYED INDIVIDUALS** – These individuals must also receive the income disregards. However, also excluded from their gross income are work expenses related to producing the goods or services and without which the goods and services could not be produced. Not excluded are items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans. [See this Chapter, Section Y.](#)
3. **NON-TEMPORARY ASSISTANCE (NTA) LEGALLY RESPONSIBLE CARETAKER RELATIVES [352.20(e)]** – In determining the amount of a relative's earnings which are available to such relative's temporary assistance dependents, the earned income exemptions and disregards specified in the preceding paragraphs are applied against the earnings of a legally responsible caretaker relative whose needs are not included in the TA grant. When such dependents are applicants for TA, the earned income disregards shall be applied to the earned income of the non-applying, legally responsible caretaker relative, except for a step- parent. The income of a non-applying step-parent is counted as explained in [this Chapter, Section Q.](#)

Note: NTA natural or adoptive parents of FA or SNA children are entitled to have the earnings disregards applied to their earnings just as if they had applied for or were receiving TA in their own right. The amount derived after application of the appropriate earnings disregards and exemptions is the amount of earnings available to meet the needs of the parent and his/her dependents in the household. The way in which this net earned income must be budgeted depends on the reason for the parent's non-inclusion in the TA grant.

However, all the restrictions on the earnings disregards that apply to parents who have applied for or are receiving TA also apply to NTA parents in the household. Thus, if the NTA parent is sanctioned for one of the reasons outlined in the section below, he/she is not entitled to the earnings disregards.

4. **SAFETY NET ASSISTANCE (SNA) PLAN OF SELF-SUPPORT**
 - a. SSDs may, on a selective basis, offer SNA plans of self-support to SNA recipients. A SNA plan of self-support allows a local district to disregard all or a portion of a SNA applicant/recipient's earned income and/or resources when the local district determines that the disregards will lead to the elimination of the recipient from the SNA rolls in a reasonable length of time. SSDs may place very specific restrictions, or adjust the amounts exempted, to meet objectives that the local districts set. "Reasonable length of time" means that the local district would expect the individual

to leave assistance sooner or stay off assistance longer with the disregard than without it. In any event, the approved disregard can last no longer than one year.

- b. A SSD may use SNA plans of self-support to address particular problems germane to the local district. For example, in urban areas a homeless individual may benefit from a plan of self-support which may help that individual secure permanent housing, while in a rural district a plan of self-support may enable an individual to save money towards the purchase of a car for transportation to and from work.
 - c. The amount of the income disregarded may not be considered in determining the amount of income and resources available to the recipient while a plan of self-support is in effect for the recipient. Interest accrued from a plan of self-support is exempt. For information see micro-enterprise section in [this Chapter, Section Y](#).
 - d. Case record documentation – For individual plans of self-support, the case record should contain documentation along the following lines in order to establish the disregards for audit purposes:
 - (1) Be in writing and approved by the appropriate SSD official and tailored to individual members of each case.
 - (2) Detail its duration with beginning and projected end dates and list a definite goal and means of attaining this goal (e.g., to be in effect 1 year to allow a recipient to set aside earned income for the purchase of an automobile for transportation to and from work).
 - (3) Detail the amount of the earned income and/or resources to be disregarded.
 - e. **LOCAL DISCRETION** – The development of plans of self-support and their specific contents and duration are left to the discretion of the SSD official. SSDs are not required to submit procedures for Office approval.
 - f. **FAILURE TO COMPLY** – If a recipient fails to comply with the plan (e.g., stops depositing agreed amounts into a savings account) the local district must end the plan by sending an appropriate notice. If a recipient uses accumulated funds inappropriately, the funds must be recouped or recovered as an overpayment.
 - g. **ABEL INSTRUCTIONS** – If the entire earned income is to be disregarded, it should not be entered on ABEL; or if a portion is to be disregarded, that portion should be subtracted from total income and only the remainder entered on ABEL.
5. **LOANS** – Bona fide loans received by an FA or SNA-FP unit from individuals not liable for their support are exempted as income and as a resource. The basis for this policy is that the borrower has an obligation to repay the loan. Therefore, a loan does not result in a gain to the borrower and should not be considered income or a resource.
- a. A bona fide loan which is received by an applicant or recipient who is eligible for FA or SNA-FP does not count as income or resources when the lender is not legally liable for the support of a member of the assistance unit. Local district staff must evaluate the evidence to determine and document in the case record that the funds are indeed a loan.

- b. **DOCUMENTATION OF A BONA FIDE LOAN** – Funds can be considered a bona fide loan when the applicant or recipient submits to the local district one of the following types of documentation:
- (1) A signed written agreement which states that a loan was obtained from an individual or establishment engaged in the business of making loans.
 - (2) A signed written agreement between a lender not normally engaged in the business of making loans and a borrower, which expresses the borrower's intent to repay funds within a specified time.
 - (3) A signed written agreement between a lender not normally engaged in the business of making loans and a borrower, which expresses the borrower's express intent to repay either by specifying real or personal property as collateral or by promising repayment from anticipated income at the time that such income is received.
 - (4) [Attachment B of 92 ADM-43 "Loan Repayment Agreement"](#) may be used if other written documentation is not available that establishes that the money is a bona fide loan, the borrower and lender can complete this form to document the loan.

6. LOAN EXAMPLES

Example 1

Applicants (FA): Mr. and Mrs. North and their children applied for TA when Mr. North lost his job. The case category is FA. The household has rent expenses that exceed the district shelter maximum. The worker discussed the amount of the shelter allowance with the family and asked how they will meet the excess. Mrs. North asked her mother, Mrs. West, for help with the excess rent. Mrs. West agreed to lend the family the excess rent amount monthly provided they agree to repay her when Mr. or Mrs. North finds a job and the family is no longer on assistance. Mr. North and Mrs. West put their agreement in writing and a copy is provided to the agency. Since Mrs. West is not a legally responsible relative, the loan for the excess rent is not counted when the family's eligibility or degree of need is determined. The money continues to be disregarded as long as it continues to be a loan.

Example 2

Recipient (FA): Ms. South and her child had been TA recipients for almost one year when a worker noticed that the rent obligation exceeded the household's shelter allowance by \$110. When asked how she was paying her rent, Ms. South said her grandmother, Mrs. East, has loaned her the excess amount each month. The worker explained that she needed written verification that the money is a loan that she must repay. Ms. South presented a statement verifying that the money is a loan. The money is not counted. Ms. South anticipates that the support that will be coming from her ex-husband will make the family ineligible for TA shortly. She will begin repaying the loan at that time.

Example 3

Applicant (SNA-FNP): Mr. and Mrs. Farr applied for TA for themselves and their 18 year old daughter on May 2. Mr. Farr's sister, Mrs. Close, has been lending the family money to meet their living expenses. Mrs. Close loaned the Farr's \$600 in the month of May. She has told her brother that she can lend him no more money. Even though the money is a bona fide loan, because the case category is SNA-FNP, the money must be counted as income. The couple is ineligible for TA until June.

Example 4

Recipient (SNA-FNP): At recertification, Mr. Hie, a single adult in receipt of TA, told his eligibility worker that he received a \$100 loan the previous month from his friend, Mr. Lowe, and he presented documentation that the money was a loan. Since Mr. Hie receives temporary assistance in the SNA-FNP category, the money is not exempt. The worker explained to Mr. Hie that the money must be counted in the month it was received and an overpayment must be calculated for that month.

7. STUDENT LOANS

- a. Student loans received by an undergraduate student continue to be disregarded as income or resources regardless of case category.
- b. Student loans received by a graduate student will be disregarded as income or resources unless the graduate student is in receipt of or applying for Safety Net Cash Assistance in a non-federally participating category of assistance (SNA-FNP Case Types 16 or 17). Student loans received by a graduate student whose case category is SNA-FNP Case Types 16 or 17 continue to be treated as income or resources unless the loan is obtained and used under conditions which preclude its use for meeting current living expenses.

8. **REVERSE ANNUITY MORTGAGES (RAM)** – Qualifying individuals can borrow against the equity in their homes. Usually the household receives monthly payments, less interest and fees, for a set period. The mortgage holder will hold a lien on the property until repayment is completed. For FA and SNA-FP, the proceeds received from the RAM are exempt and disregarded as income and resources in determining eligibility and degree of need. For SNA-FNP, the proceeds received from the RAM are counted as unearned income. Code 90- Other/Unearned Income Source- allows appropriate budgeting of the monthly payments. [See this Chapter Section M. \(01-INF-8\)](#)

K. EXEMPTIONS AND DISREGARDS – TRAINING INCENTIVES PAYMENTS

1. **WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) (Formerly known as the Workforce Investment Act (WIA) or the Job Training Partnership Act [JTPA])** – WIOA is a program and delivery system to train economically disadvantaged persons and others for permanent, private sector employment. One of the programs under WIOA, the Job Corps is a no-cost education and vocational training program administered by the U.S Department of Labor that helps young people ages 16 through 24 improve the quality of their lives through vocational and academic training.
2. **TYPES OF PAYMENTS FOR PARTICIPANTS** – WIOA may provide for the following types of payments:
 - a. Wages for work experience and wages for on-the-job training.
 - b. Need-based payments provided in accordance with a locally developed formula or procedure to enable individuals to participate in a training program.
 - c. Allowance payments for supportive services which are in cash or in-kind to enable an individual, who is eligible for training but who cannot afford to pay for such services, to participate in a training program. Such payments may cover transportation, health care, child care, meals, etc.
 - d. Compensation in lieu of wages provided to participants in tryout employment at private-for-profit work sites or at public and private- non-profit work sites.
 - e. Payments to Job Corps participants for allowances to meet personal necessities and for re-adjustment allowances for transition from the Job Corps Center to the community.
3. **TREATMENT OF WIOA (formerly WIA or JTPA) PAYMENTS**
 - a. **ADULTS ONLY**
 - (1) Wages paid to a WIOA participant are treated as earned income to the applicant/ recipient for both financial eligibility determinations and the gross income test.
 - (2) Payments for supportive services paid under WIOA to an applicant or recipient of FA or SNA-FP to defray costs attributable to training, such as transportation, meals, child care; etc., are exempt and disregarded in determining eligibility (including the gross income test) or degree of need.
 - (3) With respect to unearned income (other than supportive services) under WIOA, a determination must be made whether the money represents available income or whether the money is restricted to a purpose which does not specifically and materially enhance the recipient's health and welfare.
 - (4) The earned income disregards are also applied to WIOA wages.

- b. **DEPENDENT CHILDREN ONLY** – Earned and unearned income derived through participation in a program carried out under the WIOA and paid to a dependent child shall be exempt and disregarded as income and resources in determining eligibility and degree of need of a household containing the dependent child.
 - (1) All the earned income of an FA/SNA-FP dependent child who is a student is disregarded. WIOA vocational or technical training and Job Corps participation qualifies as school attendance. FA essential persons under age 21 are considered dependent children for purposes of the student disregard.
 - (2) All unearned income (including payments for supportive services) derived through participation in a program carried out under WIOA is disregarded for dependent children. ("All Commissioner" Letter 9/12/85)
- 4. **YOUTH EDUCATION EMPLOYMENT AND TRAINING PAYMENTS** – All payments to TA applicants/recipients under the following programs are completely exempt for "ALL" TA budgeting purposes:
 - a. **DEPARTMENT OF LABOR**
 - (1) **Adolescent Vocational Exploration Program (AVE)** – The AVE program is designed to assist economically disadvantaged youths, particularly youth ages 14-15, but including youth up to ages 17, in defining and clarifying their career and educational goals, thereby enhancing their future employability. It is a preventive and remedial program that provides youth with meaningful work experiences, increases their motivation to assume early responsibility for career planning and preparation, educational goals, and fosters positive attitudes toward self and the world of work.
 - (2) **Another Chance Initiative for Education, Vocation or Employment (ACHIEVE)** – ACHIEVE is designed to serve economically disadvantaged out-of-school youth between the ages of 16 to 21, with special emphasis on 18-19 year olds. Enrollment preference is given to youth who are homeless; teen parents; or from FA families. The goal is to assist youth in defining career goals and developing career planning, decision making and job seeking foundation skills and competencies, the attainment of the GED certificate, improving attitudes and expanding career options through education, employment and training activities.
 - (3) **The JOB Opportunity and Basic Skills (JOBS) for Youth Program** – This is a youth apprenticeship program for 11th and 12th graders. The program offers a program of study which integrates academic curriculum, work related instruction, and supervised on-the-job training. It leads youth into entry of full-time, registered apprenticeships exclusively or in combination with post secondary studies.
 - (4) **The Progressive Adolescent Vocational Exploration Program (PAVE)** – The PAVE program is for disadvantaged in-school youth ages 14-21 with special emphasis on 15-18 year olds. PAVE seeks to expand career awareness, prevent dropout, develop foundations skills and competencies and provide alternative career paths especially for those youth interested in apprenticeship, entrepreneurship, and post-secondary education.

(5) **Youth Work Skills Program (YWM)** – The goal of this "crisis intervention" program is to improve the basic educational skills, job seeking capabilities and overall employability of "out-of-school" economically disadvantaged youth; ages 16-21 with special emphasis on 18-19 year olds; with reading levels (measured by standardized achievement tests) at or below the fifth grade level.

- b. **OFFICE OF PEOPLE WITH DEVELOPMENTAL DISABILITIES - YOUTH OPPORTUNITY PROGRAM (YOP)** – YOP is a year-round part-time structured work experience program. This program emphasizes youth development and career direction for students between 16 and 21 years of age who are enrolled in high school or equivalency programs and who have a proven need for financial assistance and motivation.
- c. **COMMUNITY COLLEGES – YOUTH INTERNSHIP PROGRAM (YIP)** – YIP is currently administered at several community colleges throughout New York State. The purpose of YIP, an employability training and work experience program, is to improve the employability of unemployed, out of school, economically disadvantaged youth between the ages of 16 and 21 years of age.

5. WMS INSTRUCTIONS

The following codes allow for appropriate TA budgeting when a household member is participating in a WIOA (WIA or JTPA) program:

- a. Earned Income Source Code 40 - Earnings from Workforce Investment Act Program.

L. INCOME EXEMPTIONS

The following income and resources shall be exempt and disregarded in determining eligibility or degree of need for TA:

1. **RELOCATION ADJUSTMENT PAYMENTS** – received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
2. **LOANS UNDER TITLE III OF THE ECONOMIC OPPORTUNITY ACT** – received by a family.
3. **TRUST FUNDS OF AN INFANT** – under \$2,000 when the person is under 21 years of age and when the trust funds are subject to the order of the court and for the support of such person.

No application to the court need ordinarily be made for the release of trust funds when the value of the trust, combined with other countable resources, is less than the applicable resource limits (\$2,000/\$3,000).

If the value of the trust, when combined with other countable assets, exceeds the applicable resource limits, the social services district must determine if the terms of the trust allow the trust funds to be used for basic maintenance purposes and if the value of the trust warrants an application to the courts. If so, an application to the court must be made for the release of the funds that exceed such resource limits.

4. **FOSTER CARE PAYMENTS** – Payments received for a child boarded out in the home of a recipient by an agency or a relative of the child shall not be considered in determining eligibility or degree of need for TA: estimating needs of the household or applying income.

Note: If the payment ceases or is less than the additional cost of boarding the child, the matter shall be brought to the attention of children's services.

5. **PAYMENTS FOR FAMILY DAY CARE OF A CHILD** – Payments of five dollars per day in the case of an employed homemaker providing family day care in his/her home for each child excluding his/her own.
6. **INCOME FROM GARDEN OR LIVESTOCK** – when the produce is for the exclusive use of the recipient and his/her dependents and when no provision has been made in the grant for the cost of production.
7. **MEALS AS INCOME** – are not considered as income when school meals are furnished free. **But**, in other instances, when more than one meal per day is furnished, or when the recipient receives an allowance for meals away from home, the meals are considered as income in-kind.
8. Supplemental Nutrition Assistance Program (SNAP) under the Federal supplemental nutrition assistance program.
9. Donated foods under the Federal donated food program.

10. The value of benefits or assistance under the WOMEN, INFANTS AND CHILDREN (WIC) program.
11. **ADOPTION SUBSIDY PAYMENTS** – An adoption subsidy payment received on behalf of a child not receiving TA must be excluded as income or resources when determining the amount of the TA grant for the remaining family members, except in cases where including the child in the TA household would increase the amount of the grant paid to the family. In such instances, the child must be included in the TA household and the adoption subsidy payment counted as income when determining the amount of TA.
12. **VISTA PAYMENTS** – Any payments received by applicants for or recipients of TA who are volunteers under part A of title I of Public Law 93-113 (VISTA) must be exempted and disregarded as income and resources in determining eligibility and degree of need; provided; however, that all of the VISTA payment is to be counted as income when the director of the ACTION agency determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage.
13. **PAYMENTS UNDER TITLES II AND III OF P.L. 93-113 for:**
- a. Volunteers in the retired senior volunteer foster grandparents, senior health aide and senior companion programs under Title II of the Domestic Volunteer Services Act.
 - b. Volunteers in the Services Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) under section 8(b)(1) of the Small Business Act.
 - c. Participants in the Senior Companion and senior health aide programs.
- Note: Compensation for expenses incident to employment incurred by those individuals in a, b, and c above are also exempt and disregarded.**
14. **HUD COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS** – received by an applicant or recipient from the Department of Housing and Urban Development (HUD) community development block grants.
15. **Disregard FIRST \$100/\$200 PER MONTH CURRENT CHILD OR COMBINED CHILD AND SPOUSAL SUPPORT INCOME** – the first \$100.00 per month of current child or combined child and spousal support income received directly by households (including support payments collected and paid to the family by the child support enforcement program) applying for or receiving TA with one active child on the TA case must be disregarded in the determination of eligibility or standard of need.

Households applying for or receiving TA with two or more active children on the TA case must receive a disregard of the first \$200.00 per month of current child or combined child and spousal support received when determining TA eligibility or standard of need.

For additional information on child support pass-throughs, see [10 ADM-4](#) and [Chapter 9, Section S](#)

16. **ENERGY ASSISTANCE PAYMENTS** – Any federal energy assistance payments.
17. **SUPPORT AND MAINTENANCE ASSISTANCE** – Including Third Party Home Energy Assistance – which meets the following criteria:
- The support and maintenance is based on need and either:
- a. The assistance is furnished in kind by a private non-profit agency, or
 - b. The assistance is furnished in cash or in kind by one of the following:
 - (1) A supplier of home heating oil or gas
 - (2) An entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity
 - (3) A municipal utility providing home energy
18. **MANDATORY G.I. BILL DEDUCTION** – The mandatory portion which is deducted from a military paycheck for the first year of service to help fund the G.I. Bill. This exclusion applies only to the monies deducted during the period that they are mandatory (i.e., the first year).
- a. **UPSTATE DISTRICTS** – A new A.F.A. Code (215) is now available to support re-budgeting when the mandatory deduction period expires.
 - b. **UPSTATE AND DOWNSTATE DISTRICTS** – Workers should also exclude the amount of the G.I. Bill mandatory deduction from the gross income amount entered on ABEL. In addition, staff should also be instructed to set a budget end date to indicate the month in which the mandatory deduction is scheduled to end.
 - c. **NEW YORK CITY** – Input of a budget end date will result in the listing of these cases on the Report of Expiring Budgets (WINR 0048).
19. Income derived from participation in the Progressive Adolescent Vocational Exploration Program (PAVE), participation in the program Another Chance Initiative for Education, Vocation or Employment (ACHIEVE) Program, Adolescent Vocational Exploration (AVE) Program, Job Opportunity and Basic Skills (JOBS) for Youth Program and the Youth Work Skills (YWS) Program.
- Note: Dependent children in non-federally funded cases are not covered by this exemption. Normal student earned income disregards apply to such participants.**
20. **INDIVIDUALS OF JAPANESE ANCESTRY** – Payments to individuals of Japanese ancestry in restitution for wartime relocation and internment (P.L. 100-383, Section 105).
21. **ALEUTS** – For Federally Funded TA only, payments to natives of the Aleutian or Pribilof Islands in restitution for wartime relocation and internment (P.L. 100-383, Section 206).

22. **FEDERAL EARNED INCOME TAX CREDITS (EITC)** – EITC is exempt as income or a resource whether received as a refund or as an advance payment.

23. **AGENT ORANGE PAYMENTS**

- a. Under the Agent Orange Settlement Fund;
- b. From any other fund established pursuant to the settlement in the In re Agency Orange Product Liability litigation; or
- c. From court proceedings brought for personal injuries sustained by veterans resulting from exposure to dioxin or phenoxy herbicides in connection with the war in Indochina in the period January 1, 1962 through May 7, 1975.

Note: Any TA household which documents that it is owed benefits because it was denied or underpaid TA after January 1, 1989 due to the receipt of exempt Agent Orange monies must have corrective action payments made to it.

24. Radiation exposure compensation. For FA/SNA-FP only, any payments received by applicants for or recipients of FA/SNA-FP made under the Radiation Exposure Compensation Act (P.L. 101-426) for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining are exempt and disregarded as income and resources in determining eligibility or degree of need for FA/SNA-FP benefits.
25. Seneca Nation Settlement Act – Under Public Law 101-503 and the Memorandum of Understanding between the Seneca Nation and the State, Settlement Act monies are exempt from consideration in determining eligibility or benefits for any State or federally funded social services program. These monies must not be counted as income or resources now or at any later point in time.
26. Income exempted under a SNA Plan of Self-Support.
27. For Federally Funded TA only, bona fide loans from non-legally responsible persons. [See this Chapter, Section K.](#)
28. Educational grants and loans. [See this Chapter, Section K.](#)
29. Family Self-Sufficiency Program (FSS) escrow account funds administered by HUD. [See TASB Chapter 17, Section D](#) for more information.
30. For Federally Funded TA only, payments to individuals under:
- a. The Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 (Public Law 100-707)
 - b. Comparable disaster assistance provided by states, local governments and disaster assistance organizations.
31. For Federally Funded TA only, payments to individuals under the Alaskan Native Claims Settlement Act (ANCSA) distributions.

- a. Cash, to the extent that it does not, in the aggregate, exceed \$2,000 (\$3,000 aged 60 and over) per individual per year;
 - b. Stock;
 - c. A partnership interest;
 - d. Land or an interest in land; and
 - e. An interest in a settlement trust.
32. For Federally Funded TA only, payments to individuals under the Indian tribe or tribe member trust funds held by the Secretary of the Interior. All funds that are held in trust by the Secretary of the Interior for an Indian tribe or are to be distributed per capita to members of that tribe.
33. HIV Peer Education Stipends - For FA and SNA-FP, stipends provided to peer educators are excluded as income for TA purposes.
- a. AmeriCorps Payments. For the treatment of AmeriCorps payments, [see this Chapter, Section S](#).
 - b. Supplemental Needs Trusts (SNT) – An SNT is a discretionary trust established for the benefit on an individual of any age with a severe and chronic or persistent disability designed to supplement, not supplant, government benefits or assistance.
- Income earmarked for a specific purpose is exempted from TA unless it specifically supplements benefits provided for in the TA standard of need. Exempt items may include, but are not limited to: education expenses, medical expenses (not covered by Medicaid or other health insurance), uncovered child care costs, expenses incidental to the special needs of the SNT recipient, legal expenses, etc.
- Some examples of non-covered disbursements include: cash expenditures for daily living expenses, vacations, hobbies, recreation or entertainment, etc.
34. Reverse Annuity Mortgages (RAM) – Qualifying individuals can borrow against the equity in their homes. Usually the household receives monthly payments, less interest and fees, for a set period. The mortgage holder will hold a lien on the property until repayment is completed. For FA and SNA-FP, the proceeds received from the RAM are exempt and disregarded. For SNA-FNP, the proceeds received from the RAM are counted as unearned income.
35. Income of step-parents that is disregarded as specified in [this Chapter 18, Section P](#).
36. Income and resources of SSI recipients when the household is categorically eligible for FA (case type 11), including SNA-FP (case type 12). Additionally, for those households who would have been categorically eligible for FA, except that they have exhausted the State 60 month time limit for the receipt of cash assistance (“MOE eligible”), the SSI recipient’s income must not be counted in determining eligibility or degree of need.

Note: Lump sum retroactive SSI payments made to FA and SNA applicants/recipients, without continuing SSI eligibility, must not be counted as income or a resource for eligibility purposes in the month paid or the following month.

- 37 Educational grants and loans ([see this Chapter, Section J](#))
- 38. Unavailable income from assigned property or from attached bank accounts.
- 39 Monies received for a child boarded out in the home of the applicant/recipient by an agency or a relative of the child unless there is a profit intended.
- 40. \$90 Income Disregard – Local districts must disregard the first \$90 of monthly earnings for full and part-time employment (including those not employed throughout the month).
- 41. Earned Income Disregard (EID) – Local districts must disregard a percentage (changes June 1 each year to reflect the most recently issued poverty guidelines) of the remainder for eligible families. After these are budgeted against need, the remainder is the recipient's deficit. This is the grant amount to which the recipient is entitled.
- 42. TA income and benefits
- 43. Income that is excluded later by provisions of law and regulations, such as exempt payments received under the Workforce Investment Act and adoption subsidies. Adoption subsidies are excluded and the child is not included in the TA case, if it is a financial benefit to the family to do so. Otherwise, the child is counted in the TA case and the adoption subsidy is counted as unearned income.
- 44. Any payments made pursuant to P.L.101-503 (The Seneca Nation Settlement Act) are exempt and disregarded as income and resources in determining eligibility or degree of need for TA.
- 45. HIV Peer Education Stipends – Stipends provided to peer educators are excluded as income for TA purposes.
- 46. VA payments made to or on behalf of certain Vietnam veterans' natural adult or minor children for any disability resulting from spina bifida suffered by such children are exempt and disregarded as income or resources in determining eligibility or degree of need for SNA and federally funded public assistance benefits.

M. CHILD SUPPORT DISREGARD AND PASS-THROUGH

1. Any amount of child or combined child and spousal support income paid to the household pursuant to Office regulation 347.13(b)(4) must be treated as income in the month after the month in which the payment is received by the household.
 - a. Child or combined child and spousal support income is entered in the TA ABEL budget based on how the support is received by the applicant/recipient.
 - b. Child or combined child and spousal support income received by an applicant/recipient as a result of:
 - (1) Voluntary support;
 - (2) Court-ordered support made payable directly to the applicant/recipient; or
 - (3) Court-ordered support made payable through the SCU
 - c. The payment is made only with respect to current support collections, not arrears.
 - d. Child or combined child and spousal support income collected by the child support enforcement program and retained by the TA unit on behalf of a TA recipient is known as **assigned support** and must be budgeted using unearned income source code “13” (*Child/Spousal Assigned to Agency*). *Assigned support* must equal the court-ordered obligation amount when entered in the ABEL budget.
 - e. Court-ordered support made payable through the SCU is known as **direct support** and must be budgeted using unearned income source code “06” (Child Support Payment). TA applicants receiving child or combined child and spousal support income in the household will always be in receipt of direct support at the time of application.
 - f. For the purposes of determining the appropriate pass-through payment and disregard amount, a child is defined as any individual under the age of twenty-one who is an active member of the TA case, including those individuals subject to a pro rata or IV-D sanction. Additionally, essential persons (EPs) and heads of household who are under the age of twenty-one and on the TA case must be considered as a child for the purposes of determining the number of children in the TA household.
 - g. When determining the appropriate pass-through payment and disregard amount for child or combined child and spousal support income, TA units must first confirm that the TA household is in receipt of child or combined child and spousal support and then determine the number of active children in the TA household. It is not necessary for the TA unit to consider which member of the TA household the support payments are received for when determining the pass-through payment and disregard amount.

2. DISREGARD

Disregard is an amount of child support income received by a family equivalent to the pass-through payment that is not considered by TA for the purposes of determining eligibility.

- a. The first \$100.00 per month of current child or combined child and spousal support income (including support payments collected and paid to the family by the child support enforcement program) received directly by households applying for or receiving TA with one active child on the TA case must be disregarded in the determination of eligibility or standard of need. Households applying for or receiving TA with two or more active children on the TA case must receive a disregard of the first \$200.00 per month of current child or combined child and spousal support received when determining TA eligibility or standard of need.
- b. Households with child support income reflected in the ABEL budget with unearned income source code “06” will have the benefit of up to the first \$100.00 exempt from countable income for the household, if the ABEL budget contains an **EXEMPT** amount of \$100.00. If the ABEL budget contains an **EXEMPT** amount of \$200.00, up to the first \$200.00 will be exempt from countable income for the household.

Example 1 – Direct support received and budgeted

Jane Jones and her two children, ages seventeen and ten, apply for TA. Ms. Jones reported that she has no income other than the \$250 monthly child support payment she receives directly from the father of the children on the first of every month. The first \$200.00 of child support income must be disregarded when determining eligibility or standard of need since there are two children applying for TA. The remaining amount is applied as income.

NOTE: Cases which include both direct and assigned support in the TA budget are entitled to only one disregard of up to \$100.00 or \$200.00 based upon the number of children in the TA household. For these cases, the TA unit must use the appropriate IV-D indicator code of “X” on Screen 1 of the Welfare Management System (WMS).

- c. Child support income received directly by the household must be included in the TA budget until the child support enforcement program is able to accept and account for the support. Once the TA unit becomes the beneficiary of an order of support (i.e., direct support becomes assigned support), the district must immediately change the unearned income source code “06” to unearned income source code “13”, and not wait until the expiration of the effective date of the current TA budget. The effective date of the new stored budget must be the first day of the month following the month in which the SCU notifies the TA unit that support is being directed to the district and the agency is now the beneficiary of the support order. The SCU must notify the TA unit of this information through the [LDSS-2859 Information Transmittal](#). (See [10-ADM-01](#)).

3. PASS-THROUGH

Pass-through means an assigned support collection applied to current support that is paid to a family on assistance.

- a. The first \$100.00 of current child or combined child and spousal support income assigned and collected each month by the child support enforcement program, or up to the current support obligation, whichever is less, must be paid as a pass-through payment to TA households with one child active on the TA case. The pass-through payment will increase to an amount up to the first \$200.00 per month of current child or combined child and spousal support income assigned and collected each month by the child support enforcement program, or up to the current support obligation, whichever is less, for TA families with two or more children active on the TA case.
- b. For TA cases with assigned support in the TA ABEL budget, the monthly IV-D MRB/A process will issue pass-through payments up to the first \$100.00 or \$200.00 where current child or combined child and spousal support income was collected. Households with child or combined child and spousal support income received by the child support enforcement program and reflected in the ABEL budget with unearned income source code “13” will receive a pass-through payment of up to the first \$100.00 of current child or combined child and spousal support collected, or up to the current support obligation, whichever is less, if the budget contains an **EXEMPT** amount of \$100.00. If the ABEL budget contains an **EXEMPT** amount of \$200.00, the household will receive a pass-through payment of up to the first \$200.00 of current child or combined child and spousal support collected or up to the current support obligation, whichever is less.
- c. The IV-D MRB/A process is a monthly automated process which determines, authorizes, and issues IV-D pass-through payments to eligible TA households and re-budgets affected SNAP cases due to IV-D payment income. Automated pass-through payments issued as a result of the IV-D MRB/A process will be issued using Payment Type Codes “D1”. Pass-through payments issued manually must be issued using Payment Type Code “D1” and Special Claiming Category Code “N – Non-reimbursable”.

4. MRB/A

- a. The IV-D MRB/A process is a monthly automated process which determines, authorizes, and issues IV-D pass-through payments to eligible TA households and re-budgets affected SNAP cases due to IV-D Payment income. Cases which are categorized as “eligible” for an automated pass-through payment are reported on the *IV-D MRB/A Eligible* list and the pass-through payment will be issued systematically during the IV-D MRB/A monthly process. Any cases where an IV-D payment cannot be determined and/or authorized systematically will appear on the *IV-D MRB/A Exception* list which require manual review and actions.
- b. The IV-D MRB/A process uses monthly current support collection data supplied by the CSMS monthly disregard file to systematically authorize IV-D pass-through payments to TA households for any one specific support month.

- c. The IV-D MRB/A process categorizes cases as:
- (1) Eligible for an automated IV-D payment (these cases will be placed on the *IV-D MRB/A Eligible* list [WIV5CI]); or
 - (2) An exception when the case or budget information is unacceptable for automated action. (These cases will be placed on the *IV-D MRB/A Exception* list [WIV5CX].) For the various exception reasons that may appear on the *IV-D MRB/A Exception* lists, please refer to the Automated Budgeting and Eligibility Logic (ABEL) Manual available on CentraPort under *Resources*.
- d. Cases that appear on the *IV-D MRB/A Exception* list will be sorted by **unit**. Any exceptions that appear on the *MRB/A IV-D Exception* list must be reviewed by the SCU. If the SCU identifies a case that is eligible for a pass-through payment, the SCU must provide the TA unit with the information required on the LDSS-4937 *Manual Child Support Pass-Through Payment Determination Worksheet* ([10 ADM-04](#); [Attachment 1](#)) and the TA unit will complete the determination as to the appropriate pass-through payment amount and take any other actions necessary. All other exceptions on the *IV-D MRB/A Exception* list are to be resolved by the TA unit.
- e. TA must review the eligible and exception lists for cases with a “TA Warning” message in the “Message” column. This message identifies TA cases on whose behalf the previous month’s current support collections equaled or exceeded the TA deficit amount in ABEL. TA must use the “total support collected” amount reported, and any additional information proved by the Child Support Enforcement Unit (CSEU) to re-determine the household’s TA eligibility.
- f. CSEU also must review the monthly eligible and exceptions lists for cases with a “TA Warning” message indicating that current support collections equal or exceed the TA deficit amount. Although individual referrals to TA are not required for every “TA Warning” case because TA will receive and take action on the MRB/A reports, CSEU must refer to TA any additional pertinent information that will assist TA to make an accurate re-determination of these households’ continuing eligibility for TA. Examples of additional information that should be referred include:
- (1) Cases for which the support order has been reduced, suspended or terminated subsequent to the collection month reported.
 - (2) Cases for which CSEU has reason to believe that full payment of the current support obligation will not continue (i.e., the obligor has failed to make payments in the current month or has terminated employment).
- g. Unlike the *IV-D MRB/A Eligible* list, the *IV-D MRB/A Exception* list does not report SNAP amounts because the SNAP portion of the case has not been re-budgeted by the IV-D MRB/A process. TA units must resolve the exceptions and take necessary SNAP re-budgeting and/or reauthorization action.
- h. Printed *IV-D MRB/A Eligible and Exception* lists are transmitted through the Benefit Issuance and Control System (BICS) each month. In addition, the *IV-D MRB/A Eligible and Exception* lists results are available on WMS through the *IV-D Inquiry*

selection on the ABEL menu. The lists are in the same format regardless of the medium chosen for display.

5. SPOUSAL SUPPORT

All TA recipients who have spousal support orders must have their spousal support income budgeted as unearned income source code "02" (*Alimony/Spousal Support [Non-Arrears]*). TA budgets no longer apply any income exemptions to alimony or spousal support entered in the ABEL budget as unearned income source code "02" and will therefore create a reduction in the TA grant.

6. LOST OR STOLEN PAYMENT

- a. If a client reports to a SSD that the support pass-through payment has been lost or stolen, the SSD shall follow the procedures outlined in Office regulation 352.7(g)(1)(i).
- b. When a recipient claims that he/she has not received electronic benefits, SSDs must follow the instructions in Office regulation 352.7(g)(2).
 - (1) If a valid issuance transaction occurred, SSDs must not replace benefits.
 - (2) If a SSD cannot determine that a valid issuance transaction occurred, benefits must be restored in accordance with 352.31(f).
 - (3) If the SSD establishes that the recipient endorsed and cashed the check or redeemed benefits that the recipient claimed was stolen and which has been replaced, the amount of such check or benefit redemption shall be recouped from the recipient in accordance with Office regulation 352.31(d).
- c. If the pass-through payment is made to the wrong individual, a payment to the correct individual shall be issued immediately and recovery or recoupment from the incorrect individual shall be made in accordance with Office regulation 352.31(d).

NOTE: When an overpayment of child support occurs, the overpayment should be recouped from the recipient's grant in accordance with Office regulation 352.31(d). Recoup code 5 (upstate) will identify the recovery amount as IV-D monies.

7. PASS-THROUGH INQUIRIES

- a. **TEMPORARY ASSISTANCE** – To the extent possible, TA must respond to and resolve recipients' inquiries about pass-through payment amounts and dates. If a recipient's questions involve the dates and amounts of support collections, the CSEU must assist TA to resolve the inquiry.

When an individual disagrees with the amount of pass through payments received or with the SSD's response to an inquiry, the individual must be referred to the desk review process, as explained in paragraph #9 below.

- b. **CSEU** – CSEU must respond to and, to the extent possible, resolve TA workers' pass-through inquiries concerning dates and amounts of support collections.

When an individual disagrees with the CSEU/SCU's support collection records on which pass-through payment amounts are based, the individual must be referred to the desk review process, as explained in paragraph #9 below.

8. DETERMINATION OF ACTUAL DATE OF COLLECTION OF SUPPORT PAYMENTS

The date of receipt for support payments is the date on which the payment is received by the support collection unit.

NOTE: TA households are notified that current support payments have been received by the SSD SCU on their behalf via LDSS-3677: "report of Support Collected". These monthly mailers are printed and mailed by the Office in conjunction with the IV-D MRB/A.

9. DESK REVIEW PROCESS

Individuals who dispute the amount or claim non-receipt of a child support pass-through payment may request a "desk review". The Office conducts the desk review and reports its findings to the individual who requested the review and to the SSD's pass-through liaison.

The booklet [LDSS-4148A: "What You Should Know About Your Rights and Responsibilities"](#) includes information for TA applicants/recipients about the desk review process. The mailers, [LDSS-3677](#) and [LDSS-3677 NYC: "Report of Support Collected"](#), advise recipients how to request a desk review.

In addition, TA and CSEU staff must inform recipients who are dissatisfied with a determination regarding a pass-through payment that they may request a desk review by:

- a. Writing to:

New York State Office of Temporary And Disability Assistance
Administrative Hearing – Pass-Through
P.O. Box 1930
Albany, New York 12201

OR

- b. Calling: (518) 474-4100 (Upstate)
(212) 383-1690 (NYC)

As part of a desk review, the department reviewer may contact the appropriate SSD's pass-through liaison. This contact person is responsible for providing the necessary TA eligibility and support collection data to the reviewer expeditiously, and ensuring that all pass-through payments which the reviewer determines are owed to the family are paid promptly.

10. WMS INSTRUCTIONS

- a. **ABEL** – The first \$100.00 of any current child support payment (or combined child and spousal support payments) or up to the current support obligation collected each month, whichever is less, received in a month by a TA household with one individual under the age of 21 who is active on the TA case must be passed through or disregarded when determining TA eligibility degree of need. The first \$200.00 of any current support payment or combined child and spousal support payments or up to the current support obligation collected each month, whichever is less, received in a month by a household with two or more individuals under the age of 21 who are active on the TA case must be passed through or disregarded when determining TA eligibility or degree of need.

For spousal/child support payments coded 13, (i.e., assigned to Agency), the \$100 or \$200 is deducted before the GIT. If the case fails the GIT, \$100 or \$200 of the spousal/child support income is shown as exempt. If the case passes the GIT, the \$100 or \$200 exemption will not be readily apparent as the entire spousal/child support amount entered shows as exempt on eligible cases and none of the income is counted for SNAP purposes. After the \$100 or \$200 disregard payment has been made, that payment must be budgeted as income in the following month for SNAP. This income would be entered on ABEL with Unearned Income Source Code "87" (IV-D Payment). The first \$100 or \$200 of current support payments passed through to the recipient is countable as income for supplemental nutrition assistance program purposes. The remainder of child support, or child and spousal support payments received by the IV-D agency under an assignment continue to be excluded as income to the supplemental nutrition assistance program household.

A Warning ("W" in the Surplus/Deficit (S/D) field of the TA output screen) will show on ABEL when the assigned spousal/child support - Code 13 - exceeds the deficit by more than \$100.

- b. **Authorization** – Automated pass-through payments issued as a result of the IV-D MRB/A processed will be issued using payment type "D1" (IV-D Payment). This payment type must be entered with Special Claiming Code "N" (Non- Reimbursable).
- c. **Interface with automated support collection unit** – The Office enhanced the WMS Automated Budgeting and Eligibility Logic to interface with the Automated Support Collection Unit (ASCU) subsystem, which identifies those cases with support payments. WMS applies the \$100 or \$200 disregard provision by automatically authorizing, to the client, each month, the amount of support money received that month, up to \$100 or \$200. New SNAP payment amounts, too, are budgeted and authorized when the change in the support amount affects the amount of the SNAP benefit. Besides reducing the SSD workload, this central authorization of payments and SNAP benefits ensures that uniform standards are applied, and that those recipients who receive support payments are given correct benefits.
- d. **TA Eligibility** – As part of the monthly IV-D MRB/A, the Automated Support Collection Unit (ASCU) provides WMS with five support amounts. Three of these amounts are payment amounts for the three support months preceding the MRB/A, while two are total support amounts:

(1) Payment Amounts

ASCU gives WMS separate IV-D disregard amounts for up to three support months. These payments are derived from current support received for the "current" support month (one month before the MRB/A) and/or for the two "previous" support months (two and/or three months before the MRB/A). The payment for each of the three months is limited to \$100 or \$200. These amounts are used in the MRB/A to write IV-D Payment lines for the appropriate months. The amount for the current support month is also used to rebudget the associated SNAP Budget in TA/SNAP cases. It is budgeted as unearned income source '87' (IV-D Payment) for the month following the MRB/A.

(2) Total Amounts

ASCU gives WMS two "support collected" figures. The "Total Current Amount Collected for the Current Support Month" and "Total Current Amount Collected for Previous Support Months" report support amounts received as "current" and establishing eligibility for IV-D disregard payments. These amounts are reported in the monthly mailer sent to recipients as part of the MRB/A ("Report of Support Collected," [LDSS-3677](#)). In addition, the "Total Amount Collected for the Current Support Month" is used in the MRB/A to produce a warning message when this total equals or exceeds the TA deficit. The message ("TA WARNING") is displayed under the "Message" column in the MRB/ A Eligible and Exception lists. Workers should use the warning to determine if increased support collections have affected TA eligibility.

N. INCOME FROM BOARDER/LODGER

The amount received by the applicant/recipient in excess of \$15 per month from a lodger or in excess of \$60 per month from a boarding lodger must be considered as earned income to the applicant/recipient.

If such applicant/recipient documents that the actual out-of-pocket expenses incurred in providing the room for the lodger exceed \$15 per month, or expenses for room and board for the boarding lodger exceeds \$60 per month, then the actual expenses must be allowed, and the excess (if any) beyond the documented amount shall be considered as earned income to the applicant or recipient. Local districts must apply \$15 or \$60 exemptions or any higher documented expenses prior to applying the gross income to all eligibility tests and prior to applying all standard earned income exemptions from gross earnings.

WMS INSTRUCTIONS – As of August 14, 1989 Earned Income Source Codes "45 – Income from Boarder/Lodger" and "48 – Income from a Roomer"; i.e., lodger (both formerly restricted to SNAP budget only) became acceptable entries for TA budgeted on ABEL, for budgets with Effective Dates of October 1, 1989 or later. Entry of Unearned Income Source Codes 14 and 15 are no longer allowed for budgets with effective Dates of October 1, 1989 or later. Unearned Income Source Codes 14 and 15 are still allowed for budgets with Effective Dates prior to October 1, 1989.

O. DEEMING

1. Deeming Step-Parent Income

Deeming of income to temporary assistance dependents when step-parent is not applying but residing in the TA household.

2. DEFINITIONS

- a. **STEP-PARENT** – The non-applying spouse who is the step-parent of at least one of the children in the household who is applying for assistance.
- b. **SPOUSE** – The person who is married to the step-parent and is the natural or adoptive parent of the children in the household who are applying for assistance.
- c. **STEP-CHILDREN** – The children who are the children by marriage of the step-parent and the natural/adoptive children of the spouse.
- d. **DEPENDENT (of the step-parent)** – Any member of the step-parent's household whom the step-parent may claim as a dependent for purposes of determining his/her federal personal income tax liability.
- e. **DEEMED INCOME** – The amount of income (both earned and unearned) of the non-applying step-parent which is considered ("deemed") to be available to the public assistance household, after appropriate disregards have been applied.
- f. **NET INCOME** – The amount of income, after appropriate deductions, that is applied against public assistance needs.
- g. **STANDARD OF NEED DEDUCTION** – The amount of the deduction from the step-parent's gross income allowed to meet the needs of the step-parent and his/her non-applying dependents in the household.

3. Step-Parent Residing in the TA Household Disregards

If the step-parent of a child receiving assistance is living in the child's home and not applying as a member of the assistance unit, all the earned and unearned income of the step-parent, after applying the following disregards, is considered available to the assistance unit. The step-parent deeming worksheet is on the reverse of the [LDSS-548](#).

- a. **WORK EXPENSES** – The first \$90 of the stepparent's gross earned income if he/she is employed full-time or part-time.
- b. **STANDARD OF NEED DEDUCTION** – An amount for the support of the step-parent and other individuals living in the home but whose needs are not taken into account in making the public assistance determination if those individuals were or could be claimed by the step-parent as dependents for purposes of determining his/her Federal personal income tax liability. This disregarded amount shall equal the standard of need, including special needs, for a family group of the same size and composition as the stepparent and the other dependent individuals not in the

assistance unit.

- c. **ALIMONY AND CHILD SUPPORT** – Verified alimony and child support payments actually paid to individuals not living in the household.
- d. **SUPPORT OF DEPENDENTS OUTSIDE THE HOUSEHOLD** – Amount actually paid by the step-parent to individuals not living in the home but who are or could be claimed by him/her as dependents for purposes of determining his/her Federal personal income tax liability.
- e. The income of a stepparent receiving Supplemental Security Income (SSI)

Note: In applying the disregards described above, should the step-parents deductions exceed his/her income, countable income will be considered zero.

P. STEP-PARENT DEEMING

1. THE AMOUNT OF THE STANDARD OF NEED DEDUCTION

- a. The household size for determining the Standard of Need deduction consists of the step-parent and any of his/her dependents in the household who are not applying for assistance.

Note: The spouse must not be included in Standard of Need deduction if he/she has applied for public assistance in his/her own right.

- b. The amount of the Standard of Need deduction must be calculated based on actual household shelter expenses and must include the following items:

- (1) Appropriate Pre-Add (Basic) Allowance
- (2) Appropriate Home Energy Allowance
- (3) Appropriate Supplemental Home Energy Allowance
- (4) Rent as paid, up to the appropriate county maximum.
- (5) Appropriate Fuel for Heating Allowance (if not included in the rent).

Note: When a non-applying step-parent states that he/she makes an actual contribution towards the support of his/her step-children, and that contribution is greater than the amount of deemed income, budget the amount of the actual contribution as income available to the step-children.

2. THE TA NEEDS OF THE APPLYING HOUSEHOLD MEMBERS

- a. In determining the TA needs, only those persons actually included in the TA application are included in the household and case counts (i.e., the step-parent and his non-applying dependents are "invisible" in determining the needs of the applying household members).
- b. To determine the rent/shelter allowance, subtract the rent allowance granted to the non-applying members in the Standard of Need deduction from the actual shelter cost of the household. The remainder, if any, is budgeted up to the appropriate county maximum for the number of persons included in the PA application. All other allowances are based on the schedules for the number of persons included in the PA application.

3. **THE GROSS INCOME TEST** – The income for the gross income test consists of the sum of the deemed income from the step-parent, plus the total gross income of the spouse, plus any gross income of other applying household members. The income thus calculated is compared to 185 percent of the needs.

In cooperative cases, the deemed income of the step-parent, plus the gross income of

the spouse, is applied on a pro-rata basis against 185 percent of the needs of the applying persons for whom the step-parent and spouse are legally responsible. (Any additional gross income of applying members of each separate cooperative case is added to that case's pro-rata share of this income from the step-parent/spouse, and this combined income is used to perform the gross income test for that cooperative case.)

4. **THE AMOUNT OF NET INCOME AVAILABLE TO THE TA HOUSEHOLD** – The net income available to the TA household is the sum of the deemed income from the step-parent, plus the total net income of the spouse, plus any other income available to the applying household members under standard TA budgeting rules. The net income thus calculated is subtracted from the needs to determine the budget surplus/deficit.

In cooperative cases, the deemed income of the step-parent, plus the net income of the spouse, is applied on a pro-rata basis against the needs of the applying persons for whom the step-parent and spouse are legally responsible. (Any additional net income of applying members of each separate cooperative case is added to that case's pro-rata share of the income from the step-parent/spouse, and this combined income is applied against the needs of that cooperative case.)

Note: In the case of lump sum payments received by non-applying step-parents, any lump sum income must be added to all the step-parent's other countable income for the month and deemed to the TA household for that month only. In addition, any portion of the lump sum income retained by the step-parent subsequent to the month of receipt must be treated as a resource to the step-parent and is not to be considered in the determination of eligibility and amount of assistance for the TA Unit, except to the extent the step-parent actually contributes any of the lump sum money to the TA household needs in any subsequent month. ("All Commissioner" Letter – 9/20/84).

Note: SSDs must deny TA eligibility to a family if the step-parent living in the home fails to provide sufficient information to establish eligibility.

5. WMS INSTRUCTIONS

- a. For budgeting the needs of the TA household, the actual shelter cost input on ABEL must be equal to the actual shelter cost minus the shelter amount budgeted in the deeming process.
- b. On ABEL, use TA Other/Unearned Income Code 75, "Deemed Income from a Step-parent" to record the deemed income of a step-parent. The net amount is input.

6. Not Residing in TA Household

If the step-parent of a child receiving temporary assistance is living outside the child's home, the income of the step-parent may not be assumed to be available to the step-child. However, when a step-parent refuses to voluntarily provide support for the step-child, appropriate steps must be taken to obtain an order of support from the Family Court.

Q. BUDGETING OF SOCIAL SECURITY BENEFITS

1. BUDGETING RETIREMENT, SURVIVORS, DISABILITY INSURANCE (RSDI) RECEIVED BY PERSONS APPLYING FOR OR IN RECEIPT OF TEMPORARY ASSISTANCE

- a. The United States District Court has lifted the injunction in the case of Lashieka Jackson
- b. Children who are under age eighteen, who reside with and are blood related or adoptive siblings of an applying minor dependent child applying for or receiving FA (adoptive siblings receiving an adoption subsidy are not required to apply), must also apply for FA and must be included in the filing unit regardless of whether they receive RSDI. The parent(s) of the RSDI recipient children must also apply.
- c. Once it is established who must be included in the filing unit, then the needs, income (including lump sum payments) and resources of all filing unit members are considered to determine eligibility and degree of need.
- d. Timely and adequate notice must be sent to affected households before any reduction or closing actions can be taken.
- e. The following examples will help illustrate this policy.

Example 1: RSDI and SSI Received

Mrs. Kane and Erin, her daughter by a previous marriage, receive FA. Also living in the household are Mr. Donne and his 17 year old son, Jack Donne. Mrs. Kane is Jack's mother.

Mr. Donne and Jack have not been included in the filing unit since October, 1991 when their Social Security benefits started as a result of Mr. Donne's disability claim. In addition to Social Security, Mr. Donne receives a small amount of SSI.

The TA worker sent Mrs. Kane a letter to request that the family come into the local district. They also received Notice 2 attached to [93 ADM-31](#). The worker found that in addition to Mrs. Kane and Erin, Jack must be included in the filing unit. Mr. Donne is not included in the filing unit since he receives SSI.

Persons who receive SSI have been, and continue to be, exempt from filing unit requirements.

Jack's Social Security income is counted against the TA needs for three.

Example 2: Applicant Household

Mr. Rooney is applying for TA for himself and his son, Andy. Also in the household is Annie, his 15 year old daughter by a previous relationship.

Mr. Rooney does not want to apply for TA for Annie because she receives Social

Security Survivor's benefits. He believes that SSA rules prevent him from having Annie's money used for anyone else in the family.

The worker gives Mr. Rooney the required notice which explains that the Court and the SSA have ruled that it is proper for the RSDI recipient to be included in the filing unit and to have the RSDI benefit counted against the needs of the unit.

Example 3: Non-Filing Unit Case

Mrs. Owen receives TA for herself and her 5 year old nephew, Billy. Also in the household is Mrs. Owen's son, John. John receives SSI and is not on the TA case. At recertification, the worker reviewed the case and determined that John is not required to apply.

Billy is John's cousin. Because no sibling, half-sibling or adoptive sibling of John is applying for FA, there is no filing unit and John is not required to apply.

Example 4: Lump Sum Cases

A two-parent family of eight is receiving an FA grant (needs) of \$1,000. They have countable resources of \$1,200. The mother receives a retroactive social security grant of \$4,000 (4 months plus current month benefits). The family receives an initial resource limit set aside of (\$800) the difference between the TA resource limit (\$2,000) and the family's countable assets (\$1,200). The remaining amount of the lump sum (\$3,200) is used to determine the period of ineligibility since the family does not want to assign the remainder to the agency. The family is ineligible for three months beginning January 1st with \$200 to be applied in April (the fourth month) as a remainder if the family reapplies. If the family does nothing further with the lump sum monies, and none of the normal lump sum shortening provisions applies, the family would remain off assistance for the period of ineligibility.

However, the father, who is employable, uses the entire \$3,200 within 90 days of receipt of the lump sum RSDI check to purchase an automobile to look for work. The family reapplies and the agency must recalculate the period of ineligibility. Since there is no longer any countable lump sum, benefits must be restored retroactive to the closing (January 1st).

See [03_ADM-10](#) for more information on lump sum set-aside policy.

R. NET INCOME FROM ASSIGNED ASSETS

DEFINITION – Net income is the difference between gross income and essential charges.

Net income from an asset assigned to the agency is current income and the district must apply it against current need. A district must not apply it as a recovery of prior assistance rendered as long as current need remains unmet. Such income includes the following:

1. Rental income from assigned real property
2. Disability or annuity income or benefits under an insurance policy
3. Interest from assigned mortgage
4. Dividends or interest from assigned stocks or bonds
5. Any other assigned asset that may become income-producing

S. TREATMENT OF EDUCATIONAL GRANTS

1. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE:

- a. The National and Community Services and Trust Act of 1993 (NCSTA) amended the National and Community Service Act of 1990 and established a Corporation for National Community Service (CNCS). The Corporation administers national service programs including AmeriCorps, the program to engage Americans in one to five years of national service in exchange of an education award.

The amount of a full-time education award is equivalent to the maximum value of the Pell Grant for the award year in which the term of national service is approved. For all programs, award amounts for part-time terms of service vary based upon the length of the required term of service. Prior to fiscal year 2010, the amount of an education award had remained the same since the AmeriCorps program began.

As a reference, there is a chart available that shows the amounts of education awards for various types of national service positions that are approved for the current fiscal year on the AmeriCorps website at:

<http://www.nationalservice.gov/programs/ameri-corps/segal-ameri-corps-education-award/amount-eligibility-and-limitations-education/>

AmeriCorps Network of Programs encompasses three main programs:

- (1) AmeriCorps State and AmeriCorp National – AmeriCorps State and National programs are open to U.S. citizens, nationals, or lawful permanent resident aliens age 17 and older.
 - (2) AmeriCorps VISTA (Volunteers in Service to America) – for participants 18 years and older.
 - (3) AmeriCorps NCCC (National Civilian Community Corps) – 18 to 24 years of age.
- b. Full-time participants in AmeriCorps must be provided with a living allowance. Generally, the living allowance must be in an amount equal to or greater than the annual subsistence allowance provided to VISTA volunteers.

However, the maximum annual living allowance cannot exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers. The minimum allowance for VISTA volunteers cannot be less than an amount equal to 95 percent of the poverty line, as defined by the Community Service Block Grant Act, for a single individual as expected for each year.

AmeriCorps *VISTA payments under Title I of the Domestic Volunteer Services Act of 1973 (PL93-113) must be excluded as income for VISTA volunteers who are applying for or receiving TA (TANF or SNA). VISTA income is to be excluded as income for applicants and recipients, unless the federal director of CNCS, (formerly ACTION agency), has determined the value of VISTA payments to be equal to or greater than the minimum wage.

- c. NCSTA requires that a basic health insurance policy will be provided for each full-time participant, if the participant is not otherwise covered by a health insurance policy.
- d. Child care or a child care allowance will also be provided for children of each full-time participant who needs child care in order to participate in a national service program.
- e. Individuals with disabilities, as defined by the Americans with Disabilities Act of 1990, are to be provided with reasonable accommodation, including auxiliary aids and services.
- f. An individual will receive a national service educational award if:
 - (1) The individual successfully completes the required term of service.
 - (2) Was 17 years of age or older at the time, he or she began serving in the program.
 - (3) Was an out-of-school youth serving in an approved position with a youth corps program.
 - (4) Is a citizen of the United States or is a lawful permanent resident alien.
- g. The educational award is available to:
 - (1) Repay student loans.
 - (2) Pay all or part of the cost of attendance at an institute of higher education.
 - (3) Pay expenses incurred in participating in an approved school-to-work program.
 - (4) Pay interest expenses during forbearance on student loan repayments.

The award is to be paid directly to the holder of the loan or the institute of higher learning and is to require the endorsement or other certification of the eligible individual.

- h. Living Allowance
 - (1) For AmeriCorps State and National and AmeriCorps NCCC participants, living allowances (stipends) are treated as earned income for TA purposes, and the general earned income disregards, or student earned income disregards are applied when appropriate.
 - (2) For Americorps VISTA participants, living allowances (stipends) are disregarded as income for TA applicants or recipients. Any payments received by applicants for or recipients of TA who are volunteers under part A of title I of Public Law 93-113 (VISTA) must be exempted and disregarded as income and resources in determining eligibility and degree of need; provided, however, that all of the VISTA payment is to be counted as income when the director of CNCS, (formerly

ACTION agency), determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage.

- i. Child Care Allowance – Allowances received for child care are exempt from consideration as income to the extent the funds are used to meet child care expenses necessary for participation in a NCSTA program.
- j. Other Benefits and Services – The basic health insurance policy, child care services, auxiliary aid and services to individuals with disabilities, and the national services award are treated as in-kind benefits. In-kind benefits and services are not counted as income.

2. UNDERGRADUATE STUDENTS

All educational grants and loans to undergraduate students, regardless of their source, are exempt from consideration in determining eligibility (including the gross income test) and degree of need for TA or MA. Educational grants, loans, scholarships and other income that are totally exempted include, but are not limited to:

- a. Pell Grants
- b. Federal Direct Student Loans
- c. Supplemental Educational Opportunity Grants (SEOG)
- d. College Work-Study Programs
- e. Tuition Assistance Program Awards (TAP)
- f. Educational Opportunity Program (EOP)
- g. SEEK
- h. College Discovery Program
- i. Higher Educational Opportunity Program (HEOP)
- j. Regents College Scholarships
- k. New York State Higher Educational Services Corporation (HESC) guaranteed loans
- l. Veterans Assistance V.A., Educational Grants

3. GRADUATE STUDENTS

- a. Districts must disregard bona fide student loans received by a graduate student as income and resources unless the student is a SNA-FNP applicant/recipient.
- b. **EDUCATIONAL GRANTS, LOANS AND SCHOLARSHIPS** – As a result of the **Pasternak v. Blum** court decision, a special exemption of educational grants, loans,

scholarships in determining eligibility or degree of need has been provided to all graduate students.

Note: This exemption applies only if the graduate student's grant, loan or scholarship is obtained and used under conditions which preclude its use for meeting current living expenses. Consequently, any monies received by a graduate student through an educational grant, loan or scholarship not used for education or for education related expenses are considered income.

- c. Whenever an applicant or recipient of TA alleges that he has received a loan (see a. above) or grant, such as a graduate school loan, grant or scholarship, and that he/she obtained and will use such grant or loan under conditions that preclude its use for meeting current living expenses, the local district must give such applicant or recipient the opportunity to attest in writing to such facts.
- d. Upon receipt of such attestation the local district must not consider the relevant amounts as either income or a resource for purposes of determining eligibility (including the gross income test) or degree of need for TA unless there exists reasonable grounds that the applicant/recipient has willfully attested to false information.

Note: 83 ADM-10 contains information on what is considered Reasonable Grounds.

Note: The language of the attestation attached to 83 ADM-67 must be used without change.

A copy of the signed attestation must be given to the applicant/recipient, and a second copy must be retained in the case records.

4. EDUCATIONAL ASSISTANTSHIP TO GRADUATE STUDENTS

- a. If the school which grants the assistantship to the graduate student designates the assistantship as an educational grant the monies are treated in accordance with the rules of educational grants.
- b. If the school which grants the assistantship to the graduate student designates it as bona fide employment the monies received are to be considered employment income (after application of appropriate earned income disregards) against the graduate student's need for TA.

Note: The school which issues the assistantship should be contacted to determine the designation.

T. LUMP SUM PAYMENTS

1. DEFINITION

- a. Lump sum income is receipt of any substantial, non-recurring earned or unearned income (including retirement, survivors', and disability insurance benefits as provided for under Title II of the Social Security Act; other retroactive monthly benefits; and payments in the nature of a windfall, e.g., inheritances or lottery winnings, personal injury and workers' compensation awards). When a TA recipient receives a lump sum that would normally result in the calculation of a period of ineligibility (in accordance with Office regulation 352.29 (h)), the SSD must allow the recipient to set aside that portion of the lump sum which, when combined with the individual's (or filing unit's) countable resources, does not exceed the TA resource limit. The amount set aside is not used in determining a period of lump sum ineligibility. [\(03 ADM-10\)](#). To be considered a lump sum, the remaining amount of windfall income must, when combined with other available monthly income, exceed the TA standard of need. Any one time only payment that is substantial enough to exceed the standard of need is considered a lump-sum and a period of lump sum ineligibility must be calculated.
- b. Lump sum policy only applies to TA recipients.

2 One time only payments that don't meet lump sum criteria

- a. Many lump sums that are not of substantial amounts are known as one-time only payments. These one-time only payments are differentiated from a lump sum when the one-time only payment combined with other income received in the month is below the standard of need. These payments are budgeted as income in the month received and are not subject to lump sum policy. No period of lump sum ineligibility is calculated.
- b. Example of One-Time Only Income/Small Bingo Winnings

A single SNA recipient with zero income and needs of \$250 has countable resources of \$500. He/She reports to his/her worker that he/she has won \$100 from Bingo. The \$100 would be counted as income in the month received. No period of lump sum ineligibility is calculated. There is no resource limit set aside.

Note: Trust funds released at age 18 are considered resources and not a lump sum (86 INF-21).

Note: Supplemental Needs Trusts (SNT) – The district must calculate a period of ineligibility when a lump sum is received even if it is the recipient's intent to later establish an SNT with the lump sum funds. However, if the lump sum monies are not available to the TA recipient because the receipt of the monies simultaneously coincides with the creation of an SNT, no period of ineligibility is calculated. [\(01 INF-8\)](#)

3. Resource Limit SET ASIDES

When a TA recipient receives a lump sum that would normally result in the calculation of a period of ineligibility [in accordance with Office regulation 352.29 (h)], the SSD must allow the recipient to set aside that portion of the lump sum which, when combined with the individual's (or filing unit) countable resources, does not exceed the TA resource limit. The amount set aside is not used in determining a period of lump sum ineligibility, this also includes funds earmarked as "big ticket" set asides e.g \$1,400 put into a two-year or four-year college account. ([04 INF-17](#)) ([05 INF-10](#))

4. Additional Exclusions from Lump Sum

The lump sum policy also provides for further exclusions from the lump sum when the recipient applies any or all of the lump sum to any of the following "big ticket" items within 90 days of receipt:

- a. An automobile exempt from the resource limit because it is needed to seek or retain employment or for travel to and from work activities. The maximum amount is \$10,000 through 3/31/2017, \$11,000 from 4/1/2017-3/31/2018, \$12,000 beginning 4/1/2018 and thereafter, or higher if set by district;
- b. A resource exempt bank account such as a first or replacement automobile account for the purpose of purchasing an automobile to seek or retain employment (maximum amount \$4,650), or a college tuition account for the purpose of paying tuition at a two-year or four-year post-secondary educational institution (maximum amount \$1,400);
- c. A resource exempt burial plot; or
- d. A resource exempt bona-fide funeral agreement. (maximum amount \$1,500)

If the recipient verifies (must be documented) that he/she has used the amount of the lump sum in excess of the resource limit to purchase one (or more) of these exempt resources within 90 days of receipt, then the agency must shorten the lump sum period of ineligibility by the amount expended on the exempt resource.

- e. The following examples will illustrate how the resource limit and other set aside works.

Bingo Winnings Example

A single SNA recipient with needs of \$250 has countable resources of \$500. He/She reports to his/her worker that he/she has won \$1,000 from Bingo. In the past (before the resource set-aside policy was established), the \$1,000 would be used to calculate a period of ineligibility (4 months) unless the recipient agreed to sign it over to the agency to repay past assistance. Now, the agency must allow the recipient to set aside that portion of the lump sum which, when combined with the individual's (or filing unit) countable resources, does not exceed the TA resource limit (\$2,000 in this example). When the entire amount of the Bingo winnings is combined with his/her other countable resources, the SNA recipient can keep the \$1,000 without it

impacting TA eligibility since it is under the total resource limit. This is the resource limit set aside.

Retroactive Social Security Example

A two-parent family of eight is receiving an FA grant (needs) of \$1,000. They have countable resources of \$1,200. The mother receives a retroactive social security grant of \$4,000 (4 months plus current month benefits). The family receives an initial resource limit set aside of (\$800) the difference between the TA resource limit (\$2,000) and the family's countable assets (\$1,200). The remaining amount of the lump sum (\$3,200) is used to determine the period of ineligibility since the family does not want to assign the remainder to the agency. The family is ineligible for three months beginning January 1st with \$200 to be applied in April (the fourth month) as a remainder if the family reapplies. If the family does nothing further with the lump sum monies, and none of the normal lump sum shortening provisions applies, the family would remain off assistance for the period of ineligibility. However, the father, who is employable, uses the entire \$3,200 within 90 days of receipt of the lump sum RSDI check to purchase an automobile to look for work. The family reapplies and the agency must recalculate the period of ineligibility. Since there is no longer any countable lump sum, benefits must be restored retroactive to the closing (January 1st).

2. **VOLUNTARY TRANSFER OF A LUMP SUM PAYMENT** – The TA case remains unchanged in those instances where the recipient assigns the lump sum payment to the local district to be applied against past assistance. In those instances where the lump sum payment is greater than past assistance, then the excess amount must be budgeted as described in this section. The resource set aside must also be provided to the individual before any money is assigned to the district.
3. **REFUSAL TO ASSIGN LUMP SUM PAYMENT TO LOCAL DEPARTMENT OF SOCIAL SERVICES** – When the TA recipient has received a lump sum payment, and has refused to voluntarily assign the lump sum to the local district, the local district must immediately take steps to close the case for the calculated period of time. This includes sending the client timely and adequate Notice of Intent to Change Benefits.
4. **BUDGETING LUMP SUM PAYMENTS** – When a recipient has not voluntarily transferred a lump sum payment or when the lump sum payment exceeds the amount of past assistance, the local district must close the case for a calculated period of time. Remember that the resource set aside must be provided before any period of ineligibility is calculated.
 - a. **EARNED INCOME** – In instances where the recipient receives an earned income lump sum payment, i.e., severance pay, the local district must first apply the \$90 earned income disregard for the month of receipt only. The earned income disregard deduction for the month of receipt is given only where the recipient is eligible for such deductions.
 - b. **NON-RECURRING INCOME** – The lump sum budgeting procedure applies only to non-recurring lump sum payments, such as retroactive Social Security Benefit, received by TA households, not to excess recurring income. Budgeting of lump sum Social Security benefits (RSDI) is described below.

Note: Presumptive SSI payments are treated as regular income. If the income exceeds the TA standard of need, the case should be closed.

- c. **PERSONS IN THE ASSISTANCE UNIT** – For the purposes of applying the lump sum provision, the family includes only the TA unit and any other individual whose lump sum income is counted in determining the period of ineligibility. Any person not in the TA unit during the month of lump sum receipt (e.g., newborns) may be eligible as a separate TA unit. See paragraph d below.

Note: If a TA grandmother, who is payee for grandchildren, gets a lump sum, the lump sum is calculated on the basis of the needs of one. The grandchildren would stay on assistance, because the grandmother is not legally responsible for the grandchildren. (86 INF-21)

Example

A man is a member of a three-person household which includes his wife and child when he receives a lump sum. The husband leaves that household before the period of ineligibility ends and leaves the remaining members of the household without any of the lump sum. The mother and child, reapply for and are accepted for TA before the period of ineligibility ends. If the husband returns to the household before the period of ineligibility ends the wife and child cannot continue to receive assistance. Even if the husband had none of the lump sum left, the wife and child were covered by the notice of lump sum period of ineligibility, they could not receive assistance if the husband returned unless there were valid reasons for shortening the period of ineligibility.

- d. **PERSONS NOT IN THE ASSISTANCE UNIT** – Local districts much determine the grant amount for newborns or any persons not in the assistance unit during the month of lump sum receipt on a case by case basis. The local district must take the following factors into consideration when budgeting such a case:

- (1) Whether or not there is a legally responsible relative in the household
- (2) The amount, if any, of recurring income to the household.

In those cases where the only income is the amount of lump sum payment, a child coming into the household must be allowed one-half of the prorata share of a grant for two if one legally responsible relative is in the home or one-third of the prorata share of a grant for three if two legally responsible relatives are in the home. In those cases where there is recurring income, the local district must determine the grant amount in the following manner:

- (3) Assume that the lump sum is sufficient to meet the needs of the original household members
- (4) From the total recurring income of the legally responsible relative, deduct all the applicable earned income disregards
- (5) The net amount from (4) is available to meet the needs of the new household

member.

5. **NON-APPLYING STEP-PARENTS** – In the case of lump sum payments received by non-applying step-parents, any lump sum income must be added to all the step-parent's other countable income for the month and deemed to the TA household for that month only. In addition, any portion of the lump sum income retained by the step-parent subsequent to the month of receipt must be treated as a resource to the step-parent and is not to be considered in the determination of eligibility and amount of assistance for the TA Unit, except to the extent the step-parent actually contributes any of the lump sum money to the TA household needs in any subsequent month. ("All Commissioner" Letter - 8/20/84.)
6. **SEPARATED HUSBAND AND WIFE** – When a husband and wife that have separated receive a lump sum amount that they are both entitled to the local district must review this situation on a case-by-case basis. If the lump sum amount is available for both husband and wife, the local district can reasonably assume that half is available to each individual. If the client claims that less than the 50% is available, it is then that individual's responsibility to provide some verification in support of this claim. Likewise, if the local district has reason to believe that more than 50% of the lump sum is available, then it is incumbent upon the local district to support its contention. If the individual circumstances support the fact that more or less than the 50% is available to the client then the local district should apply lump sum procedures only to that portion actually available.
7. **DETERMINING LENGTH OF INELIGIBILITY** – To determine the number of months during which the case will be ineligible, the local district must for the month in which the lump sum payment was received:
 - a. **Add** all lump sum payments (after the resource set-aside) to any other income received that month, after applicable disregards for the month; and,
 - (1) **Divide** this total income by the household's needs.

The period resulting from this calculation is the period for which the case is ineligible for TA. Any income remaining after this calculation must be treated as if it is income received in the first month following the period of ineligibility and must be considered for use at that time.
8. **REASONS FOR RECALCULATING THE PERIOD OF INELIGIBILITY** – Local districts must recalculate the period of ineligibility only when the event affects the standard of need for the assistance unit. Therefore, a decrease in the income of the family would not in itself shorten the period of ineligibility. Examples of events which could result in the shortening of the period of ineligibility include:
 - a. An increase in rent
 - b. Eligibility for a special needs item
 - c. Shelter or utility costs in excess of the standard
 - d. Any general increase in the standard of need

- e. Appliaiton of resource set aside. For more information see V.4 above and [03 ADM-10](#).
- f. application of additional set asides as found in V.4 above. For more information see V.4 above and [03 ADM-10](#).

9. **SHORTENING THE PERIOD OF INELIGIBILITY** – Local districts shall shorten the period of ineligibility in any one or more of the following situations:

- a. An event occurs which, had the family been receiving assistance for the month of occurrence, would result in a change in the amount of assistance payable for such month.

The period of ineligibility shall be recalculated based upon the new standard of need and the amount of the lump sum which would remain if a proportionate amount had been granted in each month of ineligibility.

Example

A family with no other income received a lump sum of \$4,000 on May 1. Since the family has no countable resources, they are allowed a resource set aside of \$2,000. The standard of need for that family is \$400. The family is ineligible for 5 months, May through September. In July the standard of need increased to \$500. Upon reapplication, the local district must recalculate the grant with the assumption that \$1,200 was still available since the family should have budgeted \$400 for both May and June. The \$1,200 must be divided by the increased standard of need of \$500. The family is ineligible for July and August; \$200 must be counted as income for September.

- b. The income received or a portion of the income becomes unavailable to the family for a reason that is beyond the family's control. The period of ineligibility shall be recalculated based upon the actual amount of the lump sum remaining.

For purposes of this provision, the lump sum income is considered to be "unavailable" when the family no longer has the lump sum. In addition, for the purposes of this provision, "beyond the family's control" refers to any event or circumstance which the family did not foresee or could not prevent. Examples of such circumstances or events include, but are not limited to:

- (1) Theft or loss of income
- (2) A life threatening circumstance
- (3) A family member leaving the household and taking all or part of the lump sum

Note: If this family member applies for assistance for himself one month later the period of ineligibility is computed as if he was a single person.

- (4) The involuntary payment of a debt by the client

Local districts must record the specific reason that the lump sum is no longer available in the case record.

Note: Documentation does not have to be limited to receipts. It may include signed statements or collateral contacts.

- c. A family member becomes responsible for and pays for medical expenses, as defined under the State Medicaid program, in a month during the period of ineligibility caused by receipt of a lump sum. The period of ineligibility shall be recalculated based upon the actual amount of the lump sum remaining.

Note: There are no provisions in law for extending the period of ineligibility initially calculated due to receipt of a lump sum.

- d. A family member within 90 days of receipt of the lump sum has used any or all of the lump sum for the following (“big ticket items”) exempt resources:
 - (1) to purchase an automobile that is needed to seek or retain employment or for travel to and from work activities and which is exempt from the public assistance resource limit under section 352.23(b) of Office regulations; or
 - (2) to open a separate bank account or bank accounts that are exempt from the public assistance resource limit under section 352.23(b) of Office regulations for the purpose of purchasing an automobile to seek or retain employment or for the purpose of paying tuition at a two-year or four-year post-secondary educational institution, or
 - (3) to purchase a burial plot that is exempt from the public assistance resource limit under section 352.23(b) of Office regulations; or
 - (4) to purchase a bona-fide funeral agreement that is exempt from the public assistance resource limit under section 352.23(b) of Office regulations

- 10. **TREATMENT OF RSDI LUMP SUM PAYMENTS** – If an RSDI recipient is receiving TA, and also receives a lump sum payment from the Social Security Administration, the lump sum would be applied to the entire TA household.

Note: Federal Regulations do not allow the attaching of RSDI benefits.

- 11. **TREATMENT OF RSDI AND SSI LUMP SUM PAYMENTS** – A client is considered an SSI recipient only when the retroactive SSI benefit is actually received, not during the retroactive months that the lump sum SSI benefit covers. Therefore, the SSI applicant’s presence and income must be taken into account during the retroactive period.

When a TA recipient receives a lump sum RSDI in one month and later receives a lump sum SSI benefit in a following month, which is retroactive to the month the lump sum RSDI benefit was received, the payments are budgeted according to the following example:

John Smith and his son are FA recipients that have TA needs of \$600 per month. In January, John receives a lump sum RSDI benefit for \$4,500. Since the family has

\$500 in countable resources, a resource set aside of \$1,500 is allowed the family. Following this, the local district determines a lump sum ineligibility period. This is done as follows:

$$\$3,000 \text{ (lump sum)} \div \$600 \text{ (TA Needs)} = 5 \text{ months}$$

John and his son are ineligible for TA for a 5-month period.

In March, John receives a retroactive SSI check for \$1,500, which covers the period from January on. The receipt of this retroactive SSI check has no impact on the lump sum ineligibility period, since John was not actually an SSI recipient when the lump sum SSA check was received. John and his son remain ineligible for FA for the full five months.

Note: Lump sum retroactive SSI payments made to FA or SNA applicants/recipients, without continuing SSI eligibility, must not be counted as income or a resource in the month paid or the following month.

12. BUDGET EXAMPLES

a. EFFECT OF RECEIPT OF LUMP SUM PAYMENT ON AN UNDERCARE TA CASE WITH EARNINGS

Example

Mrs. Anderson and her three children are recipients of FA. Their household needs total \$761 per month. Her gross income from employment is \$693.33 and there are no child care expenses. Mrs. Anderson received a lump sum payment for \$4,500 which she did not wish to transfer to the local district. Regardless of whether she chooses to transfer the lump sum to the agency, her household is allowed a resource set aside of \$2,000 since she has no countable resources. The number of months she will be ineligible for aid is determined, resulting in three months of ineligibility with \$506.60 extra income in the first month following the period of ineligibility.

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WBGTPA      ** PA BUDGET **      VERSION      DIST ALBA  04/07/2016
CASE NAME    CASE NO.    OFC  UNIT  WORKER  TRAN  CASE  IVD
MRS. ANDERSON  SCRATCHPAD  ALB  X      X      05    11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
04 04      #  LN 30I 30M SRC FRQ  D  HRS CCR
TY R      ACTUAL  ALLOW      1: 01 2      01 W  P 087
      BASIC      34500
      ENRGY      3870  **** OTHER INCOME ****      69333 GROSS      0
      SPMNT      3000 LN SRC F  AMOUNT EXEMPT      0 TAXES      0
01  SHEL  50000  34800 01 26 M 250000      0      0 NYS DIS      0
      WATER      0      0      0      0      9000 WORK EXP      0
0   FUEL      0      0      0      0      0 EXEMPT      0
      OTHER      0      0      TOTAL NET 250000      0 CH CARE      0
      OTHER      0      0  $$$$ PA GRANT $$$$      0 CH CARE      0
      OTHER      0      0  TOTAL NEEDS 76100      0 CH CARE      0
      TOTAL NEEDS 76100  TOTAL INC 278960 31373 DISREGARD      0
***** RECOUPMENT *****  CD / AMT S 202860 40373 TOT DED      0
TY BALANCE % MO AMT REM RECOUPMENT      0      0 UNAVAIL      0
      0 00.0      0      0 UTIL/RES      0 28960 NET INC      0
      0 00.0      0      0 SHEL  RES      0
      0 00.0      0      0 RESTRICTED      0 * INELIGIBLE DATE * REM
RECALC 00.0      0      SEMI CASH      0 070109 TO 093009 50660
FS CASE NO. SEMI N-CASH      0 DATE STORED / /
  
```

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- b. **INCOME LESS THAN ONE MONTH'S NEEDS** – Another situation that can occur is when the net applicable income is less than one month's needs, but the gross income received is greater than 185% of the Standard of Need. The following example will illustrate this situation:

Mr. Johnson reports \$693.00 in gross earnings in December and the receipt of \$200.00 severance pay from a former employer in December.

Income

Gross	\$693.00
Severance pay	+200.00
Total Net Applicable Income	\$ 893.33

The severance pay received is not a lump sum since the total net applicable income is less than one month's needs. Apply normal budgeting rules. There is no resource set aside. In this example, the household fails the gross income test due to the combination of gross earnings and severance pay.

Total Gross Income \$893.33 > \$850.08 = (185% Standard of Need)

WBGTPA ** PA BUDGET ** VERSION DIST ALBA 04/07/2016

CASE NAME MR. JOHNSON CASE NO. 0202 OFC ALB UNIT X WORKER X TRAN 05 CASE IVD 11

HH CA DP-HH DP-CA HC LF PI SI PSP PSF ***** EARNED INCOME *****

02 02 # LN 30I 30M SRC FRQ D HRS CCR

TY R ACTUAL ALLOW

BASIC 20100 ***** OTHER INCOME ***** 69333 GROSS 20000

ENRGY 2250 LN SRC F AMOUNT EXEMPT 0 TAXES 0

SPMNT 1700 01 SHEL 50000 21900 0 0 0 NYS DIS 0

WATER 0 0 0 0 WORK EXP 0

0 FUEL 0 0 0 0 EXEMPT 0

OTHER 0 0 TOTAL NET 0 0 CH CARE 0

OTHER 0 0 \$\$\$\$ PA GRANT \$\$\$\$ 0 CH CARE 0

OTHER 0 0 GROSS LIMIT 85008 0 CH CARE 0

STATE STANDARD 45950 TOTAL INC 89333 0 DISREGARD 0

***** RECOUPMENT ***** CD / AMT S 4325 0 TOT DED 0

TY BALANCE % MO AMT REM RECOUPMENT 0 0 UNAVAIL 0

0 00.0 0 0 UTIL/RES 0 89333 NET INC 0

0 00.0 0 0 SHEL/RES 0

0 00.0 0 0 RESTRICTED 0 * EFFECTIVE DATE *

RECALC 00.0 0 SEMI CASH 0 070109 TO

FS CASE NO. SEMI N-CASH 0 DATE STORED / /

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13. NOTIFICATION

a. NOTICES

Local districts are required to provide all applicants and recipients with the informational booklets: [\(LDSS-4148A\) "What You Should Know About Your Rights and Responsibilities" \(Book 1\)](#), [\(LDSS-4148B\) "What You Should Know About Social Services Programs" \(Book 2\)](#), and [\(LDSS-4148C\) "What You Should Know If You Have an Emergency" \(Book 3\)](#) at application and at recertification. Book 1 contains all of the information previously contained in the "Notice Regarding Lump Sum Payments".

b. UPON CLOSING THE CASE – When closing a case due to receipt of a lump sum payment, districts must provide the client the following:

(1) A timely and adequate ["Notice of Intent" \(LDSS-4015\)](#). The Notice must include all details of the reason for the proposed action including the following:

- (a) The case is ineligible for assistance due to the receipt of a lump sum payment.
- (b) The specific period of time the case will be ineligible for assistance.

(2) A copy of the TA ABEL budget used to determine the closing.

(3) A copy of the Temporary Assistance Lump Sum Ineligibility Narrative [\(LDSS-](#)

[3954](#)).

14. ATTACHMENTS OF LUMP SUM PAYMENTS

- a. According to Section 104 of the Social Services Law, the local district may petition the court for recovery of past TA when the local district knows a client will be getting an inheritance, rather than wait to count it as a lump sum.
- b. When a recipient has requested his/her case closed in anticipation of receipt of a lump sum, the local district may attach the lump sum under Section 104 of the Social Services Law as long as the recipient received assistance within the preceding 10 years. Such an attachment could not be made against a minor unless the minor was expected to receive the lump sum prior to the age of twenty-one.
- c. If a local district has filed an attachment against a lump sum, the court will notify the local district of receipt of that lump sum. If the attachment does not cover the full amount of the lump sum, the remainder of the monies will be treated according to normal lump sum procedures.

No resource set aside is allowed when a lump sum is attached.

15. WMS INSTRUCTIONS

When receipt of a lump sum is reported, the worker should input the lump sum amount (after any resource set aside) using the proper Earned or Other/Unearned Income Source Code.

- a. **EARNED LUMP SUMS** – The worker should use either Earned Income Source Code "12 -Lump Sum" or "13 - Lump Sum Received by Current Wage Earner" depending on case circumstances.
- b. **UNEARNED LUMP SUMS** – The worker should use Other/Unearned Income Source Code "26 – Lump Sum Payment".
- c. **LUMP SUM REMAINDERS** – ABEL shall calculate the length of ineligibility if a lump sum payment results in total income exceeding total needs. The income remaining to be budgeted for the first month of eligibility will also be calculated. Regardless of whether this income is earned, unearned or severance pay, it should be budgeted as unearned income using Other/Unearned Income Source Code "99 – Other Income.

Note: Effective Dates input should be equal to one month.

- d. **CLOSED/DENIED CASES** – WMS Closing Reason Code 130, "Other (Material Change in Income or Resources -Includes Lump Sum Payments)" and Denial Reason Code, 205, "Excess Resources (Includes Lump Sum Payments)" will be used to track cases closed or denied due to receipt of lump sum payments.

U. INCOME & BENEFITS RELATED TO MILITARY SERVICES

1. The local district shall explore eligibility for and verify receipt of income and benefits related to military service.

Applicants who have previous or current military service or who are dependents of persons with such service shall be informed of their responsibility to apply for and utilize benefits related to such services. Full use shall be made of the services of the New York State Division of Veterans' Affairs, its veterans' counselors and of the American National Red Cross.

2. Recipients of temporary assistance (TA) and care, including the spouse and children of members of the Armed Forces, shall be granted TA and care during the exploration of the service person's intent in regard to allotments and pending the receipt of such payments.
3. TA and care shall be granted when necessary to supplement allotments of service pay, or in lieu of such payments when the person in service refuses to make allotments of pay or claim quarters allowances for the support of his dependents.
4. In applying the income made available through allotments of service pay, the regular and special needs of the dependent for whom the member of the Armed Forces has allotted a specified amount in order to claim quarters allowances shall be met before any portion of this income is applied to the needs of other members of the household.
5. Local districts shall provide assistance and care to the dependents of persons in the Armed Forces on the basis of presumptive or established need. Assistance and care shall be granted to such dependents for whose support members of the Armed Forces are legally or socially responsible but for whom they are unwilling to allot portions of service pay or are unwilling and/or unable to make allotments in specified amounts in order to claim quarters allowances. Such assistance shall be granted only until needed support can be obtained from legally responsible relatives in the Armed Forces and only for such amounts as are not provided by such relatives' allotments.
6. In determining initial or continuing eligibility for TA and care, full utilization shall be made of correspondence and documents which the dependents of the service person are able to furnish in verification of the receipt or non-receipt of allotments-of-pay and quarters allowance or of the attitude of the service person in regard to such provision.
7. The determination of relationship made by the Dependency Divisions of Armed Services administering allotments-of-pay and quarters allowances may be accepted by local districts but solely for the purpose of establishing eligibility for categories of temporary assistance where marital status is a factor or where proof of relationship to the service person may be required, as in Family Assistance and veteran assistance.
8. In the absence of notifications from the Veterans Administration, local districts shall request information from the Veterans Administration on monetary benefits when there is reason to believe that a veteran or his dependents are receiving such benefits or have applied for or intend to apply for benefits. Such inquiries shall be made after first attempting to secure the necessary facts from the veteran or his dependents.

9. Family Subsistence Supplemental Allowance (FSSA) payments were included in the Defense Authorization Act for Fiscal Year 2001. Congress directed the Department of Defense to pay FSSAs to qualified service members. This allowance is intended to elevate their income so that most will no longer have to rely on Supplemental Nutrition Assistance Program benefits.
10. To qualify for a FSSA, a military service member must have completed basic training and the members gross income, together with the gross income of the members household, have gross income under 130 percent of poverty. The Department of Defense will use the Supplemental Nutrition Assistance Program's gross income limits and household definition to determine FSSA eligibility. The amount of the FSSA will be the difference between the household's gross income and the SNAP gross income limit, or the amount of the household's SNAP benefit, whichever is greater, up to a maximum monthly payment of \$500. There is no resource limit for FSSA eligibility.
11. Applicants for and recipients of TA should be advised of the availability of the FSSA, although actual eligibility must not be presumed. As a condition of eligibility for TA, military personnel and their families must apply for the FSSA, for demonstrate that they have applied and were denied. Once received, the actual amount must be budgeted as unearned income.
12. As a result of Operation Enduring Freedom, an increasing number of National Guard and Reserve units have been called into active duty. This has resulted in a number of questions relating to treatment of needs, income and resources of those persons who are participating in this action, and the corresponding impact on those household members remaining at home who may apply for TA benefits.
13. For federal TA categories of assistance, persons who report for active duty during this operation must be considered temporarily absent from the household. For TA, the needs, income and resources of the absent person are counted in full (18 NYCRR 349.4). This remains true as long as the absent member does not intend to establish residence elsewhere and even when he/she temporarily leaves New York State or the United States, or its territories. The expectation that the absent person will return is not time limited.
14. For State/local categories of assistance, Section 370.4 requires that needs must be determined, resources explored and utilized, and the budgetary method applied as required by Part 352. Under Section 352.30(a), persons who are considered temporarily absent may be considered part of the TA household. Therefore, as with federal categories of assistance, persons considered temporarily absent from the household must have their full needs, income and resources considered when determining the eligibility of applying households.
15. Applicants for assistance to meet short-term emergency/immediate needs must have their eligibility for such assistance based on income and resources available to meet the emergent/immediate need at the time of application. This includes the availability of outside community and family resources. Each request for such assistance must be dealt with on a case-by-case basis with the worker initially determining if an emergency exists, whether the emergency is an immediate need and finally, to arrange for the disposition of the request.

V. CONTRIBUTIONS FROM RELATIVES

The ability of the spouse of a recipient or the parent or step-parent of a dependent minor to support, shall be determined.

W.SELF-EMPLOYMENT/SMALL BUSINESS/FARMS/CLIENT OWNED PROPERTY

1. **SELF-EMPLOYMENT** – For self-employment, the term earned income means the total profit from a business enterprise, farming, etc., resulting from the gross income received less the business expenses for the production of the income.

Traditionally, recipients who are self-employed have had to provide the local district with business records, tax records, and any other information relating to their business expenses in order to prove eligibility for TA. Local districts have had the difficult task of making sense out of the various accounting and business practices in order to establish this eligibility. Some local districts have chosen to create forms for the central collection of the various business information. [94 INF-40](#) is a form which was developed for the purpose of capturing the relevant information relating to businesses owned by TA recipients. This Center encourages use of this form for this purpose as a way of dealing with the complexities of business income

- (a) Excluded Expenses – Those expenses directly related to producing the goods or services including expenses for inventory and without which the goods or services could not be produced must be excluded to determine the amount of earned income.
 - (b) Expenses Not Excluded – Specifically not excluded are items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods.
2. **SMALL BUSINESS** – The facts and conditions of a business owned or operated by an applicant/recipient must be explored and verified so that a clear picture of the profits plus the projected future of the enterprise is obtained.
3. **INCOME FROM SELF-EMPLOYMENT OR SMALL BUSINESS** – A careful analysis and appraisal of operating costs, gross sales, net profits, current inventory, accounts receivable, accounts payable, general financial history, present and future prospects are required as a basis for counseling the owner on liquidation or continuance of the business.
 - (a) If the self-employment or the small business has been in existence for three years, the local district must review the business to determine if the business has the potential for future growth. If the local district determines that the business has no potential for future growth and does not produce income at least equal to that which could be expected from employment, the applicant or recipient must be required as a condition of eligibility to liquidate the business. (Office Regulation 352.12)
 - (b) If, after the local district conducts the review of the business, the local district determines that there is potential for growth of the business, the local district may defer the requirement that the applicant or recipient liquidate the business for a period of up to an additional two-years.
4. **Determining the Time Period Covered by Self-employment** – The period of time covered

by self-employed income can vary depending upon the client's particular circumstances. Generally, self-employed clients that do not receive a regular pay will fall under one of the following categories.

- (a) Contractual Income – When self-employment income is determined by a contract that covers a specific period of time, the contractual income is prorated over the period of time covered. This income is budgeted, after any appropriate expenses are deducted and earned income disregards allowed, against the client's TA need for the period covered by the contract.

Example

Fred Gwynn is a self-employed painter. In June, Fred notifies his worker that he has a job in Rochester painting a chapel. The contract calls for Fred to start the job in July and finish in September. For his work, Fred will receive \$3,400 before expenses. Fred submits the following list of expenses to his worker.

- Paint – \$400 (receipt attached)
- Rollers and brushes – \$87 (receipt attached)
- Lunch costs – \$520 (13 weeks x 5 days x \$8)
- Miscellaneous costs – \$200 (non-receipted)
- Labor (Fred's brother-in-law, Mel) – \$600 – only needed to set-up and take-down scaffold.

The worker examines the expenses Fred submits. The expense cost for lunch cannot be allowed, since it is a personal expense, miscellaneous costs are also not allowed since Fred cannot establish that these costs are necessary to complete the job. The costs for paint, rollers and brushes and labor are allowed. These are deducted from the total income as follows:

\$3,400 – gross income
\$ 400 – paint costs
\$ 87 – rollers & brushes costs
- \$ 600 – labor expense
\$2,313 – Countable Gross Income

The \$2,313 must then be prorated over the three month period covered by the contract. This is done in the following manner: $\$2,313 \div 3 \text{ months} = \771 per month. \$771 per month is counted as gross TA income (before earned income disregards) in Fred's ABEL budget to determine his family's eligibility and grant amount from July to September.

- (b) Annualized Income

- (1) Self-employment income, which is received on a monthly or an intermittent basis, that represents a household's annual income must be averaged over a 12 month period. This includes, but is not limited to, the following groups:

- Farmers
- Clients who own their own business
- Independent contractors paid on a commission basis, (Amway, Avon, Mary

- Kaye, real estate agents, etc.)
- Fishermen

(2) Annual income is averaged and applied on a monthly basis after allowable expenses are deducted. The local district must rely on the following to project the average monthly income:

- Last year's income tax returns
- Recent income in the current year
- Discussion with client as to current expectations for this year
- If possible, income of others similarly employed

Example

Pat Butram is a real estate agent. He is applying for assistance for himself, his wife, Marla, and their two children. At his eligibility interview in June, Pat submits his tax returns for last year. The returns show that Pat earned \$10,200 in commission from the sale of property. He also claimed expenses of:

\$ 600 – transportation to show property (\$50 x 12 months log of trips presented)
\$1,200 – advertising (receipted)
\$ 600 – depreciation on a personal computer (p.c.)

Pat also indicates that his business has slowed this year by about 10%. Through the end of May, Pat has only earned about \$4,100 and had the following expenses:

\$ 200 – transportation to show property (log of trips presented)
\$ 500 – advertising (receipted)
\$ 250 – depreciation on p.c.
No other information is available.

From last year's tax returns, the worker estimates that Pat has \$700 monthly income. This calculation is done in the following fashion:

\$10,200 – total income
\$ 600 – transportation expense
\$ 1,200 – advertising expense
\$ 8,400 ÷ 12 months = \$700

Note: The depreciation expenses on Pat's p.c. is not allowed, since depreciation is not an allowable TA deduction.

The worker also establishes from this year's information that there has been a reduction in Pat's income to about \$680 monthly. This calculation is done in the following fashion:

\$ 4,100 – total income
\$ 200 – transportation expense
\$ 500 – advertising expense
\$ 3,400 ÷ 5 months = \$680

The local district budgets \$680 gross income, since the more current information would be more accurate.

(c) Non-annualized Income

- (1) Self-employed income on a short-term or seasonal basis is not prorated over the calendar year. This income is budgeted over the period in which it is earned. In determining the amount to be applied, the local district must rely on the following:
 - (a) Pay records of last year's earnings over the same period
 - (b) Recent income information if available
 - (c) Discussion with the client as to expectations
 - (d) If possible, income of others similarly employed
- (2) Examples of self-employed clients that would not have their income annualized include:
 - (a) Migrant farm workers
 - (b) Seasonal vendors
 - (c) Businesses in operation less than a year

Example

Larry Storch works as a fast food vendor on Chautauqua Lake from Memorial Day to Labor Day. Larry applies for TA in January and receives a full grant of TA. In March when Larry recertifies for May 1st, Larry lets his worker know that he will be returning to his vendor job on Chautauqua Lake as of Memorial Day. From Larry's tax records, the worker establishes that Larry had the following income and expenses:

\$27,082 – income
\$ 9,031 – cost of goods sold (hot dogs, hamburgers, ice cream, etc verified by inventory receipts)
\$ 3,400 – labor inventory receipts attached (pages from ledger verify)
\$ 1,500 – depreciation on vendor stand
\$ 6,000 – rental of land (bill for rent attached)
\$ 3,400 – expenditure for new stove

The only expenses not allowed by the worker is the depreciation and the expenditure for the new stove. The expenditures for the new stove is purchase of capital equipment and therefore is not allowed. The worker then estimates Larry's monthly income to be \$2,883. This calculation is done in the following fashion:

\$ 27,082 – income
- \$ 9,031 – cost of goods sold
- \$ 3,400 – labor
- \$ 6,000 – rental of land
\$ 8,651 ÷ 3 months = \$2,883 per month

This amount is budgeted against Larry's needs making him ineligible for TA.

- d. **CLIENT OWNED PROPERTY** – Where the gross property cost of client-owned property used as the home exceeds the gross rent receipts, the difference is the TA recipient's shelter need that is payable up to the agency maximum. When the gross rent received exceeds the gross property cost, the difference is earned income from self-employment and no amount is included as a shelter item in the client's budget estimate of need. (Office Regulation 352.17)

Note: When the gross property cost exceeds the gross rent receipts, the difference will be the public assistance recipient's shelter need that is payable up to the agency maximum.

Example: Gross Property Cost Exceeds Gross Rent Receipts

Gross Property Cost	\$500
Gross Rent Received	<u>- 300</u>
Net Property Cost	\$200
Agency Rent Maximum =	\$143

In this example, the client would be allowed a shelter need of \$143 of the \$200 net property cost.

Note: When the gross rent received exceeds the gross property cost, the difference will be income from self-employment.

Example: Gross Rent Received, Exceeds Gross Property Cost

Gross Rent Received	\$ 300.00
Gross Property Cost	<u>- 150.00</u>
Profit	\$ 150.00
Standard Earnings Disregard	<u>- 90.00</u>
	\$ 60.00
% Disregard	<u>- 31.20</u>
Net Income	\$ 28.80

In the example, the client would have no shelter needs and the net earned income of \$28.80 would be applied to reduce the balance of needs.

X. SELF EMPLOYMENT – ESTABLISHING THE FACTS

Receipts, bills representing transactions, costs of inventory or supplies, and income tax records should be documented. Incomes of others similarly engaged should be ascertained, where possible, to determine future course of such employment.

Reliable data can be difficult to obtain from work activities of this class, and records are essential to a fair determination. In many situations, records are apt to be sketchy, and some efforts may have to be made to establish a more systematic method of recordkeeping for projecting future incomes. Attention should be paid to the seasonal nature of some businesses, such as the harvesting activities of a farm operator.

Copies of the applicant/recipient's income tax returns often represent the clearest summary statement of the financial picture of such enterprises. If the enterprise represents a partnership, the percentage owned by the applicant/recipient should be established by documentation. However, the income tax return should not be used to determine income from small business/farms since we do not allow for depreciation, shelter and dependent's allowances. The best documents are the business records that are kept. These records are required by law.

The availability of other employment should not be overlooked as an alternative if there is no outlook for the applicant/recipient being self-supporting in his current self-employment or in his small business.

Y. MICROENTERPRISES [\(94 INF-40\)](#)

Many operators of small businesses may need temporary assistance only while their business gets off the ground. Microenterprises generally take three to five years to thrive. By incubating these businesses and giving them an appropriate chance to get started, there is an incentive for a small business to be initiated, to survive and become self-sufficient.

These businesses often had the fundamentals for a potentially successful enterprise but the assets were sold off for the purpose of maintaining the basic necessities for the owner and his/her family. A number of opportunities currently exist under Department regulations to support microenterprises. With appropriate assistance and guidance from the local district, small business owners will find encouragement to start and maintain a self-sufficient microenterprise.

Pursuant to Office Regulation 352.12(a), if a business has been in existence for three years, the local district may review the business for growth potential. If the local district determines the business has growth potential, then the local district may defer the requirement that the applicant/recipient liquidate the business for a period of up to an additional two-years.

In addition, Office Regulation 385.2(b)(11), allows an applicant/recipient to be exempt from participation in the Jobs Program if the individual is working at least 30 hours per week as a self-employed person or in a small business owned or operated by that individual which is not subject to liquidation.

Local districts are encouraged to use the following options to help small businesses grow and become self-sufficient, thereby reducing the need for further TA:

1. Use of the SNA Plan of Self-Support – Office Regulation 352.20(f) allows for the exemption of income and resources, for up to one year, for SNA recipients who submit a plan as to how this income will be used. (If the SNA recipient does not have a plan, but does have a general interest in starting a business, a referral to one of the sources in Attachment B of [94 INF-40](#).) Under this plan, SNA recipients can purchase items relating to their work by saving funds to do so.

In the effort to encourage self-sufficiency, the Office recommends that local districts approve microenterprise related plans submitted by SNA recipients under this regulation as an incentive to become employed and self-sufficient.

2. Exclusion of Business Equipment and Tools from the \$2,000 Resource Limit For TA

Office Regulation 352.23(b)(7), exempts income-producing property from the TA \$2,000 resource limit when the property is in use, or is reasonably expected to be used, for the client's livelihood in the near future. This TA exclusion is meant for:

- a. Business and farm equipment, this includes vehicles which are in the name of the business
- b. Tools used for employment
- c. Livestock and produce

3. Use of an Accrual Method of Accounting for TA and the Use of the TA Supplementation Process

The accrual method of budgeting allows for expenses related to producing the goods and services, including expenses for inventory, to be deducted from self-employment earnings when expenses are incurred.

- a. This budgeting methodology would be done over the budget period, allowing for the brief accumulation of income to be used for an expense during the quarter. These expense deductions are defined in Office Regulation 352.17(b)(2).
- b. Supplementation of income is allowed under Office Regulation 352.31(c) and should be considered for those individuals who operate a small business and experience a temporary loss of income which was beyond the recipient's control as explained in [93 ADM-09](#).

4. Promote Family Day Care as a Microenterprise. Pursuant to Office Regulation 352.22(h) and 628.(f)(3), recipients may choose to provide family day care as a means to becoming self-sufficient. By becoming family day care providers, group day care providers or informal child care providers, these TA recipients can enter the work force, reduce or eliminate their need of TA and achieve self-sufficiency. Family day care providers have various incentives available to them such as:

- a. Family Day Care Provider Income Exemption - In addition to the usual work-related deductions from earned income, recipients who become family day care providers will have \$5 per day, per child (excluding their own child) of their income disregarded for TA (unless the household documents higher costs). This disregard is to help offset the expenses the recipient incurs in providing care (i.e., snacks, toys, materials, etc.).
- b. Examples of day care situations and specifics on the various special incentives for day care providers to become regulated can be found in [91 INF-29](#). An updated listing of Day Care Start-Up Administrative Agencies can be found in Attachment A in [94 INF-40](#).

5. Excluding Business Loans

- a. Pursuant to Office Regulation 352.22(c), bona fide loans (including business loans) may be excluded for FA recipients. Disregarding business loans will give these recipients the opportunity to establish their business without the threat that loans for business expenses will be budgeted against their TA grant. This will in turn encourage FA recipients to seek out the necessary funding required to establish and maintain a small business. Examples of bona fide loans and budgeting methodology can be found in [92 ADM-43](#).
- b. In addition, Office regulation 352.16 allows for the exemption of earmarked loans from the income calculation or the resource limit for SNA recipients. This exemption of loans is reserved for those loans which are limited to a specified purpose. These loans must be reviewed carefully to determine whether or not they are to be utilized for their intended purpose. These loans may assist SNA recipients with the

establishment of a small business or to keep a business operational.

6. Child Care Availability

- a. Child Care is Available to Support Self-Employment. Individuals who are self-employed are programmatically eligible to receive child care assistance regardless of whether their self-employment occurs in their own home or outside of their residences.
- b. As with all employed individuals, the amount of child care which may be authorized must be reasonably related to the hours of the employment, allowing the time for transportation to and from the child care provider.

7. Organization of the Client's Microenterprise – By assisting the recipient with information relating to formalizing the business, the recipient will be able to better manage the business. The business operation will also appear more stable to customers and creditors

Possible steps that could be taken are:

- a. The establishment of a business account
- b. The development of a business plan
- c. Securing of a business operating certificate (DBA)
- d. Incorporation

REFERENCES

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351.1
352.12
352.13
352.14
352.15(b)(3)
352.16(a)
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[97 ADM-23](#)
[Attach 1 - 11](#)
[Attach 12](#)
[Errata](#)
[97 ADM-07](#)

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[Errata](#)

[92 ADM-07](#)

[92 ADM-06](#)

[91 ADM-06](#)

[90 ADM-41](#)

[90 ADM-03](#)

89 ADM-41

89 ADM-21

88 ADM-37

85 ADM-33

84 ADM-43

84 ADM-39

84 ADM-01

83 ADM-67

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Related Items

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85 ADM-35
84 ADM-39
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352.4
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SNAP Source Book

CHAPTER 19: RESOURCES

A. GENERAL

1. DESCRIPTION

- a. **GENERAL** – Resources include individual or family financial assets, income from employment, eligibility for or receipt of benefits, and the services and social resources available through family relationships and community programs. Resources must be explored, verified, and evaluated for their immediate and/or potential availability in order to reduce or eliminate need for temporary assistance. All resources shall be evaluated according to their equity value. Equity value means fair market value less encumbrances (legal debts).
- b. **FINANCIAL** – Each financial asset or resource immediately or potentially available to the applicant or recipient must be identified and must be explored to determine its nature, equity value, form and availability. Each such resource must be evaluated and a decision reached in regard to its utilization. Such resources include but are not limited to employability, earnings, work-related benefits, pensions, health insurance, small business, real and personal property, securities, cash on hand, bank accounts, insurance, trust funds, estate settlements, servicemen's benefits, income in kind, contributions from relatives and friends, support orders, and any other benefits or interest in real or personal property.

2. VERIFICATION

Ownership of assets must be verified by the inspection and examination of documents relating to ownership, transactions and payment receipts within the above guidelines. Descriptions and identifying numbers, together with the names of issuers of documents, shall be recorded. Where ownership or value of an asset is in doubt, appropriate sources of verification must be contacted.

3. UTILIZATION

GENERAL – Resources must be so utilized as to eliminate or reduce the need for TA, rehabilitate the client, and conserve public funds through assignment and recovery. Applicants and recipients generally shall be required to utilize available resources and to apply for and otherwise pursue potentially available resources. The utilization of resources and the application of income therefor must be in accordance with department regulations. In establishing local policies and procedures for the utilization of resources, distinction should be made between temporary and long-term cases.

- a. **TEMPORARY NEED** – In establishing local policies and procedures for the utilization of resources in cases of temporary need, the assignment of property used as home, or the assignment or adjustment of life insurance may be required. Temporary need shall mean need which, at the time of the application, is expected to terminate within three months.

- b. **EMERGENCY OR SHORT-TERM CASE** – An emergency or short-term case is a case in which need is presumed to continue for a period of less than three months, provided; however, that cases in which frequent reapplications for assistance are made shall not be considered to be short term and shall be considered an application for on-going assistance.
- c. **RESOURCE LIQUIDATION** – When a resource, either exempt or non-exempt, is sold, the payment received is treated as a resource, unless the proceeds are paid in installments, in which case the payments are counted as income in the month received.

B. RESOURCE LIMITS (CASH, AUTOMOBILES, REAL PROPERTY, BURIAL PLOTS, EITC, IN TRUST ACCOUNTS, SNA, GIFTS TO MINORS)

The amount of real and personal property, including liquid assets, that can be reserved for each TA household must not be in excess of \$2,000 equity value, except for households in which any member is 60 years of age or over, such resources must not exceed \$3,000, excluding only the home, which is the usual residence of the assistance unit.

Note: The local district must make the determination, (keeping in mind whatever is common to that area) as to what is the amount of land contiguous to the homestead that can be exempt.

1. Automobiles

Effective May 16, 2016, households may own one automobile with a fair market value (FMV) of \$10,000 (or such other higher value as the local district may elect to adopt). Beginning April 1, 2017, the exemption amount for the first automobile will rise to \$11,000 FMV (or such other higher dollar value as the local SSD may elect to adopt). As of April 1, 2018, and thereafter, the exemption amount for the first automobile will rise to \$12,000 FMV (or such other higher dollar value as the local SSD may elect to adopt). .

- a. The fair market value of one automobile in excess of the automobile resource exemption limit is applied to the \$2,000 general resource limit. The equity value of each additional vehicle is also applied to the \$2,000 general resource limit.
- b. If an individual receives \$2,000 or more from an insurance company for damages done to his/her car, the money is treated as follows:
 - (1) If all of the money is used to repair the vehicle as intended by the payment, the money is not counted. However, if the individual keeps the money, it is a lump sum.
 - (2) If the individual received money from the insurance company to totally replace the vehicle, the money is exempt if used to purchase a new vehicle (an exempt resource). If the money is not used to replace the vehicle, it is counted as a lump sum. [See TASB Chapter 18, Section T](#), for treatment of lump sum payments.
- c. If the automobile is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle.
- d. The definition for automobiles is as follows: "Automobile means a passenger car or other motor vehicle used to provide transportation of persons or goods." Therefore, motorcycles, jeeps, trucks, etc. could be considered exempt if they meet the criteria established in this paragraph.
- e. In determining the fair market value of an automobile, local districts are to use the "wholesale" (average trade in the NADA book) value as quoted in the NADA monthly

publication. The equity value of a vehicle is determined by using the "wholesale" value, as quoted in the NADA monthly publication, less any encumbrances. However, in those instances where the client can prove that the vehicle is actually worth less than the local district's estimate, such proof must be accepted. The client must be advised of this right. For a direct link to the NADA automobile values please click on: <http://www.nada.com>.

- f. In determining the ownership of automobiles, the title to an automobile will now be considered rebuttable proof of ownership. This means that the holder of a Certificate of Title is the presumed owner of the vehicle unless the titleholder is able to substantiate that the automobile is actually owned by a third party.
 - (1) To overcome the local district's presumption and substantiate that the automobile is actually owned by the third party, the client must document that the car was purchased and paid for by the third party **and** that the third party has dominion and control of the vehicle. Documentation of purchase and payment would include the original bill of sale, cancelled checks, or a written statement from the original owner indicating that the car was purchased and paid for by the third party.
 - (2) Documentation that the third party has dominion and control would include written statements from the titleholder and third party, or statements from credible outside parties indicating that the third party has possession and primary use of the vehicle.
 - (3) If the client is unable to document that the automobile is owned by the third party, the fair market value of the vehicle must be counted towards the TA resource limit, to the extent that such value exceeds the automobile resource exemption limit. If the client does demonstrate that the vehicle is actually owned by the third party, then the client has 30 days to comply with Section 2113 of the Vehicle and Traffic Law, which requires that the title to a vehicle be transferred to the actual owner (the third party). If at the end of 30 days, the title has not been transferred, the applicant/ recipient will be considered owner and the value of the vehicle counted towards the TA resource test to the extent it exceeds the automobile resource exemption limit.

2. Real Property

For six months, real property, which the assistance unit is making a good faith effort to sell, but only if the assistance unit agrees in writing, to use the proceeds from the sale to repay cash TA received which would not have been granted if the property had been sold immediately. If the property has not been sold within six months or if eligibility stops for any other reason, any payment of aid for that period will, at the time of the disposal, be considered an overpayment.

Note: While it is not required to take a lien in addition to entering into a repayment agreement, it may help to ensure recovery by the local district.

Evidence of such good faith efforts would include, but is not limited to the following:

- a. The property is listed with a real estate or other agency that is actively attempting to sell it.
- b. The individual or family is actively trying to sell the property themselves through advertising and other efforts that are similar to those of a typical real estate or other agency.
- c. The individual or family is willing to respond to current market conditions by lowering the selling price, subdividing acreage, or otherwise being responsive to any reasonable offer:
 - (1) Whether the recipient has to sell the property for fair market value depends on the TA program. For FA it doesn't make a difference, but for SNA we have a transfer of property policy ([see this Chapter, Section G](#)) which could make the person ineligible if it is determined that the property was transferred instead of sold.
 - (2) The amount of cash assistance received during this period is considered an overpayment at the time of disposal. The amount recovered cannot exceed the amount of the net proceeds from the sale of the property. If the family becomes ineligible for other reasons during the disposal period, or if the disposal is not completed within the six-month period (at which point the case must be closed) all assistance received during the six-month period is considered an overpayment and must be recovered pursuant to Office Regulation 352.31(d) and [TASB Chapter 22, Section A](#).

Example:

A case was opened for three months, but they did not sell their property and went off assistance. If they reapply a year later, do they get six more months, three more months ($6 - 3 = 3$) or no months? The answer is that they could get six more months in which to dispose of the property. However, the three months of assistance they already received is considered an overpayment and must be recouped when they reapply.

- (3) This provision does not affect current policies on liens or transfers of assets.
- d. The following types of income-producing property when currently in use or reasonably expected to be used in the near future for their livelihood:
 - (1) Business and farm equipment
 - (2) Tools used for employed
 - (3) Livestock and produce

**Note: Property not in use due to illness, layoff, seasonal changes, etc.
continues to be exempt if it is expected to be used to produce income
when it becomes practical.**

- e. Stock and Inventory: The total amount of goods that a merchant or commercial establishment keeps on hand for sale must be exempt from consideration as either income or resources.
- f. Basic Maintenance Items: Essentials for day-to-day living: clothes, furniture and other similarly essential items of limited value. All other non-essential items are to be evaluated based on their equity value, and when combined with all other resources, shall not be in excess of \$2,000.
 - (1) As a condition of eligibility or of continuing eligibility, an applicant/recipient must certify, in addition to the information provided in the application/recertification forms, the extent and value of resources that the TA household owns or has equity in. The client's statement of the equity value of his resources is sufficient unless there is evidence to the contrary.
 - (2) Applicants/Recipients with available cash and/or bank accounts of less than \$2,000 must utilize such resources before an emergency situation can be considered to exist. Local districts must not provide recipients who refuse to utilize such resources with advances or emergency assistance. [See TASB Chapter 5, Section J.](#)
 - (3) When a resource, either exempt or non-exempt, is sold, the payment received is treated as a resource, unless the proceeds are paid in installments, in which case the payments are counted as income in the month received.
 - (4) In instances where there is a jointly owned checking or savings account, the amounts must be prorated among the joint holders of the accounts to determine the amount available to TA applicants/recipients, unless evidence to the contrary is brought forward. If a determination is made that an applicant/recipient's share is larger than a prorata share, the burden of proof will be on the local district to provide evidence. When a client alleges having less than a prorata share, the burden of proof will be on the client.
 - (5) To avoid a problem with confidentiality, when one of the owners of a joint bank account is a non-household member, the matter should be pursued by using the account number and amount deposited without naming the non-household member. This approach is acceptable since it does not reveal any information about the non-household member. If the bank or other institution doesn't respond, as in other verification situations, it is the household's responsibility to resolve the discrepancy.
- g. Burial Plots/Space Items: One burial plot or space per household member. A burial space item is noted as a space used for the removal of the body (i.e., the interment of the deceased's remains which occurs after all funeral services and mortuary functions have taken place). A burial space or plot is any conventional gravesite crypt, mausoleum, vault, casket, urn, or other repository which is customarily and traditionally used for the remains of the deceased person. Opening and closing of the grave and headstones are considered burial space items.

Note: An extra burial plot (i.e., household of four owning five burial plots), is

not exempt and would be treated as real property. If the value of the burial plot combined with all other resources exceeds \$2,000, the household would be given six months to sell the property, as with any other non-exempt real property.

- h. One funeral agreement having a maximum equity value of \$1,500 per household member. (A funeral agreement is a contractual financial arrangement with a bona fide funeral home/director to provide for funeral expenses.) If the agreement exceeds \$1,500, the excess is applied to the general \$2,000 limit.
 - i. If either the burial plot or the funeral agreement is converted to cash, the money becomes a non-exempt resource.
- 3. Earned Income Tax Credit (EITC) cannot be counted toward the \$2,000 resource limit. This includes state and local, as well as federal, EITC.
- 4. Seneca Nation Settlement Act – Under Public Law 101-503 and the Memorandum of Understanding between the Seneca Nation and the State, Settlement Act monies are exempt from consideration in determining eligibility or benefits for any State or federally funded social services program. These monies must not be counted as income or resources now or at any later point in time.
- 5. Income exempted under a SNA Plan of Self-Support as provided in [TASB Chapter 18, Section J](#).
- 6. Uniform Gift to Minors – An account established under the New York Uniform Gift to Minors Act is the property of the minor but is under control of the custodian and should not automatically be counted as a resource when the custodian is not a part of the household. When the custodian is part of the household the account is presumed to be available to the household. Since TA recipients are required to pursue all available resources, a parent is required to contact the custodian and find out if the account is currently available to the child. In addition, a parent may be required by the local district to petition the court to require a custodian to use the funds in a custodial account for the support of a minor.
- 7. In Trust Account – An “in trust” account might be set up as “John Smith, In Trust for Baby Smith.” The funds are the property of the individual setting up the account (i.e. John Smith), and the person for whom the funds are in trust has no rights to the account. The funds in the account will become those of the beneficiary, only upon the death of the person in whose name the account has been set up. Consequently, the funds are considered available to the persons in whose name the account is set up and unavailable to the beneficiary.
- 8. Tax Credits Exclusive of EITC – All non-EITC tax credits are exempt as income in the month received and for the following twelve months as a resource. This includes state and local, as well as federal, tax credits.
- 9. Tax Refunds – Federal, state and local tax refunds are exempt as income in month received and as a resource for the following twelve months.

C. INTERPRETATION

The \$2,000 or \$3,000, if age 60 or over, resource limit applies to applicants as well as recipients. If an applicant or a recipient has resources in excess of the \$2,000 limit, he/she is ineligible for assistance in that calendar month and any calendar month when resources exceed the \$2,000 limit. Some items included in the \$2,000 limit are cash on hand, bank accounts, stocks, bonds, promissory notes, and mortgages. If the equity value of all resources combined exceeds the \$2,000/\$3,000 limit the entire TA household is ineligible for TA.

Example 1

An Allegany County family of three (no one age 60 or over) applies for TA on September 20, 2016. At the eligibility interview on September 25, 2016, the examiner learns that the family owns one vehicle, a 2013 Ford Taurus with fair market value of \$15,000. Under the automobile exemption resource limit policy effective May 16, 2016 through March 31, 2017, the first \$10,000 is exempt leaving \$5,000 to be applied against the \$2,000 general resource limit. This makes the family ineligible for TA.

Note: Beginning April 1, 2017, the exemption amount for the first automobile will rise to \$11,000 FMV (or such other higher dollar value as the local SSD may elect to adopt). As of April 1, 2018, and thereafter, the exemption amount for the first automobile will rise to \$12,000 FMV (or such other higher dollar value as the local SSD may elect to adopt).

Example 2

An Oneida County family of three (no one age 60 or over) is applying for FA on November 3, 1997. At the eligibility interview, the examiner learns that the only asset the family has of any value is a bank account of \$2,700. Since this is over the resource limit of \$2,000, assistance is denied.

Example 3

A Herkimer County husband and wife, age 62 and 61 respectively, apply for SNA benefits on November 15, 1997. The family provides the following list of assets:

- \$1,500 – savings account
- \$ 250 – cash on hand
- \$ 450 – US Savings Bonds
- \$ 300 – valued TV
- \$ 200 – valued dryer
- \$ 300 – valued washing machine

At the eligibility interview the worker reviews the assets. The TV, dryer and washing machine are considered basic maintenance items of a limited value essential to day-to-day living and are therefore exempted. There has been no change in this provision. The other three remaining resources are countable liquid assets that total \$2,200 in value. As both the husband and wife are 60 years of age or over, the \$3,000 limit applies to this family. Since this amount is under the \$3,000 limit, the family passes the resource test.

D. EXEMPTIONS AND DISREGARDS OF RESOURCES OTHER THAN RECURRING INCOME POLICY RESTRICTED BENEFITS

1. When the terms of an award, the legislative intent of a government benefit, the rules of an organization paying a benefit, the nature of a trust fund, or the agreed upon intent of a friend, non-legally responsible relative, social agency or other organization limits the use of cash income, the local district must abide by such restriction when it has been verified. The restriction may limit the use of the income or resource to a specified purpose or to a particular member or members of the household. However, whenever a contribution from a non-legally responsible relative or friend is sought to be restricted to supplement a State-prescribed or approved standard, it must not qualify as a permissible restriction of income, unless the local district determines that the health and welfare of the recipient would be specifically and materially enhanced thereby.
2. **TRUST FUNDS OF AN INFANT**
 - a. No application to the court need be made for the release of trust funds of an infant under 21 years of age for the support of such infant, provided such funds are subject to the order of the court and do not exceed \$2,000.
 - b. No application to the court need ordinarily be made for basic maintenance when the trust funds of an infant exceed \$2,000, if such funds represent the proceeds of a personal injury award which resulted from an incident, in which the infant suffered disabling injuries. However, medical and educational costs related to the permanent injury should be met out of such funds and application therefore shall be made to the court, and, if the award clearly exceeds the anticipated costs of medical care and education, application should be made to the court for maintenance allowance for the infant involved.
 - c. A local district cannot attach a trust fund of a minor. However, a local district can petition the court to have trust monies released in order to provide for the indigent child. Under filing unit provisions, these monies would then be available as income or as a resource to the whole filing unit.

Note: An inheritance left to a minor under the age of 21 years can be attached for the full amount of assistance that has been provided.

Note: For treatment of "In Trust" accounts, please [see this Chapter, Section B](#).

3. **EDUCATIONAL LOANS** – No grant or loans to an undergraduate student for educational purposes shall be considered as income or resources in determining need and amount of assistance.
4. **EDUCATIONAL GRANTS AND LOANS THAT ARE PRECLUDED FROM BEING USED FOR CURRENT LIVING COSTS** – No grants or loans to graduate students, which are obtained and used under conditions that preclude their use for current living costs, must be considered to be income or resources in determining need and the amount of assistance.

Note: The exemption of educational grants, loans and scholarships for students is also discussed in [TASB Chapter 18, Section S](#).

5. EDUCATIONAL ASSISTANTSHIPS TO GRADUATE STUDENTS

- a. If the school, which grants the assistantship to the graduate student, designates the assistantship as an educational grant, the monies are treated in accordance with the rules of educational grants. (See 3 above.)
- b. If the school which grants the assistantship to the graduate student designates it as bonafide employment the monies received are to be considered employment income (after application of appropriate earned income disregards) against the graduate student's need for TA.

Note: The school which issues the assistantship should be contacted to determine the designation.

6. **LOANS UNDER TITLE III OF THE ECONOMIC OPPORTUNITY ACT** – The proceeds of a loan to a family made under Title III of the Federal Economic Opportunity Act shall be exempt and disregarded as income and resources in determining eligibility or degree of need.

7. EXEMPTION OF INCOME AND RESOURCES FOR SSI RECIPIENTS

- a. Applying for SNA
 - (1) In-kind income as determined by the Social Security Administration must not be considered as available income unless a separate verification of its availability is made
 - (2) That portion of the SSI grant being recouped by the Social Security Administration must not be considered as available income.

- b. Not Applying for SNA

Resources which are exempt for purposes of SSI are not taken into consideration with respect to a non- applying person who is in receipt of SSI.

8. **Individuals of Japanese Ancestry** – Payments to individuals of Japanese ancestry in restitution for wartime relocation and internment (P.L. 100-383, Section 105).
9. **Aleuts** – For Federally Funded TA only, payments to natives of the Aleutian or Pribilof Islands in restitution for wartime relocation and internment (P.L. 100-383, Section 206).
10. **Agent Orange Payments**
 - a. Under the Agent Orange Settlement Fund
 - b. From any other fund established pursuant to the settlement in the in re: Agency Orange Product Liability litigation

- c. From court proceedings brought for personal injuries sustained by veterans resulting from exposure to dioxin or phenoxy herbicides in connection with the war in Indochina in the period January 1, 1962 through May 7, 1975.

Note: Any TA household which documents that it is owed benefits because it was denied or underpaid TA after January 1, 1989, due to the receipt of exempt Agent Orange monies, must have corrective action payments made to it.

- 11. Earned Income Tax Credit (EITC) – EITC is exempt as income or resource. This includes state and local, as well as federal, EITC.
- 12. Radiation Exposure Compensation. For Federally Funded TA only, any payments received by applicants for or recipients of FA made under the Radiation Exposure Compensation Act (P.L. 101-426) for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining are exempt and disregarded as income and resources in determining eligibility or degree of need for FA benefits.
- 13. Seneca Nation Settlement Act – Under Public Law 101-503 and the memorandum of understanding between the Seneca Nation and the State, Settlement Act monies are exempt from consideration in determining eligibility or benefits for any State or federally funded social services program. These monies must not be counted as income or resources now or at any later point in time.
- 14. Income exempted under a SNA Plan of Self-Support is provided in [TASB Chapter 18, Section J](#).
- 15. Family Self-Sufficiency Program (FSS) escrow account funds administered by HUD. [See TASB Chapter 17, Section D](#) for more information.
- 16. For Federally Funded TA only, bona fide loans from non-legally responsible persons. For more information, [see TASB Chapter 18, Section J](#).
- 17. For Federally Funded TA only, payments to individuals under:
 - a. The Disaster Relief Act of 1974, as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 (Public Law 100-707)
 - b. Comparable disaster assistance provided by states, local governments and disaster assistance organizations
- 18. For Federally Funded TA only, payments to individuals under the Alaskan Native Claims Settlement Act (ANCSA) distributions:
 - a. Cash, to the extent that it does not, in the aggregate, exceed \$1,000 per individual per year
 - b. Stock

- c. A partnership interest
 - d. Land or an interest in land
 - e. An interest in a settlement trust
19. For Federally Funded TA only, payments to individuals under the Indian tribe or tribe member trust funds held by the Secretary of the Interior. All funds that are held in trust by the Secretary of the Interior for an Indian tribe or are to be distributed per capita to members of that tribe.
20. For Federally Funded TA, payments to Vietnam Veterans' natural children with Spina Bifida are excluded.
21. For Federally Funded TA and Safety Net Assistance families, VA payments made for covered birth defects to or on behalf of the adult or minor biological children of women Vietnam Veterans' in service in the Republic of Vietnam during the period beginning on February 28, 1961 and ending on May 7, 1975 are excluded.
22. Census Earnings – Local districts must inquire when a applicant/recipient (A/R) reports Census earnings whether the employment is expected to be temporary or long-term. Temporary Census employment positions are expected to be primarily enumerators and crew chiefs. Most of these Census positions are expected to become available April 1, 2000. In most cases, Census employees will be paid by the Census Bureau, in which case, the Census pay statement will indicate that the employee is a temporary hire for Census 2000. If the Census employee is paid by the National Finance Center, which is the federal agency that pays all federal employees, the pay stub may not indicate temporary status and the district will have to ask the employee for a copy of their hire letter (SF-50) which will show their status as a temporary.
23. Supplemental Needs Trusts (SNT) are discretionary trusts established for the benefit of an individual of any age with a severe and chronic or persistent disability, designed to supplement, not supplant, government benefits or assistance for which the individual is otherwise eligible. A SNT is not considered an available resource for the purpose of determining TA eligibility. In addition, a district must not require a TA applicant/recipient as a condition of eligibility to petition the court to release an SNT for basic maintenance, since the statute specifically precludes the court from releasing funds under these conditions.
24. Crime Victims Compensation Board (CVCB) payments are not countable income or resources for any TA program. However, the Crime Victims Board does take into account any monies received from these program when determining CVCB. Accordingly, when a local district is made aware that a TA recipient has applied for or is receiving CVCB, the district must notify the local Crime Victims Board in writing of the recipient's name and benefit amount so that any adjustment can be made to funds that the Crime Victims Board is paying for loss of earnings/support.

Local districts must not require as a condition of TA eligibility that the applicants/recipients pursue CVCB since these benefits are exempt as TA income or resources. This policy also applies regarding eligibility for burial costs. Districts, however, are

reminded that they may not pay any burial costs when the actual burial expenses exceed the maximum indigent burial rates established by the district.

25. Attica Settlement Awards – As a result of the Al-Jundi v. Mancusi settlement, New York State agreed to compensate Attica plaintiffs for severe injuries inflicted at Attica prison on September 13, 1971. Pursuant to 18 NYCRR 352.16(a) these awards are permanently exempt as income and resources for the purposes of determining eligibility for any TA program.

26. Vehicle Bank Accounts for TA Recipients

- a. Recipients of TA are allowed to establish separate bank accounts for the sole purpose of enabling the individual to purchase a first or replacement vehicle to seek, obtain or maintain employment. Up to \$4,650 may be exempted from resource limit consideration so long as the funds are not used for any other purpose.
- b. Local districts must monitor the balance of these accounts as least at recertification to ensure that the funds are not being used for any other purpose.
- c. Once it has been determined that the account has been used for purposes other than intended, the full amount of the funds in the account at the time of the withdrawal becomes countable towards the TA household's resource limit.
- d. This policy applies to both Family Assistance and Safety Net Assistance recipients.
- e. This exemption does not apply when determining the initial eligibility of applicants for TA. This includes former recipients with previously established accounts, who subsequently re-apply for TA.

27. Tax Credits Exclusive of EITC – All non-EITC tax credits are exempt as income in the month received and the following twelve months.

28. Tax Refunds – Federal, state and local tax refunds are exempt as income in month received and as a resource in the following twelve months.

E. REAL PROPERTY

1. Real property is any financial interest in houses, buildings and land, including rights such as mineral, water and air.
2. **PROPERTY USED AS HOME** – Ownership of real property by the applicant or recipient or by the parent of a dependent child in TA, when such property is utilized as his home, must not in and of itself make an individual ineligible for TA. A commissioner of social services may, however, take a deed or mortgage on the property of the parent of a child receiving TA (except EAA), in accordance with Sections 106 and 360 of the Social Services Law.

Note: An applicant or recipient who fails or refuses to execute such a deed or mortgage when required by the Commissioner of Social Services, shall be budgeted in accordance with [TASB Chapter 13, Section M](#).

3. **SPECIAL PROVISION FOR FORMER AIDE TO AGED, BLIND OR DISABLED (AABD) RECIPIENTS**
 - a. **LIMITATION ON DISPOSAL OF PROPERTY** – While real property covered by a deed or mortgage is occupied in whole or in part by a person who executed that deed or mortgage to the social services official for Aid to the Aged, Blind or Disabled granted to that person before January 1, 1974, the local district shall not sell the property or assign or enforce the mortgage unless it appears reasonably certain that the sale or other disposition of the property will not materially or adversely affect that person's welfare. After the person's death, no claim for assistance granted him shall be enforced against any real property while it is occupied by the surviving spouse.
 - b. **LIEN PROCEDURES** – Except as otherwise provided, upon the death of a person who executed a lien to the social services official in return for aid to aged, blind or disabled granted to that person before January 1, 1974, or before the person's death if it appears reasonably certain that the sale or other disposition of the property will not materially or adversely affect that person's welfare, the social services official may enforce the lien in the manner provided in Article 3 of the Lien Law. After the person's death, the lien may not be enforced against real property while it is occupied by the surviving spouse.
4. **SANCTIONS FOR FAILURE TO EXECUTE A DEED OR MORTGAGE ON REAL PROPERTY**
 - a. **APPLICANT OR RECIPIENT** – When an applicant or recipient of TA (except EAA) refuses to execute a deed or mortgage as directed by the commissioner of social services, the local district must eliminate only the needs of the non-complying individual(s) from the determination of eligibility and/or the grant and must base the needs of the family on the remaining persons in the grant. If evidence exists that the real property is jointly owned by both parents, both will have their needs removed and the needs of the household must be based upon the remaining children in the household. This is true even if one of the parents is willing to cooperate. Such sanction shall continue until such time as the recipient executes the required deed or

mortgage.

b. MOBILE HOMES

- (1) When a mobile home, but not the land it is on, is owned and occupied by a TA applicant/recipient, the home is exempt as a resource and no lien shall be taken on the mobile home.
 - (2) When the mobile home and the land it is on are owned and occupied by a TA applicant/recipient, a lien may be taken, if it is determined by the local district that the home has been permanently affixed, such as by building a foundation, basement or other immovable structure onto the home. A lien may always be taken on the land owned by the client. ("All Commissioner" letter – 2/2/84).
- c. When an applicant or recipient for FA, SNA, ESNA, or EAF owns real property that is used as a home, the local district may take a deed or mortgage on it. A deed/mortgage can not be taken for granting EAA.
 - d. Public records outside the applicant/recipient's county of residence should be explored when there is information from collateral sources, or when there is a pattern of property ownership, and when such property is acknowledged.

F. LIQUID RESOURCES (Personal Property)

1. **EXPLORATION** - Ownership of all other personal property not exempt in [this Chapter, Section C](#), including but not limited to annuities, stocks, bonds, mortgages, mortgage certificates and other securities, non-essential household furnishings, jewelry, savings and checking accounts, individual retirement or Keogh accounts, credit union accounts must be explored and analyzed to determine their equity value.

Note: The cash value of a life insurance policy is considered as equity value and is applied towards the \$2,000(or \$3,000 as appropriate) limit.

Note: When a resource, either exempt or non-exempt, is sold, the payment received is treated as a resource, unless the proceeds are paid in installments, in which case the payments are counted as income in the month received.

2. **EXCLUDED RESOURCES** – Items of value exempt from the \$2,000 (or \$3,000 as appropriate) equity resource level are:
 - a. Those cited by regulations (Homestead, Essential personal property)
 - b. Those which are legally unavailable (encumbered, lien)
 - c. Those which are a potential resource, that is, not yet available.

For further information on excluded resources [see this Chapter, Section C](#).

3. **VERIFICATION** – The correct procedure in verifying the information on the 1099 report is to contact the client and the bank. Generally, it would be best to contact the client first. Then, if more information is needed, contact the bank. If a client refuses to cooperate in verifying 1099 data, the entire family is ineligible. Since verifying income and resources is an eligibility requirement, the entire family would be ineligible for TA.

G. TRANSFER OF REAL OR PERSONAL PROPERTY IN SAFETY NET ASSISTANCE CASES

1. A person must not be eligible for Safety Net Assistance if he has made a voluntary assignment or transfer of real or personal property for the purpose of qualifying for such aid. A transfer of such property made within one year prior to the date of application must be presumed to have been made for the purpose of qualifying for such assistance and the applicant will be ineligible for one year from the date of the transferred property.
2. If the local district determines that the transfer was not made to qualify for Safety Net Assistance, such transfer or assignment must not constitute a basis for denial.

Note: Voluntary transfer of property does not affect eligibility for FA.

H. RELATIVES

1. **GENERAL** – The local district must review with the applicant the whereabouts of any legally responsible relatives. Unless proof of death of each legally responsible relative is shown, there must be referral to the local child support enforcement unit, on a form prescribed therefore, as much information as can be obtained on each such legally responsible relative. A referral in writing must also be made to the local law enforcement official. The referral to the local child support enforcement unit shall be made within two working days of furnishing aid.
2. **SURRENDER OF CHILD CONSIDERED** – When the applicant for or the recipient of temporary assistance or care is an unmarried mother and surrender of the child to the social services official for the purpose of adoption is under consideration, or the child has been surrendered to the social services official for the purposes of adoption, referral to the local child support enforcement unit may be deferred for a period of 90 days after the birth of the child.
3. **SURRENDER OF CHILD NOT CONSIDERED** – When the applicant for or recipient of temporary assistance or care is pregnant with or is the mother of an out-of-wedlock child and surrender of the child to the social services official for purpose of adoption is not under consideration, referral in writing must be made to the local child support enforcement unit within two days of furnishing assistance.
4. **REFUSAL TO COOPERATE** – When an applicant for or recipient of temporary assistance willfully fails or refuses to cooperate by furnishing information or aid to the local child support enforcement unit in establishing a support obligation, enforcing a support order or establishing paternity, the social services official must impose a pro-rata grant reduction sanction. In such instances, the noncomplying A/R is not ineligible for assistance, rather the TA grant to the entire family is reduced.
5. **FA POLICY** - The social services official must determine the availability of and seek enforcement and collection of all support obligations owed to recipients of Family Assistance and Safety Net Assistance pursuant to the requirements/ procedures as described in "Establishment of Paternity and Enforcement of Child Support", Part 347 of Office Regulations. ([Please refer to TASB Chapter 9, Section R](#) for more information about referral to Child Support Enforcement.)
6. Under Social Services Law, the following are considered legally responsible relatives:
 - a. A spouse for his or her spouse
 - b. A parent (natural or adoptive) for his or her children under 21
 - c. A step-parent for his or her step-children

The provisions in this item apply to legally responsible relatives only. Support for non-legally responsible relatives is voluntary. However, the ability and willingness of such persons to provide assistance must be reviewed with the applicant/recipient as a potential resource. The review must include an evaluation of past help and the appropriateness and possibility of current assistance from this source. If it is claimed

that contributions from such source are for a special purpose rather than for general assistance, Office policy on restricted benefits must apply. Office policy on Confidentiality and Disclosure must apply throughout the exploration for support.

I. WORK-RELATED BENEFITS

In determining eligibility, current employment, past employment, employability and work-related benefits must be fully explored and verified. The applicant or recipient must be required to seek and accept employment in which he is able to engage, to utilize placement facilities and to make application for work-related benefits.

1. Past Employment – An employment history must be obtained and verified where practicable for each applicant or recipient with previous work experience for a period sufficient to determine his presumptive eligibility for work-related benefits. The employment history shall contain names and addresses of former employers, social security number, dates of employment and the nature of work performed. For recently employed persons, the information should include amount of weekly wages and the reason for termination of employment.
2. Work Related Benefits:
 - a. **GENERAL** – The agency must explore eligibility for work-related benefits, require presumptively eligible persons to make application therefor, and verify the receipt of benefits in accordance with Office policies.
 - b. **SOCIAL SECURITY BENEFITS (RSDI)** – RSDI benefits shall be deemed an available resource which must be utilized as a condition for eligibility, including benefits available for retired workers and the wives of retired workers at age 62, and for widows at age 60. Exceptions may be made where need is presumed to be temporary, (i.e., 3 months or less).
 - c. **BENDEX CHECK** – To obtain information on RSDI payments, each local agency shall, in accordance with Office instructions, submit input to the beneficiary data exchange (BENDEX) system.
3. Other Work-Related Benefits – in addition to RSDI which must be explored include the following:
 - a. Public Benefits and Pensions:
 - (1) Unemployment Insurance
 - (2) State Disability Insurance
 - (3) Government Pensions and Benefits
 - (4) Retirement from Government Employment
 - (5) Veterans:
 - Disability
 - Service-Connected Pension
 - b. Social Security:

- (1) Survivors, including widows and other dependents
- (2) Disability, including dependents
- c. Workers' Compensation
- 4. Private Benefits and Pensions:
 - a. Retirement
 - b. Union
 - c. Sick Leave
 - d. Severance Pay
 - e. Fraternal Organization
 - f. Railroad Retirements Benefits
 - g. Employer/Union Pension Systems:

Employers and unions sometimes have pension systems that provide for retirement payments before age 65. Furthermore, many such systems require contributions from the employee. The return of these accumulated payments, often with interest, can provide a substantial resource. In unionized industries, such as the automobile and steel industry, workers may obtain supplemental unemployment benefits up to 90% of normal employed pay. In addition, many employment contracts call for a lump sum severance payment for employees whose services are no longer required.

J. ENROLLMENT IN EMPLOYER GROUP HEALTH INSURANCE AS CONDITION OF ELIGIBILITY FOR ASSISTANCE

As a condition of eligibility or continued eligibility, any applicant or recipient of FA or SNA who is or becomes employed and whose employer provides group health insurance benefits, including benefits for a spouse and dependent children of such applicant or recipient, shall apply for and utilize such benefits.

Such applicant or recipient may also be required to apply for and utilize benefits provided by former employers. For those households who have more than one employer offering group health insurance benefits, the local district may determine which employer offers the most comprehensive and/or substantial coverage and the applicant or recipient shall be required to apply for or continue and utilize the policy selected by the local district.

1. **ENROLLMENT IN EMPLOYER GROUP HEALTH PLAN** – Local districts shall require as a condition of eligibility or continued eligibility for TA or MA any applicant/recipient who is or becomes employed and whose employer or union provides group health insurance benefits, including benefits for a spouse and dependent children of such applicant/ recipient to apply for and utilize such benefits even if employee participation is required. This is accomplished through their signature on their application form for assistance.

Note: Cost to employees required to enroll under this Section shall be paid as a Medicaid expenditure in accordance with Office regulations except for the spend-down cases, where the expense of the coverage can be deducted to reach the MA level of eligibility.

Local districts shall comply with this Section by advising all clients at application and recertification, of the requirement as a condition of eligibility for assistance, to enroll in their employer's group health plan, if they are or become employed.

Where the applicant/recipient is employed but not enrolled (including enrollment for coverage of a spouse and dependent children) at the time of application or recertification, he shall be required to submit to the local district the policy's premium, coverage and claiming data, within 30 days of the local district's request for the information. In those cases where insurance is available from more than one employer, a determination of which employer plan offers the most comprehensive and/or substantial coverage shall be made, and the applicant/ recipient shall be required to select the more cost effective policy. If cost effective, an applicant/recipient may be required to enroll in and utilize a policy provided by a former employer.

2. **FAILURE TO COMPLY** – When an applicant/recipient fails to comply with a request to enroll for insurance or Medicare within 30 days of the beginning of the first available open enrollment period, he or she shall be notified through timely and adequate notice procedures of an intent to deny or discontinue Medicaid coverage until compliance occurs.

Note: In no instance, shall the failure or refusal of a legally responsible parent to apply for and utilize employer health insurance, be considered a basis for denying or terminating Medicaid coverage to any otherwise eligible minor

dependent children.

3. **DETERMINING COST BENEFIT** – Where the local district is notified of or has knowledge of the premiums to enroll or maintain enrollment for the A/R and/or their dependents, the local district may make a cost benefit determination to pay for the premiums. In most local districts this determination will be made by the Third Party Resources Worker. The criteria specified in Attachment II of 87 ADM-40 can be used to help make this determination but is not mandated.

If the policy is determined not to be cost effective, the applicant/recipient is then under no obligation to enroll or maintain enrollment in that plan.

4. **NON-EMPLOYER THIRD PARTY RESOURCES INCLUDING MEDICARE** – For non-employer Third Party Resources, including Medicare coverage, the same steps should be followed as with Employer Group Health Plans that require premium payments.

K. INCOME TAX REFUNDS

Income tax refunds received by TA applicants/recipients are not income and must be treated as a resource only after a period of one year has elapsed. Federal, state and local tax refunds are not income and are exempt as a resource for twelve months following the month of receipt.

Note: Earned Income Tax Credits (EITC) are exempt as a resource or income whether received as a refund or an advance payment. There is no time limit after which EITC becomes a countable resource. This policy applies to federal, state and local EITC.

Note: TA recipients sometimes receive a "rapid" income tax refund from a business that specializes in preparing income tax returns. These "rapid" refunds are normally provided as an advance against the federal (not State) income tax refund which the business anticipates the recipient will receive. When determining TA eligibility, these "rapid" refunds are to be treated as if they were the actual tax refund.

All non-EITC tax credits are exempt as income in the month received and for the following twelve months as a resource. This includes state and local, as well as federal, EITC tax credits.

L. OFFER OF A HOME

An individual who is a pregnant minor, or a minor residing with and providing care for his or her dependent child, must live with a parent, legal guardian or adult relative if he or she is:

1. Under the age of 18
2. Not married
3. Unless one of the exceptions listed below is found to exist.

The individual (and minor child) will not be required to live in the household of a parent, legal guardian, or other adult relative when:

- a. The individual has no living parent, legal guardian, or other appropriate adult relative whose whereabouts is known
- b. The individual has no parent, legal guardian, or other adult relative who will allow the individual (and child) to live in his or her home
- c. The individual (or child) has been subjected to serious physical or emotional harm, sexual abuse or exploitation in the residence of the parent, guardian or relative
- d. Substantial evidence exists of imminent or serious harm if the individual (or child) were to reside in the same residence with the individual's parent, guardian or relative
- e. It is in the best interest of the child to waive the requirement. Best interest will be determined by the social services district on a case by case basis

Note: When an individual and child is subject to one of the exceptions in this paragraph, paragraph 4 – alternative living arrangements, must be applied.

4. Alternative Living Arrangements:
 - a. When an exception applies to the requirement that an individual (and child) live with a parent, guardian or adult relative, and unless the individual's current living arrangement is appropriate, the local district must locate or assist the individual in locating an adult supervised supportive living arrangement.
 - b. An adult supervised supportive living arrangement are those that meet the standard as stated in paragraph d – below. These include but are not limited to:
 - (1) Maternity homes
 - (2) Second Chance Homes. – Second chance homes are defined as a facility which provides teen parents with a supportive and supervised living arrangement in which they are required to learn parenting skills, including child development, family budgeting, health and nutrition and other skills to promote long- term economic independence and well-being of their children.

(3) Individual's Current Living Arrangement: The local district may determine if the individual's current living arrangement is appropriate by considering such factors as:

- (a) The individual's involvement in educational activities
- (b) The availability, at or near the individual's residence, of child care which enables the individual to take part in educational activities
- (c) The individual's ability to properly manage his or her grant
- (d) Other persons living in the dwelling unit with the individual

These and other factors specific to the individual and child will be viewed together and support the decision that the individual's behavior appears to be responsible and would justify a continuation of that living arrangement.

- c. When the local district determines that factors exist which prevent the current living arrangement from being considered appropriate, the local district may offer the individual the opportunity to locate a more appropriate arrangement, and may assist the individual with expenses related to the move. However, when no appropriate arrangement is located by the individual, the local district will then require the individual to live in an adult supervised supportive arrangement, and the arrangement must meet the standard stated in paragraph [4(d)] below. Only when the individual will not live in such an arrangement can the local district deny assistance to the individual.
- d. Standards - In the case of formal adult supervised supportive living arrangements such as maternity homes and second chance homes, the arrangements must meet the appropriate licensing or certification requirements set by the Office of Children and Family Services for that kind of facility.
- e. Referral to Child Protective Services (CPS) - If the individual alleges that one of the circumstances in paragraph 1(c) or (d) exists, the local district cannot deny assistance to the minor for refusing to live with the parent, guardian or adult relative unless a CPS investigation is conducted under Section 432 of Office Regulation and results in a contrary finding. However, the local district can explore whether or not the individual (and child) should live in an alternative adult supervised supportive living arrangement and CAN deny assistance to the individual for refusal to live in an appropriate alternative arrangement.
- f. If after a CPS investigation and determination the report is unfounded, the individual (and child) will be required to return to the home of the parent, guardian, or relative whose home was the subject of the investigation, the individual (but not the individual's child) may be denied assistance for still refusing to live there. In such an instance, the individual is entitled to a fair hearing within 30 days if the request is made timely.
- g. Penalty for Non-Compliance – The individual is ineligible. The individual's minor child may receive assistance.

Note: For non-pregnant, non-parenting individuals under the age of 21 (generally Safety Net Assistance cases) the offer of a home by a legally responsible relative must be included in the exploration and evaluation of resources, still applies.

M. OFFER OF A JOB

An offer of a job can be only viewed as a resource when it is a valid offer of employment. A valid offer of employment exists when an employer or social services official advises an applicant or recipient that he or she will be able to start work at a specific job. The essential details of the job must be provided, including the employer's name, the job title for the offered job, the general duties, hours, rate of pay and approximate start date. [See 04-INF-19.](#)

N. NEW YORK STATE WORKER'S COMPENSATION:

1. Workers' compensation is insurance, paid for by the employer, that provides cash benefits and medical care for workers who become disabled because of an injury or sickness related to their job. If death results, benefits are payable to the surviving husband or wife, and dependents as defined by law.
2. No cash benefits are paid for the first seven days of disability, unless the disability extends beyond 14 days. In that event, the worker may be due cash benefits from the first day off the job. However, necessary medical care is provided no matter how short or how long the length of disability.
3. The following occupations are covered by New York State's Worker's Compensation:
 - a. Workers in all employments conducted for profit
 - b. Employees of counties and municipalities engaged in work defined by the law as "hazardous"
 - c. Public school teachers, excluding New York City. Public school aides, including New York
 - d. Employees of the State of New York, including some volunteer workers
 - e. Domestic workers employed 40 or more hours per week by the same employer. This category may include full-time sitters or companions, and live-in maids
 - f. Farm workers whose employer paid \$1,200 or more for farm labor in the preceding calendar year
4. Some kinds of employment which are not covered are:
 - a. Clergymen and members of religious orders
 - b. Persons engaged in a teaching or non-manual capacity in or for a religious, charitable or educational institution
 - c. Seamen, longshoremen, interstate railroad employees, federal government employees and others covered under federal workers' compensation laws
 - d. Persons, including minors, doing yard work or casual chores in and about a one-family, owner-occupied residence. "Casual" means occasional, without regularity, without foresight, plan or method. Coverage is required if the minor handles power-driven machinery, including a power lawnmower
 - e. Employees of foreign governments
 - f. New York City policemen, firemen, sanitation men.
5. How to File a Claim:

- a. Report the injury to the employer promptly. This must be done within 30 days after the accident.
- b. Obtain Board Form C-3, '*Employee's Claim for Compensation*', from your nearest Board District Office. (You may do this by telephone). Then complete the form and mail to this District Office.

Note: Your claim must be filed with the Board within two years of the date of accident.

- c. You will be notified by mail if any hearings on your case are necessary.
- d. With respect to any potential Worker's Compensation or Disability Benefits, individuals should be referred to the nearest local Worker's Compensation Board office. These district offices are as follows:

ALBANY

100 Broadway – Menands
Albany, New York 12241
(866) 750-5157

SYRACUSE

935 James Street
Syracuse, New York 13202
(866) 802-3730

BINGHAMTON

State Office Building
Hawley Street
Binghamton, New York 13901
(866) 802-3604

BROOKLYN (NYC)

111 Livingston Street, 22nd floor
Brooklyn, NY 11201
(800) 877-1373

BUFFALO

Ellicott Square Building
295 Main Street, Suite 400
Buffalo, New York 14203
(866) 211-0645

HEMPSTEAD

175 Fulton Avenue
Hempstead, New York 11550
(866) 805-3630

ROCHESTER

130 Main Street West
Rochester, New York 14614
(866) 211-0644

O. VETERANS BENEFITS

Veterans Benefits are monthly cash payments, paid by the Veterans Administration, to honorably discharged veterans and their dependents. Cash benefits may include payments for service-connected disability, education/training, retirement, death, and burial expenses. In addition to cash benefits, the Veterans Administration offers a wide range of services which include medical care, GI mortgages, dental treatment (under certain conditions), and employment assistance.

1. REFERRAL

- a. Veterans and/or their dependents, as a condition of TA eligibility, must explore and utilize all available veterans benefits. Veterans and their dependents must agree to be referred to a state or county veterans office so that their eligibility for veterans related benefits can be assessed.
- b. Local district staff must ask clients if they are veterans, or if they served in the military, and advise those who identify themselves as veterans that the Division of Veterans' Affairs and local veteran's services agencies provide assistance to veterans regarding benefits under State and Federal law.
- c. Veterans may be eligible for benefits based upon their military service. The benefits include pensions, disability compensation, health care, education benefits and vocational rehabilitation and training. Additionally, the families of veterans may be entitled to certain benefits.
- d. If an applicant or recipient indicates that he or she has served in the military, that individual must be advised that he or she may be eligible to receive certain benefits based upon military service. As a condition of TA eligibility, that individual must go to the appropriate veterans agency as listed in the county roster (Attachment 1 of [93 ADM-21](#)) for evaluation.
- e. The [LDSS-2640](#) – Request for Action/Services can be used as the referral document. Failure of the individual to comply with the referral to the veterans agency will result in ineligibility for the individual and his or her entire TA household.

2. ELIGIBILITY

- a. **GENERAL BENEFITS** (Loans, Education/Training Allowances, Burial Expenses, and Non-Cash Benefits) – A male or female who served in the Armed Forces of the United States and was discharged, released, or transferred to the reserves.
- b. **DISABILITY BENEFITS** – A male or female who served in the Armed Forces of the United States and was discharged, released or transferred to the reserves.
- c. **RETIREMENT BENEFITS** – A male or female who completed a minimum of 20 years of military service (or was separated from service due to disability) and who was honorably discharged from the Armed Forces.

d. **SURVIVORS BENEFITS**

- (1) The spouse, if she/he has not remarried, of a deceased veteran of over 90 days of war time service. If the second marriage terminates, the survivor may revert back to eligibility for the first spouse's benefits.
- (2) A dependent child under 23 years of age or an incapacitated child at any age (if the incapacitation occurred prior to the 18th birthday) of a deceased veteran.
- (3) The parent of a deceased veteran who dies of a service-connected disability.

Note: Eligibility for certain benefits such as home loan guarantees and burial in a national cemetery may depend on whether or not the veteran's military service took place during Time of War or within specific time periods. Final determination of eligibility for all veterans benefits is made by the Veterans Administration.

Note: Individuals must file for benefits at the appropriate New York State Veterans Affairs Office. Claimant will receive additional instructions if he/she telephones first.

e. **VERIFICATION OF APPLICANT'S RECEIPT OF BENEFITS**

- (1) Wherever potential eligibility for Veterans Benefits exists, local district staff are responsible for the verification of the receipt of benefits or non-eligibility for these benefits.
- (2) Verification may be accomplished by reviewing any of the following documents:
 - (a) Veteran Benefit check or photocopy of same
 - (b) Benefit Notice or other correspondence from Veterans Administration;
 - (c) If none of the above documents are available, or do not supply sufficient information, clearance is to be made as follows:

New York City (should obtain verification from)
Veterans Liaison Unit
11 West 13th Street
New York, New York 10011
Telephone: (212) 620-9211, or 620-0212, or 620-9232

All other Social Services Districts (should obtain verification from)
VA Regional Office
307-06 111th West Huron Street
Buffalo, New York 14202
Telephone: (716) 846-5191

For more information on Veteran Assistance, [See TASB Chapter 10, Section R.](#)

P. SERVICEMEN'S ALLOTMENTS

Servicemen's Allotments are monthly payments made to dependents and other persons related to individuals currently in military service. When a temporary assistance applicant or recipient is in receipt of a Servicemen's Allotment, the amount of the Servicemen's Allotment is to be considered income.

1. TYPES OF SERVICEMEN'S ALLOTMENTS

- a. Type 1 is a payment made to a servicemen's dependent, consisting of a deduction from the servicemen's pay plus a quarters allowance provided by the Government.
- b. Type 2 is a payment made from the servicemen's pay to any person of his choosing, with no additional allowance provided by the Government.

2. PERSONS ELIGIBLE FOR SERVICEMEN'S ALLOTMENTS

- a. The following dependents are eligible for a Type 1 Servicemen's Allotment:
 - (1) Legal wife
 - (2) Unmarried in-wedlock children under 21. Step-children and adopted children are eligible if they are in fact dependent on the serviceman.
 - (3) Unmarried in-wedlock children over 21 who are incapable of self-support due to mental or physical incapacity, if they are in fact dependent on the serviceman for over one-half of their support.
 - (4) Father or mother, if he or she is dependent on the serviceman for over one-half of his or her support. Included are step-parent, parent by adoption, and any person who has acted as a parent in relation to the serviceman for a continuous period of not less than five years while the serviceman was minor.
 - (5) In the case of a servicewoman, the husband or children or both, if the husband or children or both are dependent on the servicewoman for more than one-half of their support.
- b. The following non-dependents are eligible for a Type 2 Servicemen's Allotment:
 - (1) Non-dependent parents
 - (2) Divorced wife
 - (3) Out-of-wedlock child
 - (4) Any other person of the serviceman's choosing

3. OBTAINING SERVICEMEN'S ALLOTMENTS

The serviceman ordinarily initiates the application for a Serviceman's Allotment, and

thereafter begins to contribute a fixed amount monthly from his pay, to which amount a Government contribution is added in the case of a Type 1 Servicemen's Allotment.

If a temporary assistance applicant or recipient appears potentially eligible for a Type 1 Servicemen's Allotment and the serviceman in question fails to claim such Servicemen's Allotment, the applicant or recipient is to be referred to the Special Tasks Section. The Special Task Section is to send a letter, over the signature of the applicant or recipient, to the appropriate branch of the Department of Defense for the purpose of claiming a Servicemen's Allotment.

4. VERIFICATION OF RECEIPT OF SERVICEMEN'S ALLOTMENTS

Whenever potential eligibility for a Servicemen's Allotment exists, local district staff are responsible for the verification of the receipt of or non-eligibility for these benefits.

Verification may be accomplished by reviewing any of the following documents:

- a. Servicemen's Allotment check or photocopy of same.
- b. Correspondence from the appropriate branch of the Department of Defense.
- c. If none of the above documents are available, or do not supply sufficient information, clearance is to be made as follows:

New York City (should obtain verification from)

Veterans Liaison Unit
11 West 13th Street
New York, New York 10011
Telephone: (212) 620-9211, or 620-9212, or 620-9232

All other social services districts (should obtain verification from)

VA Regional Office
307-06 111th West Huron Street
Buffalo, New York 14202
Telephone: (716) 846-5191

Q. SOCIAL SECURITY BENEFITS, RETIREMENT, SURVIVORS, DISABILITY INSURANCE (RSDI)

1. Social Security is the nation's basic method of providing a continuing income when family earnings are reduced or stop because of retirement, disability or death.
2. The security for the worker and his/her family grows out of his/her own work record. Entitlement to benefits is based on past employment, and the amount of benefit is related to the amount of previous earnings. The benefits are an earned right and usually are payable regardless of income.
3. Monthly Social Security checks, may go to workers and their dependents when the worker retires, becomes severely disabled, or dies. These benefits include:
 - a. **Retirement Checks** – A worker can start receiving retirement checks as early as age 62.
 - b. **Disability Checks** – A worker who becomes severely disabled before age 65 can receive disability checks.
 - c. **Survivors' Checks** – If the worker dies, survivors' checks can be sent to certain members of the worker's family. A lump-sum payment also can be made when a worker dies.
4. **REFERRALS** – An individual should be referred to the Social Security Office, if:
 - a. He/she is unable to work because of an illness or injury (severe physical or mental impairment) that is expected to last a year or longer
 - b. He/she is 62 years of age or older and plans to retire
 - c. He/she is within 3 months of age 65, even if there are no retirement plans
 - d. If someone in the individual's family died
 - e. Someone in the family suffers permanent kidney failure
5. **WHAT TO BRING** – When applying for Social Security benefits the applicant should bring the following information:
 - a. Social Security Card or a record of social security number
 - b. Proof of age, such as a birth certificate or baptismal certificate made at or shortly after birth
 - c. A marriage certificate if applying for spouse's, widow's, or widower's benefits
 - d. Children's birth certificates, if applying for them
 - e. W-2 Forms for the last 2 years, or a copy of the last two Federal income tax returns,

if self-employed.

6. **RETIREMENT OR DISABILITY** – If an individual is receiving retirement or disability benefits, monthly benefits also can be made to his/her:
 - a. Unmarried children under 18 years of age (or under 19 if full-time high school students)
 - b. Unmarried children 18 years of age or over, who were severely disabled before 22 years of age and who continue to be disabled
 - c. Spouse 62 years of age or over
 - d. Spouse under 62 years of age, if the spouse is caring for a child under 16 years of age or disabled, who is getting a benefit based on the retired or disabled worker's earnings
7. **SURVIVOR'S** – Monthly payments can be made to a deceased worker's:
 - a. Unmarried children under 18 years of age (or under 19 if full-time high school students)
 - b. Unmarried children 18 years of age or over who were severely disabled before 22 years of age and who continue to be disabled
 - c. Widow or widower 60 years of age or older
 - d. Widow or widower, or surviving divorced parent if caring for worker's child under 16 years of age (or disabled), who is getting a benefit based on the earnings of the deceased worker
 - e. Widow or widower 50 years of age or older who becomes disabled not later than 7 years after the worker's death, or within 7 years after mother's or father's benefits end
 - f. Dependent parents 62 years of age or older
 - g. Under certain conditions, checks can also go to:
 - (1) A divorced spouse
 - (2) Children, based on a grandparent's earnings

8. **MONTHLY CASH BENEFITS**

Before an individual or a family can receive monthly cash benefits, there must be credit for a certain amount of work under Social Security. Social Security credit is measured in "quarters of coverage." No more than four quarters of coverage can be credited for a year. The amount of earnings needed to receive a quarter of coverage will increase automatically to keep pace with average wages.

Social Security benefits for people on the rolls will increase automatically in future years as the cost-of-living increases. Each year, living costs will be compared with those of the year before. Social Security checks are not subject to Federal Income Tax.

9. **CHANGES IN BENEFITS** – There are a number of factors that can affect benefits such as:

- a. If a social security recipient returns to work after receiving retirement checks, his added earnings may result in higher benefits. Social Security will automatically refigure his benefit after the additional earnings are credited to his record.
- b. An individual can retire as early as 62, but his retirement check will be reduced permanently. Payment amounts are also reduced if a wife, husband, widow, or widower starts receiving payments before 65. The amount of reduction depends on the number of months a recipient receives checks before reaching 65. If an individual starts receiving checks early, he will receive about the same value in total benefits over the years, but in smaller amounts to take account of the longer period he will receive them.
- c. If a recipient goes back to work and is under 70, his earnings may affect his Social Security benefits. An individual does not have to stop working completely, though, to receive Social Security benefits. An individual can receive all benefits if his earnings do not exceed the annual exempt amount.

10. **RIGHT OF APPEAL**

If a recipient feels that a decision made on his/her claim is not correct, he/she may ask the Social Security Administration to reconsider it. If, after this reconsideration, he/she still disagrees with the decision, a hearing by an administrative law judge in the Office of Hearings and Appeals may be requested. Then, if he/she is not satisfied with the hearing decision, he/she may request a review by the Appeals Council. If he/she is still not satisfied, he/she may take his/her case to the Federal Courts.

The Social Security Administration makes no charge for any of the appeals before the Administration. An individual may choose to be represented by a person of their own choice.

References

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351.2
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352.16
352.20(g)
352.22
352.23
352.27
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"All Commissioner" Letter-(6/7/85)
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SSL 101
SSL 131(6)
SSL 104A
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Related Items

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352.30
352.30(c)
360.9
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370.4

83 ADM-67
82 ADM-49
80 ADM-1
77 ADM-134

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[SNAPSB](#)

CHAPTER 20: METHOD OF PAYMENT OF GRANTS

A. GENERAL POLICY

Payment for authorized temporary assistance and care in the FA and SNA programs shall be made by issuance of unrestricted money payments where practicable, except when Office Regulations require otherwise. Such unrestricted money payments shall be payable to:

1. The recipient or his legally appointed committee,
2. The grantee in FA, and
3. An adult member of the household in SNA.

Note: An opportunity for a fair hearing shall be provided on any issue relating to method of payment.

B. DEFINITIONS

1. **UNRESTRICTED MONEY PAYMENT** - This is a payment (grant) which is paid to the grantee in cash or by check and without direction on the check or without letter or agreement as a condition of receiving the payment or without other notice that the recipient must use his money in a specified way or for a specified purpose.
2. **RESTRICTED MONEY PAYMENT** - This is a money payment made to or on behalf of eligible individuals or families in a form other than in cash, checks, or warrants immediately redeemable at par with no restrictions imposed by the local district on the use of funds by the individual.
3. **INDIRECT OR VENDOR PAYMENT** - This is the issuance of an order or payment to a vendor for furnishing food, living accommodations, or other goods or services to a recipient.

Note: Direct payments to the vendor may be used when paying restricted shelter and child care.

4. **PROTECTIVE PAYMENT** - This is a check or warrant payable to an individual other than the eligible relative in the case of FA when payment is determined to be in the best interest of the recipient.

C. REASONS FOR RESTRICTIONS

Money payments shall be restricted for the following circumstance.

1. **INABILITY TO HANDLE CASH** - When the inability of an applicant for or recipient of FA to handle cash has been demonstrated and when neither the granting of power of attorney by the recipient nor the appointment of a committee by the court is deemed practicable, payment of all or part of the grant shall be made by restricted payments.

The recipient shall be sent written notice whenever a creditor requests a restricted payment for mismanagement on the basis of non-payment of bills.

Where payment is restricted, the reason for the decision to restrict shall be explained in the case record, and the recipient shall be sent written notice of the restriction together with the reasons. The recipient shall be sent written notice of any decision not to use a restricted payment.

The local district shall initiate discussion concerning the client's reasons for non-payment of bills and shall make renewed effort to help the client assume responsibility for paying his own bills.

2. **VOLUNTARY BY FA** - Money payments shall be restricted when an applicant/recipient of FA requests in writing that vendor or protective payment be made in instances where the budget deficit is greater than or equal to the charge for the goods or services rendered.

- a. **Local District Responsibility** - The local districts must inform FA applicants and recipients of their right to request restricted payments, especially for rent.

If the applicant/recipient requests to have his/her grant restricted, the local district must comply with the request. However, a local district may refuse to restrict payment when the existing current deficit does not cover the full cost of the item for which the client is seeking restriction.

- b. **Client Requests** - TA applicants and recipients have the right to request that their grants be restricted in whole or in part. Such a request must be a strictly voluntary action. The local district should emphasize to clients who make the request that it is not a requirement for the recipient of TA. However, all local districts are required to distribute the following information to each FA applicant and recipient who request restricted payments.

- (1) [DSS-4148A "What You Should Know About Your Rights and Responsibilities"](#) contains the required information outlined in paragraphs 1 and 2 above.

- (2) DSS Request for Voluntary Restricted Payment (88 INF-64)

This must be reproduced or reprinted locally. If a local modification involving the wording is used, it must be submitted to this Office for review.

- c. **Voluntary Restricted Payment Form** - The "DSS Request for Voluntary Restricted

Payment" must:

- (1) Include a statement of the applicant's/recipient's right to have the restriction discontinued.
- (2) Be signed and dated by the applicant/recipient and filed in the case folder when restriction is requested.
- (3) Be acted on within 30 days after receipt of the request.
- (4) Adequate notice sent at the time of case action both for commencement and discontinuance of the voluntary restriction.

Note: If the recipient submits a written request that a portion of his/her TA grant be sent directly to the child care provider, the local district must comply with this request.

Note: For information on voluntary restrictions for fuel allowances see the [Energy Manual](#)/[HEAP Manual](#).

EXAMPLE

Mrs. Smith lives with her two dependent children and is an applicant for FA. Categorical and financial eligibility is established for FA and she voluntarily requests her rent (agency maximum) and heat bill be paid by restricted grant. The following ABEL budget shows the calculation of the needs, cash grant, and restricted grant:

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WBGTPA      ** TA BUDGET **      VERSION      DIST ALBA 03/14/2009
CASE NAME      CASE NO.      OFC  UNIT  WORKER  TRAN  CASE  IVD
MRS, SMITH      SCRATCHPAD  XXX  XXXXX  XXXXX  02    11
HH CA DP-HH DP-CA HC LF PI SI PSP PSF      ***** EARNED INCOME *****
03 03      # LN 30I 30M SRC FRQ D HRS CCR
TY R      ACTUAL  ALLOW      1:
      BASIC      23800      2:
      ENRGY      3000  **** OTHER INCOME ****      0 GROSS      0
      SPMNT      2300  LN SRC F AMOUNT EXEMPT      0 TAXES      0
01 X SHEL  50000  30900      0 0      0 NYS DIS      0
      WATER      0 0      0 0      0 WORK EXP      0
1 X FUEL      5800      0 0      0 EXEMPT      0
      OTHER      0 0      TOTAL NET      0 0 CH CARE      0
      OTHER      0 0      $$$$ PA GRANT $$$$      0 CH CARE      0
      OTHER      0 0      TOTAL NEEDS 65800      0 CH CARE      0
      TOTAL NEEDS 65800      TOTAL INC      0 0 DISREGARD      0
***** RECOUPMENT ***** CD / AMT D 65800      0 TOT DED      0
TY BALANCE % MO AMT REM RECOUPMENT      0 0 UNAVAIL      0
      0 00.0      0 0 UTIL/RES      0 1000000 NET INC      0
      0 00.0      0 0 SHEL/RES 30900
      0 00.0      0 0 RESTRICTED 5800 * EFFECTIVE DATE *
RECALC 00.0      0 SEMI CASH 14550 040109 TO 043000
SNAP CASE NO.      SEMI N-CASH      0 DATE STORED / /
  
```

3. PAYMENT FOR RENT

- a. **Restricted Payment for Rent** - When a recipient of TA has failed to apply the shelter allowance fully to his rent, the local district shall consider such failure as an

indication of inability to handle cash and shall investigate the advisability of making restricted payment of the shelter allowance to the landlord or his designated agent. Such payments shall not exceed the limitations set forth in Section 381.9 of the Regulations. In determining whether such restricted payments shall be made, the following considerations shall apply:

- (1) Two months non-payment of the shelter allowance or eviction notice for non-payment of rent shall be considered rebuttable presumptive evidence of inability to handle cash. Examples of how this presumption may be rebutted include but are not limited to:
 - (a) Where a recipient demonstrates that the family has experienced some emergency or extraordinary event for which it was appropriate for available funds to be spent;
 - (b) Where a recipient demonstrates extraordinary expenses for necessary items not normally provided for by the TA grant or by the MA program or for which payment is not other-wise readily available from some other source;
 - (c) Where a recipient demonstrates that the family has withheld the payment of rent as a reasonable exercise of consumer rights.
- (2) When a recipient is two months or more in arrears in rent and the landlord or his designated agent desires restricted payment for rent, the landlord or his designated agent must make such request in writing to the local district. Prior to making such written request, the landlord or his designated agent shall attempt to collect the overdue rent from the recipient and shall provide such evidence to the local district when the written request is made.
- (3) Such payment shall not be made where a recipient's rent is in excess of the amount allowed as a shelter allowance and the recipient pays the full amount of such allowance but fails to pay part or all of the amount due above the allowance, nor shall such payments be made where the local district has been withholding rent payments in accordance with provisions of Section 143-b of the Social Services Law.
- (4) The local district shall advise the recipient whenever a landlord or his designated agency requests restricted rent payments.
- (5) The local district shall advise the recipient of the decision to restrict rent by means of a timely and adequate notice detailing the reasons for the proposed action or shall advise the recipient of a decision not to restrict rent.
- (6) When a decision to make restricted payments for rent is made pursuant to this subdivision, the decision shall be entered in the case record and the reasons underlying the decision shall be fully documented.

Note: (81 ADM-65) As a result of litigation in the case of Montes v. Blum, the shelter allowance can no longer be removed from an FA grant when the recipient has withheld the rent payment because of a dispute with the

landlord or the rental agent. This change is retroactive to May 1, 1981. For non-TANF funded SNA cases there is no retroactivity and this policy for non-TANF funded SNA is effective January 1, 1982.

Note: Local districts must continue to make determinations of mismanagement following the procedures specified in 80 ADM-98. Recipients who present evidence that they had withheld the rent because of a dispute with the landlord must be allowed to retain the shelter allowance in their grant. Recipients must provide the facts underlying the dispute and the local district must document the reasons in the case record. A local district can use vendor restricted payments if the dispute is not legitimate.

- b. **Duplicate Rent Payment** - Generally, all TA overpayments are subject to recoupment or recovery. However, the following circumstances point out an exception to this rule.
- (1) When a recipient moves from one apartment to another and is on restricted rent, duplicate rent payments are often made by the local district. This happens when a recipient fails to provide timely notice of the move to local district, or when the local district fails to act in a timely manner upon notice provided by the recipient, and rent is sent to both the former and new landlords.

Timely notice from the recipient about the move, for the purpose of this policy, is interpreted as being at least 10 days prior to the move.

- (2) Once the local district has been informed by the recipient of a pending move, the local district has the responsibility to act upon this information in a timely manner. If the local district acts in a timely manner after receiving the notification of the move and, because the recipient did not inform the local district in sufficient time to make the change and duplicate rent payments are made, the duplicate rent must be recouped.

However, if the recipient does provide the local district with notice in time for the local district to make the change and the local district does not act timely and duplicate rent payments are made, the duplicate rent payments must not be recouped from the recipient.

- (3) Efforts should be made to recover the duplicate rent payment from the former landlord for the periods the recipient did not reside the rent to the local district, and the recipient notified the local district in a timely manner, there should be no recoupment against the recipient.

EXAMPLE #1:

On July 16, Ms. Benes decides to move to another apartment on the first of August. She notifies the local district of this change on the 17th of July. The local district does not make the appropriate changes until after the first of August and a duplicate rent payment is made. In this case, the client provided the local district with sufficient time to make the necessary adjustments to her case. Therefore any recovery of the duplicated

payment must be against the landlord of the previous apartment and not against Ms. Benes.

EXAMPLE #2:

One September 15, Mr. Kramer decides to move to another apartment on the first of October. He forgets to notify the local district of this change until September 27, three days before the move. The local district processes the change but unfortunately a duplicate rent payment goes out to the previous landlord. In this case, since the client did not provide the local district with the change in address in a timely manner, a recoupment for the duplicate payment may be made against Mr. Kramer's case.

D. PAYMENT IN CLOSED CASES

TEMPORARY ASSISTANCE PAYMENTS - TA payments are to be made only to persons who are current recipients of TA and care on the date of payment except as provided below:

1. Payment must be made to former applicants for and recipients of ADC whose cases have been closed and who are owed ADC benefits for periods after July 1, 1985 if such benefits are owed solely because such persons were not current recipients of ADC and:
 - a. Such benefits are:
 - (1) Requested by the former applicant or recipient or the appropriate local district is otherwise informed that such payments are owed; and,
 - (2) Not in dispute and are acknowledged as benefits owed to the former applicant or recipient by the local district; or
 - b. Such benefits have been established as owed to the former applicant or recipient as a result of a fair hearing requested.
2. Payment must be made on behalf of closed TA cases when an obligation has been authorized prior to an applicant's or recipient's death or prior to the date of closing of a TA case if the local district is required to pay the cost or unpaid balance of the obligation to a vendor. Payment on behalf of a closed TA case must be by vendor payment; or
3. Payment must be made to former applicants for and recipients of TA whose cases have been closed for energy reconciliation payments, payments for net loss of cash income, payments for extended supportive services, replacement payments for lost or stolen checks or replacement payments for voided checks when such applicants or recipients are eligible for such payments.

PASSTHROUGH PAYMENTS - Support pass-through payments and burial payments may be made in closed cases.

E. USE OF RESTRICTED PAYMENT IN FA

Protective payments shall be made when the relative with whom the child lives has willfully failed or refused without good cause to comply with employment activity requirements, or to accept a bona fide offer of employment, or when the parent or caretaker relative fails to assign rights of support or fails to cooperate in obtaining support, unless the local district, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made.

Note: The sanctioned person cannot be a protective payee in cases in which a determination of mismanagement has been made. (84 ADM-39)

Note: (81 ADM-52) For those FA cases that do not request restricted payments, local social services districts must continue to make determinations of mismanagement, when appropriate, for the purpose of restricting FA grants. Such determinations must be made in accordance with the policy described below, with the exception of the plan for repayment of rent arrears.

1. **DETERMINATION OF MISMANAGEMENT** - In order for restricted payments to be used in FA cases, a determination of mismanagement must be made. In making such a determination, the following considerations shall apply:
 - a. Methods shall be in effect to identify children whose relatives have demonstrated such an inability to manage funds that payments to the relative have not been or are not currently used in the best interest of the child. This means that the relative has misused funds to such an extent that allowing him or her to manage the FA grant is a threat to the health or safety of the child. Non-payment of bills may be used as an indication that mismanagement may exist. However, a determination of such mismanagement shall not be made solely on the fact that bills are not paid on a timely basis. All relevant considerations shall be taken into account including, but not limited to, the following:
 - (1) The fact that more than one month has passed since the bill payment was due and payment has not yet been made, or notice of the termination of essential services for non-payment of bills, shall be considered rebuttable presumptive evidence of inability to handle cash.

Examples of how this presumption may be rebutted include, but are not limited to:

- (a) Where a recipient demonstrates that the family has experienced some emergency or extraordinary event for which it was appropriate for available funds to be spent;
- (b) Where a recipient demonstrates extraordinary expenses for necessary items not normally provided for by the temporary assistance grant or by the medical assistance program or for which payment is not otherwise readily available from some other source;
- (c) Where a recipient demonstrates that the family has withheld the payment of bills as a reasonable exercise of consumer rights when there is a legitimate

dispute as to whether the terms of an agreement have been met;

- (d) When a recipient is more than one month in arrears and the vendor or his designated agency desires restricted payment, the vendor or his designated agent must make such request in writing to the local social services official. Prior to making such written request, the vendor or his designated agency shall attempt to collect the overdue payments from the recipient and shall provide evidence of such attempt to the social services official when the written request is made.
- (2) The local district shall advise the recipient whenever a vendor or his designated agent requests restricted payments.
- (3) The local district shall advise the recipient of the decision to restrict payment by means of a timely and adequate notice detailing the reasons for the proposed action or shall advise the recipient of a decision not to restrict payment.
- (4) When a decision to make restricted payment is made, the decision shall be entered in the case record and the reasons underlying the decision shall be fully documented.
- (5) When a determination is made to restrict payment as a result of an action by a vendor or his designated agent, the rest of the grant will be paid as an unrestricted money payment unless additional conditions provide for further restrictions.
- (6) Criteria shall be established to identify the circumstances under which restricted payments will be made in whole or in part directly to:
 - (a) Another individual who is interested in or concerned with the welfare of such child or relative, or
 - (b) To a vendor or his designated agent, that is, a person or persons furnishing food, living accommodations or other goods, services, or items for the child, relative, or essential person.
- (7) Procedures shall be established for making restricted payments. Under this provision, part of the payment may be made to the family, and part may be made as restricted payments.
- (8) When necessary, under appropriate circumstances, foster care shall be provided.
- (9) When problems and needs for services and care of the recipients are manifestly beyond the ability of the protective payee to handle, responsibility shall be assumed by the social services official for appropriate action to protect the recipients.(381.4)

2. REVIEW AND TERMINATION OF PAYMENT RESTRICTION FOR FA

- a. The local district shall undertake and continue special efforts to develop greater

ability on the part of the relative to manage funds in such manner as to protect the welfare of the family.

- b. The need for protective payee vendor payments or restricted money payments and the way in which a protective payee's responsibilities are carried out (including a report of accountability for the disposition of funds showing expenditures for major items or maintenance on a monthly basis, e.g., rent, heat, utilities, food, clothing, incidentals) shall be reviewed as frequently as indicated by the individual circumstances or at least every six months; and,
- c. Provision shall be made for termination of protective payee or vendor payments as follows:
 - (1) When relatives are considered able to manage funds in the best interest of the child, there shall be a return to money payment status.
 - (2) When it appears that need for protective payee or vendor payments will continue or is likely to continue beyond two years because all efforts have not resulted in sufficiently improved use of assistance in behalf of the child, judicial appointment of a guardian or other legal representative shall be sought, and such payments shall terminate when the appointment has been made. (381.5)

3. REQUIREMENTS FOR DESIGNATION OF PROTECTIVE PAYEES

- a. Payment to an individual other than the eligible relative in FA (i.e., to a protective payee) shall be made only with the participation and consent of a recipient or his eligible relative whenever such participation and consent normally may be obtained. After obtaining such participation and consent, or if such participation and consent is not obtained and protective payment is nonetheless deemed appropriate, payment may be made to:
 - (1) An interested individual concerned with the welfare of the minor child or relative in FA,

Note: A responsible person, living with an FA child and the child's natural parent, can be made payee of the full grant when a parent has demonstrated an inability to handle the grant.
 - (2) A staff member of a private agency, a public social service agency, or any other appropriate organization,
 - (3) A staff member of a local district. Selection shall be made preferably from the staff providing protective services. Such staff shall be utilized only to the extent that the local district has adequate staff for this purpose. The local district shall employ such additional staff as may be necessary to provide protective payees; or
 - (4) The superintendent, or his designee, of a public institution for mental diseases or a public institution for the mentally retarded, provided:

- (a) No other suitable protective payee can be found; and,
 - (b) There are appropriate staff available to assist the superintendent in carrying out the protective payment function.
- b. Protective payment may not be made to
 - (1) The social services commissioner; or
 - (2) The following staff members of a social services district:
 - (a) An executive member of his staff;
 - (b) A person determining financial eligibility for the family;
 - (c) Special investigation or resource staff or staff handling fiscal processes related to the recipient; or
 - (3) Landlords, grocers, or other vendors of goods or services dealing directly with the recipient (381.7).

4. SUMMARY FOR FA RESTRICTIONS

The following limitations apply to the use of vendor/restrictive payments in the FA program:

- a) Local districts may use vendor/restricted payments in FA at the written request of an applicant or recipient, or where necessitated by the demonstrated inability of an applicant or recipient to handle cash.
- b) The reason for the decision to restrict payment must be documented in the case record and the recipient must be sent a written notice of the restriction explaining the reason for the action.
- c) The local district must provide assistance to the recipient in order to help the recipient learn to manage funds so that the vendor/restrictive payments may be terminated.
- d) The need for the continued use of vendor/restricted payments must be reviewed as frequently as is indicated by the individual circumstances or at least every six months.

F. RESTRICTIONS ON SNA

1. PAYMENT OF GRANTS

- a. Cash assistance - Safety Net Assistance (SNA) must be granted in cash except when the granting of cash may be deemed inappropriate by the local district because of an inability to manage funds, or because less expensive or more easily controlled alternative methods of payment are available, or when vendor payments are made to landlords on behalf of individuals residing in public housing, or for similar other reasons as established by Part 381 of this Chapter. However, where an individual has so requested, safety net assistance may be granted in whole or in part by restricted payment SNA assistance is limited as follows:

(1) Cash assistance cannot be provided to:

- (a) Families in which the head of household or an adult household member is determined to be unable to work by reason of his or her need for treatment for alcohol or substance abuse.
- (b) Members of a household in which the head of household or an adult household member refused to comply with screening or formal assessment for alcohol or substance abuse.
- (c) Members of a household in which the head of household or an adult household member fails to comply with an alcohol or substance abuse rehabilitation program.
- (d) Families which are ineligible for FA because an adult in the family has exceeded the maximum durational limit, unless the adult is exempt from employment requirements or is HIV positive and not determined to be unable to work by reason of his or her need for treatment for alcohol or substance abuse; and
- (e) Persons who have received safety net cash assistance for a two year (twenty four month) cumulative total in a lifetime, including the receipt of recurring emergency safety net cash assistance, unless an adult head of household is exempt from work requirements or is HIV positive and not determined to be unable to work by reason of his or her need for treatment for alcohol or substance abuse.

Persons eligible for Safety Net Assistance who cannot receive cash assistance must be provided with safety net non-cash assistance.

- (2) Safety net cash assistance must be limited to a two year (twenty four month) cumulative total for eligible persons not exempt from employment requirements or not HIV positive and not determined to be unable to work by reason of his or her need for treatment for alcohol or substance abuse.
 - (a) The month in which a safety net cash assistance benefit is issued, by any method of payment, counts against the two year (twenty four month) limit.

This limitation applies to individuals in receipt of safety net cash assistance or home relief on or after August 4, 1997.

- (b) Beginning on December 1, 2000, the month in which a safety net cash assistance payment is made in an amount equal to a recipient's safety net cash assistance deficit for the month, which is a work subsidy issued to an employer or a third party for the costs of wages or benefits for the recipient, must not be counted toward the recipient's two year (24-month) time limit on the receipt of safety net cash assistance.
 - (c) An individual or head of household who is exempt from employment requirements or HIV positive and not determined to be unable to work by reason of his or her need for treatment for alcohol or substance abuse, continues to be eligible for cash assistance indefinitely.
- (3) The months in which any individual receives recurring Emergency Safety Net Assistance must count against the two year (twenty-four month) cumulative total of safety net cash assistance.
- (4) The cumulative total of months in which an individual received cash Safety Net Assistance benefits is applied against the cumulative sixty-month limit on the receipt of FA.
- b. Non-cash assistance - Safety Net Assistance paid as non-cash assistance must be paid in the following manner and in the following order:
 - (1) Shelter assistance. A local district must make a payment for shelter by direct payment, two-party check or other form of restricted payment up to the maximum amount.
 - (a) The local district may make a payment for a recipient's shelter in excess of such maximum, at the request of the recipient, limited by a sufficient budget deficit amount.
 - (b) A local district must make payment for shelter by two-party check upon the request of the recipient, provided that the recipient has not demonstrated persistent failure to make shelter payments. The local district must provide the recipient promptly with proof of payment, upon request of the recipient.
 - (2) Utility assistance. A local district must make a direct payment, payment by two-party check or other form of restricted payment on behalf of recipients of Safety Net Assistance who pay separately for utilities.
 - (a) Payment for utilities must include payment for fuel for heating on behalf of recipients who are eligible for a fuel for heating allowance.
 - (b) Payments for fuel for heating may not exceed the fuel for heating allowance except that a district may make a payment in excess of such amount at the request of the recipient. The local district must provide the recipient promptly

with proof of payment, upon request of the recipient.

- (3) Any remaining deficit amount after the mandated restrictions is provided as an unrestricted cash benefit to the recipient.

c. Persons not residing in their own homes

- (1) Person residing in certain residential settings have living arrangements different from those of persons residing in their own apartments or homes.
- (2) Persons living in those living arrangements have a higher standard of need than the maximum standards of need for persons who maintain their own homes. Payments for person in such residential settings do not fit in the ordinary payment methods for non-cash Safety Net Assistance.
- (3) For persons receiving non-cash safety net assistance who are residing in room and board, approved residential programs for victims of domestic violence operated in accordance with Parts 452, 453, 454 or 455 of Office regulations, maternity homes, family care, residential care, drug abuse control facilities, or family shelters operated in accordance with Part 900 of Office regulations, the standards of assistance and the amounts of the personal needs allowances are set in Office regulations 352.8 and Parts 408 and 900.
- (4) Payments to such facilities or providers of room and board for persons who receive non-cash safety net assistance and personal needs allowances paid to such persons shall be in the amounts set forth in section 352.8 and Parts 408 and 900 of Office regulations.

G. ELECTRONIC BENEFIT

The Electronic Benefit Transfer (EBT) System is implemented statewide, replacing the Upstate Electronic Benefit Issuance and Control System (EBICS) and the New York City Electronic Payment File Transfer (EPFT) benefit issuance system. EBT is mandated by the United States Department of Agriculture (USDA) to deliver SNAP benefits electronically through the commercial financial infrastructure. In New York State, EBT will also deliver cash benefits. EBT is interoperable with other states' EBT programs across the country.

1. CASH (Temporary Assistance)

a. Cash program implications include:

- (1) There is no change in eligibility determination or benefit authorization with EBT. The staggered issuance scheduled will remain under EBT.
- (2) Local districts must continue to make non-cash Safety Net Assistance restricted shelter and utility/fuel payments in the prescribed hierarchy, as detailed in the Temporary Assistance Source Book (TASB) IX-all, and provide any remaining deficit amount as an unrestricted cash benefit to the recipient.
- (3) The resource policy remains unchanged. Any cash contained in the recipient's cash account becomes a resource in the following month, except retroactive payments for TA underpayments, which become a resource in the second month following the month of payment.
- (4) There is no change in the policy that local district overpayment/underpayment adjustment actions require client notice and that such overpayments are subject to recoupment at the 10% recoupment rate.
- (5) There is no change to the policy of closing a TA case when recipients fail to pick up their benefits for two consecutive months. However, benefits remain active until completely withdrawn or expunged, whichever occurs first.

Benefits issued prior to expiration of a Timely and Adequate notice to close a case must be replaced if the client so requests, even after expungement.
- (6) There is no change in the policy that recipients who are homebound, incapacitated or those with limited access to their benefits can designate authorized representatives to act on their behalf.
- (7) Recipients do not have to access their entire cash benefit all at once. They have the option of withdrawing portions of the cash benefit and leaving a cash balance in their cash accounts which can be carried over month to month.
- (8) Recipients can withdraw cash at ATMs, or make electronic debit purchases from their cash accounts.
- (9) Cash benefits are available to the recipient as long as there is activity in the account. If there is no account activity for 90 days, the remaining benefits are expunged without notice.

Regardless of activity, a cash benefit must be entirely withdrawn by the recipient within 180 days of its availability date. The remaining balance of the 180 day cash benefit will be expunged from the account without notice to the recipient. (The 180 day benefit expungement is currently under system development.)

- (10) Recipients may withdraw cash from any ATM that displays the OUEST logo. After the second transaction a usage fee of \$.50 will be charged for each additional ATM transaction made during the month.

This fee will be deducted from the recipient's cash account. Some ATMs will also impose a surcharge for each cash withdrawal. Only non-surcharging ATMs are listed in the local districts cash access plan, and provided to clients upon request. All ATM Balance inquiries are free.

Recipients may get cash back from their cash account, above the cost of their purchases, at participating retailers (within their allowable cash grant). Some stores allow cash withdrawals without a purchase. The amount of cash back is determined by the individual retailer.

- (11) There is no limit on the number of times participants can use their CBIC card at participating retailers who display the OUEST logo and dollar sign. Some retailers, however, may impose a surcharge fee to withdraw cash benefits. Any retailer who imposes such a fee must display a sign telling recipients about the fee. Only non-surcharging retailers will be listed in the local district's cash access plan. Recipients may be referred to the toll free Locator Service telephone number (1-800-286-6793) to find participating ATMs and retailers in their area who do not surcharge.
- (12) There is never a surcharge on cash purchases made at Point of Sale (POS) devices.

2. CBIC CARDS

b. Implications for the CBIC card include:

- (1) EBT uses the CBIC card and PIN to initiate all cash withdrawal, cash purchase, and SNAP debit transactions. Medicaid (MA) benefits are accessed using this same card, but a PIN is not necessary to access MA benefits.
- (2) Permanent plastic CBIC cards with and without photos, Authorized Representative cards, and temporary cardboard CBIC cards (which should only be used for MA), will continue to be issued.
- (3) Vault cards, which are a new type of temporary card, are issued when there is a need to issue a valid card to an applicant or recipient in a timeframe that precludes mailing. Each local district is required to issue vault cards to their applicants or recipients as needed. Because vault cards cannot be used to access MA benefits, the temporary paper MA card must still be issued. Some of the elements necessary to support vault cards include:

- (a) Special plastic card stock inventory
 - (b) Security storage for plastic card stock inventory
 - (c) Assignment of staff to vault card issuance
 - (d) Terminal security arrangements for issuance and activation
 - (e) Access to PIN selection transaction by use of PIN selection device(s) located in the local district office(s)
- (4) CBIC cards issued or reissued as of 2/99 display new graphics and the EBT Customer Service telephone number. A recipient will be able to use their current CBIC card and same PIN to access their benefits until they receive a new card.

When a new card is received by the recipient, he/she may continue to use the same PIN to access benefits. Any change to the recipient's last name, sex or date of birth will generate a new card.

- (5) All CBIC cards issued as of 3/4/98 contain the OUEST Mark. The Ouest mark is an identifier that assists cardholders in determining where their card can be used. The mark will appear on the back of all cards issued in programs following the OUEST rules, as well as ATM and POS terminals that are operated in compliance with the rules.

Because it is a national identifier, cardholders can compare the mark on their card to the mark on terminals and determine whether their card can be used at any terminal across the country.

Because issuers must agree to comply with the OUEST operating rules before they can affix the mark to a card, a merchant accepts the card knowing that once the transaction is authorized, payment is guaranteed under the rules.

All merchant and financial participants know the responsibilities, liabilities and guarantees that apply to them under the Rules.

- (6) If a PIN number is incorrectly entered four consecutive times, the account will be automatically locked until the next day. Selection of a new PIN by the recipient will not unlock the account. The account will be automatically unlocked shortly after midnight.
- (7) Recipients who are homebound, incapacitated or those with limited access to their benefits, may designate an authorized representative to access their benefits on their behalf. The authorized representative is an adult who may not be part of the household, but who is familiar with the relevant household circumstances.
- (a) Authorized representatives may also be designated employees of a residential treatment center (RTC) or an approved group home, in order to facilitate the process of accessing benefits for resident recipients.

- (b) Participants who choose to have an authorized representative will receive two CBIC cards. One card can be used by the recipient to access their cash, SNAP and MA benefits.

The second card is used by the authorized representative to access cash and SNAP benefits only. The authorized representative card contains both the participant's name and the authorized representative's name and may contain the photo and signature of the authorized representative.

- (c) The recipient and the authorized representative each choose a different PIN in order to access the recipient's benefits. The PIN can be changed using the PIN selection device located in the SSD.

3. GENERAL INFORMATION

a. Customer Service Support

To assist local districts in maintaining their primary responsibility in meeting recipient's needs, EBT Customer Service, Locator Service and Training Helpline will be available.

EBT Customer Service will be partnering with local districts to provide comprehensive customer service to recipients. EBT Customer Service is responsible for the following:

- (1) Providing recipients with the available balance in the SNAP benefit and/or cash benefit account(s)
- (2) Informing recipients of cash access by providing the locator service telephone number
- (3) Accepting and processing a claim submission from recipients for reported discrepancies in their cash and/or SNAP benefit accounts
- (4) Authorizing PIN changes and providing further instructions
- (5) Deactivating lost/stolen CBIC cards
- (6) Providing a written record of the past two month's transactions
- (7) Providing a listing of the last ten food and/or cash account transactions
- (8) Providing dates of benefit availability and pick-up

EBT Customer Service will also be responsible for providing recipients access to the Automated Response Unit (ARU). The ARU is an automated system that provides recipients with answers to questions regarding account transactions and account balances. This system can be accessed by telephoning the EBT customer service toll free number at (1-888-328-6399).

b. Locator Service

A locator service, which will inform recipients of the location of ATMs and POS devices that do not surcharge, will be provided. The EBT Locator Service can be contacted by telephoning toll free (1-800-289-6739).

c. PIN Selection

Prior to EBT implementation, recipient PINs will automatically be converted from EBICS to EBT. Therefore, recipients will continue to use the same PIN for EBT that they were using for EBICS.

After the conversion, in order to create a PIN on a new case, a CBIC card is required. New applicants who have never had a CBIC card, regardless of whether they require same day benefits, may need to be issued a vault card. Once the vault card is issued, the applicant can create a PIN by using the PIN selection device.

If the applicant is determined eligible for assistance, he/she will be able to use the vault card and PIN number to retrieve benefits until a permanent card is mailed.

After case opening, a PIN mailer will also be sent to the recipient, containing the same PIN that was chosen by the recipient when using the PIN selection device.

If the applicant already has a CBIC card and needs same day benefits, the card may need to be linked to the case in CBIC.

If the applicant has a CBIC card already in their possession, and does not require same day benefits, no action is needed to activate the CBIC card or PIN in order to retrieve EBT benefits.

All new recipients will be automatically mailed a PIN at case opening.

d. Changing a PIN

PINs can be obtained in one of the following ways:

- (1) PIN Mailer - All new recipients will automatically be mailed in a PIN after case opening. If the applicant selected a PIN prior to case opening via the PIN selection device, (see below) then the PIN already selected by the recipient will appear in the mailer after case opening.

If the recipient did not pick a PIN while an applicant, then the system will generate a PIN, and it will appear in the PIN mailer.

Recipients may also contact the local district worker and request a PIN be mailed. The local district worker enters necessary information into the CBIC system using function 11. The system will produce a PIN mailer containing the recipient's most recent PIN, or will generate one if none already exists for the recipient. If the recipients desire to change their PIN, they may telephone customer service or use the PIN selection device at the local district.

- (2) PIN Selection Device - The PIN selection device will be installed at each SSD. With the help of a local district worker, the recipient inserts his/her CBIC card and enters a new PIN on the PIN selection device keypad twice for verification. A phone line connects the device to the contractor's EBT system computers. The PIN is encrypted and linked to the CBIC card immediately.

4. LOST OR STOLEN CASH

When the recipient claims to have an immediate need as a result of a lost or stolen card and PIN, local districts should determine if an immediate need exists. If an immediate need is determined to exist, the local district must provide recoupable advances when authorized by Office regulations (i.e., rental or utility arrears) or make referrals to community resources when the recipient in immediate need.

Local districts cannot replace any benefits withdrawn before the card is disabled, nor can local districts replace any benefits when someone steals the recipient's CBIC card and PIN and subsequently withdraws benefits.

5. BENEFIT REDEMPTION PROBLEMS/QUESTIONS

The following are situations that may occur, due to a systems error, and instructions on how the local district should handle them. A systems error is an error resulting from a malfunction at any point in the redemption process. A systems error could potentially occur anywhere between the host computer and a POS device.

For the purpose of discussing an erroneous posting, a systems error could also be a malfunction between the New York State and EBT computer systems. Generally, addressing these types of problems is the responsibility of Customer Service. However, local districts need to know what these problems can be, and what the recipient should do to resolve the problem.

6. RETAILER INITIATED ADJUSTMENT

- a. A recipient makes a purchase and/or a withdrawal from his/her cash account. The recipient indicates the correct amount that was purchased or withdrawn. However, unknown to the recipient, the store's equipment is not working properly and the money has not been deducted from the recipient's EBT account at the time of the transaction.
- b. Generally, the retailer will become aware of the error within a few days of the transaction, when the retailer performs accounts reconciliation.
- c. The retailer can process the transaction as soon as it is discovered. A notice to the recipient is not required. If the cash account does not contain enough money to complete the transaction, the retailer will reprocess a subsequent transaction when the cash account does contain funds to settle the debt and make the retailer whole.
- d. Notice to the recipient is not required because the recipient initiated and authorized

the transaction and received a receipt containing the correct information.

- e. If the recipient questions any deductions from their account as a result of a reprocess transaction, the local district must advise the recipient to contact Customer Service and to follow the claim procedure that is outlined in the following Client Initiated Adjustment Section.

7. CLIENT INITIATED ADJUSTMENT

- a. A recipient may have a discrepancy in his/her cash account balance as a result of a systems error, such as an erroneous debiting of their account during a cash transaction at a retailer or an ATM, or of an ATM misdispense (for example, the recipient requests \$40 from an ATM and \$40 is shown on the receipt. However, only \$30 comes out of the ATM).
- b. The recipient must contact the Customer Service Department to report a claim. When a recipient reports a claim to Customer Service, the representative will initiate an investigation of the claimed transaction.
- c. The client will be given a claim number and advised that they can call back to check on the status of the claim. The recipient is also advised that the investigation may take up to 30 days to complete.
- d. If the investigation finds that there was a systems error, an adjustment will be processed by crediting the recipient's cash and/or food account for the amount erroneously debited or misdispensed.
- e. A new concurrent notice will be issued to advise the client of the disposition of their claim, including any money posted to the account to correct a verified error.
- f. Local districts cannot replace benefits that are misdispensed. If the recipient claims that he/she have an immediate need as a result of this process, the local district must investigate and if there is an immediate need, either issue a recoupable advance if authorized by Office regulations, or refer the recipient to a community resource.

8. ERRONEOUS POSTINGS

- a. In rare instances, EBT cash benefits may be posted erroneously due to a systems problem. If this happens, NYS OTDA will pull back the benefit before or, if necessary, after the availability date. This pull back must be made as soon as possible after discovery by OTDA or EBT (this is normally done within two business days).
- b. A local district data entry error or an incorrectly authorized benefit by the local district worker are not considered erroneous systems postings, and therefore, continue to be subject to existing recovery rules.
- c. An example of an erroneous systems posting would be if, due to a systems problem, a duplicate payment file was transmitted from OTDA to EBT, unjustly enriching numerous recipient accounts. Notice to the recipient is not required in this situation.

- d. If less than the full benefit amount that was erroneously posted to the account is available for recovery, the entire amount remaining in the account will be deducted by OTDA or EBT. Notice to the recipient is not required.
- e. OTDA or EBT will deduct any remaining balance owed due to the erroneous posting from subsequent months benefits. Again, notice to the recipient is not required. The total amount deducted in this situation cannot exceed the original erroneously posted benefit amount.
- f. If the recipient questions a deduction to their account as a result of a pull back of an erroneously posted benefit amount, SSDs should advise the recipient to call Customer Service, unless they know at the time of the inquiry what the problem is.
- g. If the local district knows, then they must explain the situation to the recipient and also explain that there are no fair hearing rights for this situation. Otherwise Customer Service will investigate the recipient's complaint and refer the recipient back to the local district if it is an erroneous posting situation.

9. EXPUNGED BENEFITS

- a. When a benefit is expunged, that does not mean that a recipient will no longer be able to access the account, nor does it mean that new benefits will be prevented from going into the account.
- b. Expungement reports will be distributed to local districts on a regular basis. Anyone who appears on this report should have his/her need and eligibility for assistance (prior and current) redetermined immediately.
- c. If a recipient comes into the local district after their TA benefits have been expunged and requests that the benefits be restored, then the local district must reauthorize any expunged benefits where the recipient has not been issued an appropriate notice of discontinuance.
- d. Expunged benefits must not be applied towards reducing previous TA overpayments. However, if all or part of the expunged benefit is itself an overpayment, then CAMS should be adjusted manually to reduce the overpayment.
- e. There is no automated process that applies expunged benefits to CAMS. A report will be developed identifying cases with expunged benefits that also have outstanding overpayment balances. Local districts must decide if CAMS should be adjusted manually to reflect these expungements.

10. NON-SYSTEMS ERRORS

A recipient or retailer who requests correction of a non-systems transaction error should be advised to contact EBT contractor Customer Service at (1-888-328-6399).

Examples of non-system errors include a cashier who keys in an incorrect transaction amount or a recipient's claim that a merchant overcharged for a purchase. Such errors should result in a provisional credit.

11. CANCELING OR VOIDING A BENEFIT

If a local district wants to cancel or void a benefit, it may do so before the benefit availability date. Once a cash benefit or SNAP benefit becomes available in the recipient's EBT account, the local district may not cancel or void that benefit.

The benefit is considered owned by the recipient and cannot be pulled back. If an error was made in the benefit amount and that error results in an overpayment or underpayment, appropriate action must be taken in accordance with current procedures.

References

[00 ADM-8](#)

[Erratta](#)

[92 ADM-26](#)

89 ADM-49

87 ADM-51

86 ADM-13

84 ADM-39

81 ADM-65

81 ADM-52

80 ADM-98

80 ADM-95

[95 INF-5](#)

[94 INF-49](#)

[91 INF-3](#)

88 INF-64

381.8

381.7

381.5

381.4

381.3(e)

381.3(a)

381.3

381.2

381.1

370.4

SSL 143.b

GIS Message (95 ES/DC026) GIS Message (86 IM/DC002)

Related Items

Restrictions on Money Payments in HR Cases (TASB)

Vendor Payments - FA Households (TASB)

Correction of Underpayments (TASB)

Use of Restricted Payment in FA (TASB)

Restrictions on Money Payments in SNA Cases (TASB)

352.5

352.7(g)

352.7(n)

385.3(d)

620.3(a)

Burial Costs for Indigent Deceased Persons (TASB)

Requests (TASB)

Monthly Fuel Allowance (TASB)

Supplemental JOBS Allowance (TASB)

Extended (TASB)

Replacement of Lost or Stolen (TASB)

GIS Message (84IM/DC022)

CHAPTER 21: REPLACEMENT OF BENEFITS RECEIVED

A. REPLACEMENT OF LOST OR STOLEN CHECKS

Temporary assistance grants shall be made to meet only current needs, but, under certain circumstances, payments for services or supplies already received is deemed a current need:

1. If an applicant or recipient reports to a local district that a check has been lost or stolen, an affidavit of loss shall be required of the recipient, and payment of the check shall be stopped.

If the recipient has not already done so, he shall be required by the local social services official to report the loss or theft to the police, to obtain from them the blotter entry number, classification number, file number or other available evidence of the reporting and to furnish such evidence to the local district. When satisfied that such police report has been made, the local district shall issue to the recipient a replacement check on which there shall appear above the place for the recipient's signature the following:

"BY ENDORSING OR CASHING THIS CHECK, I ACKNOWLEDGE THAT THIS IS A REPLACEMENT FOR A CHECK, CHECK NUMBER _____ DATED _____ DRAWN TO MY ORDER ON _____ WHICH WAS LOST/STOLEN; THAT I HAVE NOT RECEIVED THE PROCEEDS OF SAID CHECK DIRECTLY OR INDIRECTLY; AND THAT I HAVE BEEN INFORMED IT IS ILLEGAL FOR ME TO CASH SAID CHECK, AND IF I DO SO, I AM LIABLE TO PROSECUTION." [352.7(g)]

2. If payment is not stopped on the original check and it and the replacement check are both cashed, only one shall be subject to state reimbursement and the local district shall limit its claim for state reimbursement to one of the two checks.
3. If it is established that a recipient endorsed and cashed an allegedly lost or stolen check which has been replaced, the amount of such check shall be recovered from the recipient as provided by Office Regulation 352.31(d). [352.7(g)]

Note: The approach taken should be the one likely to result in the quickest recovery. ("All Commissioner" Letter - 2/1/85)

Note: The theft or fraudulent claim of theft is a criminal matter and should be referred to the law enforcement official, in accordance with Office Regulation 348.4.

Under certain conditions, temporary assistance grants can be issued to replace grants already supplied. For example, a recipient receives the grant for the month and, on the way to the bank to cash that check, the recipient is mugged. The local district, if condition #1 above is met, shall issue a replacement.

If the recipient, in fact, cashed both the reported lost check and the duplicated check, then the local district shall recoup the duplicated amount.

B. REPLACEMENT OF LOST, STOLEN OR MISMANAGED CASH

In no event, except as provided in the Emergency Assistance to Adults Program, shall a special allowance and grant be required to be made because cash has been lost, stolen or mismanaged.

Any duplicate allowance and grant made for such purpose is not reimbursable by the state unless the duplication or payment was made as a result of an order after May 1, 1977 by a court of competent jurisdiction.

Note: As a result of Bacon v. Toia, EAF may be used to replace cash that has been lost or stolen. See [TASB Chapter 11, Section E](#).

Safety Net Assistance (SNA)

There is no statutory or regulatory authority to replace a SNA benefit when cash has been lost or stolen. However, in certain situations, special needs allowances or emergency assistance can be used to replace items of need which the lost or stolen recurring temporary assistance grant was intended to cover.

The following special needs allowances can be provided under SNA to those persons who have reported lost or stolen cash:

1. Shelter arrears payments to prevent eviction in accordance with Office regulation 352.7(g)(4);
2. If evicted, an allowance for temporary housing accordance with Office regulations 352.3(e) and 352.8 (including restaurant allowance in accordance with Office regulation 352.7(c) if applicable); storage of furniture and personal belongings in accordance with Office regulation 352.6(f); security, finder's/broker's fees and household moving expenses to secure new housing in accordance with Office regulations 352.6;
3. Property or equipment repairs necessary for health and safety in accordance with Office regulations 352.4(d) and 352.7(b);
4. Furniture, clothing and household furnishings in accordance with Office regulations 352.7(a) and (d);
5. Utility arrears payments in accordance with Office regulation 352.5(d).
6. Payment to obtain heating fuel in accordance with Office regulation 352.5(d).

Grant amounts that cannot be replaced include amounts for food and current shelter cost.

Referrals should be made to non-profit or charitable organizations that may be able to meet need(s), especially food needs, for which lost or stolen cash cannot be replaced.

When a SNA recipient reports that his or her SNA cash has been lost or stolen, the local district must explore with the recipient if the recipient has any needs that can be provided for with these special needs allowances.

C. REPLACEMENT ALLOWANCE TO PAY FOR SUPPLIES ALREADY RECEIVED BY A RECIPIENT

TA grants shall be made to meet only current needs, but, under certain circumstances, payment for services or supplies already received is deemed a current need.

1. A recipient of FA or SNA who is threatened with eviction or foreclosure or who is being evicted or whose property is being foreclosed upon for non-payment of shelter expenses incurred during a period for which a grant had been previously issued to the recipient may be provided with an advance allowance in accordance with Office Regulation 352.11 and paragraph 2 below. The allowance must be for an amount sufficient to prevent the eviction or foreclosure, or to return the recipient and his or her family to their home. However, districts must limit shelter arrears payments issued after November 1, 2003 to one arrears payment that does not total more than six months in a five-year period. The six-month period may not be split up and used at different times over the five-year period. However, districts also have the discretion to establish guidelines under which it will pay more often than once in a five-year period. Any such guidelines established must be applied consistently for similarly situated clients. The rental arrears cap applies to any TA (including FA, SNA and EAF) household filing unit that contains an adult (or head of household) member of the TA case for whom the arrears payment was made. Advance investigation of the need for restricted payments must be conducted in accordance with Office Regulation 381 and [TASB Chapter 20, Section C](#). An allowance that exceeds the appropriate local district maximum monthly shelter allowance can be made only if all of the following conditions are met:
 - a. The recipient agrees to use all available liquid resources for the payment of shelter expenses necessary to prevent eviction or foreclosure;
 - b. The recipient demonstrates an ability to pay shelter expenses in the future, including any amounts in excess of the appropriate local district maximum monthly shelter allowance;
 - c. The recipient agrees to future restriction or rent or mortgage payments; and,
 - d. The recipient must not have previously received an arrears allowance in excess of the appropriate local district maximum monthly shelter allowance and, subsequent to receiving such an allowance, requested discontinuance of restriction of the shelter payments to which he or she agreed. Thus, payment of rent or mortgage arrears in excess of the appropriate local district maximum monthly shelter allowance can only be made once during a continuous unbroken period of receiving TA.
2. Such an allowance may be provided only where the recipient has made a request in writing for such an allowance and has also requested in writing that his or her monthly grant be reduced to recover such allowance.
 - a. The recoupment must be ten percent (10%) of household's needs.

- b. Where undue hardship is claimed and substantiated, the recoupment must not be less than five percent (5%) of the household's needs.
- c. Such grant reduction must continue until such time as the amount of the advance allowance is fully recouped (352.11).

D. REPLACEMENT OF ELECTRONIC BENEFITS

When a recipient claims that he or she has not received electronic cash TA benefits which the Office's computer issuance record indicates were issued, the local district must verify the validity of the computer issuance record in accordance with procedures established by the Office. If it is verified that a valid issuance transaction occurred, the benefits cannot be replaced. If it is determined that a valid issuance transaction did not occur, the local district must take steps to issue the appropriate benefits as soon as possible.

1. If a recipient does not access his/her EBT cash account for a period of two consecutive months, action must be initiated to discontinue the TA case. A SNAP participant who has not accessed his/her SNAP account for two consecutive months, including a participant whose TA case is closed for failing to access cash benefits, must be sent a request for contact in order to explain the situation. Subsequent failure on the part of the household to verify or clarify a questionable eligibility factor would require a Notice of Adverse Action to reduce or terminate benefits. All TA cases closed for this reason must be given separate determinations for MA.
2. If a client loses his/her CBIC card and has written his/her PIN on the card, the local district cannot replace the benefits if someone finds the CBIC and accesses the benefits. Clients have been advised in training materials to keep their CBIC and PIN separate and secure. They have also been advised that any benefits accessed using their card and PIN will not be replaced.

E. PAYMENT FOR SHELTER NEEDS PRIOR TO CASE OPENINGS

A TA grant shall be made to meet only current needs. Under the following specified circumstances, payment for services or supplies already received is deemed a current need.

1. If rent has not been paid for the month in which the case is accepted, a non-prorated shelter allowance, not to exceed the appropriate local district maximum monthly shelter allowance, must be provided to retain the living accommodation.
2. A grant may be made to pay for such items as rent, property taxes or mortgage arrears for the time prior to the month in which the TA case was opened or for applicants for emergency assistance under SNA and EAF only when:
 - a. Such payment is essential to forestall eviction or foreclosure and no other shelter accommodations are available; or the health and safety of the applicant is severely threatened by failure to make such payments, and,
 - b. The authorization for the payment receives special written approval by the social services official or such other administrative officer as he or she may designate, provided such person is higher in authority than the supervisor who regularly approves authorizations; and,
 - c. The applicant reasonably demonstrates an ability to pay shelter expenses, including any amounts in excess of the appropriate local district maximum monthly shelter allowance, in the future. See [TASB Chapter 14](#). However, when in the judgment of the local district, the individual or family has sufficient income or resources to secure and maintain alternate permanent housing, shelter arrears need not be paid to maintain a specific housing accommodation; and,
 - d. Such payment does not exceed the local district maximum monthly shelter allowance. A local district may, consistent with paragraph c above, issue a grant for arrears in excess of the maximum monthly shelter allowance. However, any amount above the local district maximum monthly shelter allowance paid towards the monthly arrears is an overpayment subject to recovery and recoupment in accordance with [TASB Chapter 22, Section A](#); and,
 - e. The applicant, if accepted for on-going PA, agrees to future restriction of shelter payments in accordance with [TASB Chapter 20, Section C](#).
 - f. For information on individuals or households not eligible for FA, recurring SNA, EAF or EAA, see [TASB Chapter 10, Section F](#).
 - g. Districts must limit shelter arrears payments issued after November 1, 2003 to one arrears payment that may not total more than six months in a five-year period. The six-month period may not be split up and used at different times over the five-year period. However, districts also have the discretion to establish guidelines under which it will pay more often than once in a five-year period. Any such guidelines established must be applied consistently for similarly situated clients. The rental

arrears cap applies to any TA (including FA, SNA and EAF) household filing unit that contains an adult (or head of household) member of the TA case for whom the arrears payment was made.

Note: Legal fees related to landlord's actions to evict clients or legal costs of mortgages who begin foreclosure actions against clients are not payment for shelter, thus, such costs cannot be paid.

References

352.2

352.3

352.7

352.11

352.15

372.2

[00 ADM-08](#)

[Erratta](#)

[93 INF-10](#)

All Commissioner Letter (2/1/85)

GIS Message (96 TA/DC025)

GIS Message (95 ES/DC039)

GIS Message (93 ES/DC016)

Restrictions on Money Payments (TASB)

Replacement Allowance to Pay for Supplies Already Received by a Recipient (TASB)

Emergency SNA and Short Term SNA (TASB)

Related Items

348.4

352.31(d)

370

372

381

397

Payment for Rent (TASB)

Recovery of Overpayments (TASB \$50 Support Pass-Through) (TASB)

Emergency Assistance to Families (TASB)

[SNAPSB](#)

CHAPTER 22: RECOUPMENT PROCEDURES

A. RECOVERY OF OVERPAYMENTS

1. Local districts shall recover an overpayment from:
 - a. The assistance unit which was overpaid,
 - b. Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member, or
 - c. Any individual members of the overpaid assistance unit whether or not currently a recipient.

Note: For purposes of calculating overpayments over a period of time, the ABEL Manual contains significant ABEL budget "from" dates.

2. Local districts shall take one of the following actions by the end of the quarter following the quarter in which the overpayment is identified:
 - a. Recover the overpayment,
 - b. Initiate action to locate and/or recover the overpayment from a former recipient, or
 - c. Initiate recoupment from a current recipient's grant.

If the \$50 support payment is made to the wrong individual, a payment to the correct individual shall be issued immediately and recovery or recoupment from the incorrect individual shall be made in accordance with this Section.

3. **FROM CURRENT RECIPIENTS** - Local districts must take all reasonable steps necessary to promptly correct any overpayment, including overpayments resulting from aid continuing hearing decisions. The local district must recover an overpayment to a current assistance unit through repayment or by reducing the amount of any future aid payable to the assistance unit.

In no event can recoupment begin before the individual has been provided with the appropriate timely and adequate notice that states the amount of the overpayment, the reason for the overpayment and the period during which the overpayment occurred.

Note: In cases involving employability related sanctions, if the local agency's decision is upheld in a case where the client has received aid-continuing, the appropriate action is to impose the sanction but not to recoup the aid-continuing monies as an overpayment.

Note: SSI presumptive payments are considered a TA overpayment if this income was not budgeted and, as a result, the individual receives more TA than he

should have. The overpayment should be recovered. SSI presumptive payments are considered regular income for TA purposes.

Note: It is Office policy not to offset overpayments with client's work experience hours. When overpayments occur for clients participating in work experience, the overpayment should be recouped. Future scheduled work experience hours should be based on the ABEL budget deficit after recoupment, the result being less scheduled work experience hours during the length of recoupment.

4. **FROM FORMER RECIPIENTS** - Recovery shall be made by appropriate legal action against the income or resources of those individuals who are no longer recipients. If recovery is not made, the local district must recoup the amount of the overpayment if the person reapplies and is found eligible.

Note: Before legal action is taken to recover a debt from a former recipient, the local district social services (LDSS) must consider if the amount to be recovered is correct and that all sources of recovery such as lottery offset, recovery from liens or lawsuit settlements, from child support collections, etc. have been applied as appropriate.

No recovery may begin before the individual or family has been provided notice of overpayment that states the amount of the overpayment, the reason for the overpayment and the period during which the overpayment occurred.

If the overpayment was identified after the TA case closed, the [LDSS-4682 - "Notification of Overpayment of Public Assistance to a Former Recipient and Demand Letter"](#) or the CNS version must be provided at least ten days before any collection activities may proceed. If the individual requests a fair hearing and requests a delay in collection activities within ten days of the date of the notice, collection activity must not proceed until after the fair hearing and a decision in favor of the agency.

Note: When a closed TA household is being informed of an overpayment as a result of an IPV, then the [LDSS-4682](#) is not used. In those cases, the [Intentional Program Violation Disqualification notice](#) is used.

- a. **Overpayment of less than \$125** - Local districts may waive recovery of an overpayment from an individual no longer receiving assistance if the amount of the overpayment is less than \$125 and the overpayment was not the result of fraud on the part of the recipient.
- b. **Overpayment of \$125 or more** - When the overpayment is \$125 or more and does not involve fraud, local districts may elect to discontinue collection procedures when it is determined that the cost of recovery is greater than the cost of collection and reasonable efforts to recover the overpayment have been made. Reasonable efforts must include notification of the amount of and reason for the overpayment and that repayment is required. If recovery is not made, the social services district must recoup the amount of overpayment if the assistance unit reapplies and is found eligible.

- c. **Fraud Cases** - In cases involving fraud, local districts must continue to make an effort to recover the overpayment, regardless of the amount.
- 5. **FRAUD** - When fraud is suspected local districts should give the information to the appropriate official within the district for necessary action.

Please refer to Intentional Program Violations in [TASB Chapter 6](#).

6. **RECOUPMENT OF SHELTER ALLOWANCE**

Temporary assistance grant money not specifically restricted to a vendor or other second party is to be used as the recipient deems appropriate. Although it is later determined that the recipient did not use the shelter allowance to pay the rent, the amount and payment of the shelter allowance was appropriate if it was based upon the recipient's verified obligation to pay rent. Once the grant has been sent, the recipient may spend this grant as (s)he wishes. Therefore, it cannot be considered to be an overpayment and is not subject to recoupment.

Recoupment of a shelter allowance can only occur when an advance allowance duplicating the previously paid shelter allowance is necessary to prevent eviction or when the agency receives documentation that the rent obligation was actually lower than stated by the client.

B. GUIDELINES TO ASSIST LOCAL DISTRICTS IN DEALING WITH THE SPECIFIED CIRCUMSTANCES THAT MIGHT AFFECT RECOVERY

1. **FORMER RECIPIENT DECEASED** - Where an overpayment has been identified and it has been established that the recipient is deceased, appropriate legal action should be initiated to recover the overpayment from the recipient's estate, where possible.
2. **UNABLE TO LOCATE FORMER RECIPIENT** - Collection efforts should be suspended when a district has been unable to locate the former recipient after a diligent search has been made, including, but not limited to, the following sources:
 - a. Coles Directory
 - b. Bank Clearance
 - c. Credit Check
 - d. Post Office
 - e. Telephone Directory
 - f. Motor Vehicle Bureau Clearance
 - g. State Unemployment Insurance Bureau
 - h. Bendex

Although a write-off of the debt may occur, the district should keep a record of outstanding recovery, so that should the individual again receive benefits, recoupment can be reactivated.

3. **FORMER RECIPIENT'S INABILITY TO PAY** - Collection efforts should be suspended on those cases in which (after a thorough investigation) it is determined that the individual is unable to pay. Discretion should be exercised in marginal cases (i.e., individual is employed but has limited income and is without other resources).

Efforts to determine the ability to pay will include reviewing for resources from the following sources:

- a. Bank Clearance
- b. Motor Vehicle Bureau Clearance
- c. Credit Bureau Clearance
- d. Ownership of Real Property Listing
- e. Federal Tax Liens on Real Property Listings

- f. Employers
- g. Unemployment Insurance Bureau Records
- h. Uniform Commercial Code Listings

Again, the district should maintain a record of the outstanding overpayment in the event that the former recipient's financial circumstances change.

4. **FROM REOPENED CASES** - As long as the information is in the case record, there is no time limit on the agency to attempt to recoup the amount from a reopened case.
5. **CLIENT RESPONSIBILITY** - Local districts must inform recipients that they must report changes in income, resources and other circumstances which may affect the amount of the TA grant to the local district within 10 days after each change. [DSS-4148A: "What You Should Know About Your Rights and Responsibilities"](#) whose use is mandated by [90 ADM-41](#) contains the required information.

C. DISTRICT OF RESPONSIBILITY

1. **DISTRICT OF RESPONSIBILITY** - When a recipient who is subject to recoupment moves from one social services district to another, the new district of residence shall recoup overpayments made by the social services district of original residence.

Note: The new district of residence is not required to refund the local share of recoupments back to original counties.

Note: The original county of residence should keep a record of outstanding recoupment when a recipient moves to a new county. In the event that the recipient returns to the original county of residence, the original county should contact the "new" (now former) county to find out if there is any balance to be recouped. The recoupment case is not closed until the entire overpayment is recovered.

D. BUDGETING OF RECOUPMENTS

1. **WITHOUT UNDUE HARDSHIP CLAIM** - The portion of the current TA grant that must be deducted for recoupment must be 10% of the household's needs. Where the grant amount is less than 10% of such needs, the full grant must be recouped.
2. **WITH UNDUE HARDSHIP** - If undue hardship is claimed and substantiated (as specified in this [Chapter, Section F](#), the recoupment must not:
 - a. Be less than 5% of the household's needs. However, when the grant amount is less than 5% of the household's needs, the full grant must be recouped. See paragraph 3 below.
 - b. Exceed 10%
3. **ZERO GRANTS** - If, through recoupment, the amount of the cash grant is reduced to zero, members of the assistance unit are still considered recipients of TA.

Cases not receiving a cash grant ("zero" aid) will remain eligible for MA, Social Services, and where appropriate, be required to participate in employment programs.

4. **ORDER OF RECOUPMENTS** - Recoup in order of occurrence in those instances where there is more than one overpayment or advance to be recouped.
5. **OVERPAYMENTS AND UNDERPAYMENTS** - In cases which have both an overpayment and an underpayment, the local district must offset one against the other and make the appropriate adjustment. A current month underpayment may not be offset against an overpayment from a prior period.

E. BUDGETING RECOUPMENTS FOR CASES WITH FA ESSENTIAL PERSONS

1. **CATEGORICAL CHANGE** - The categorical change of the EP from SNA to FA-EP must not have a negative effect on the recipients involved. Such a situation arises if either (or both) cooperative case is undergoing a recoupment and the recoupment is continued at the same percentage rate subsequent to the categorical change. Because Total Needs in the FA-EP case are greater than those existing in either co-op case prior to the categorical change, continuation of a recoupment at the same percentage level of Total Needs would result in a greater amount being recouped.
 - a. **Prior To Categorical Change** - If both of the cooperative cases are undergoing recoupment prior to the categorical change, the continuation of each recoupment must be at a level not exceeding 10% of what the respective Total Needs would be if budgeting had continued on a cooperative case basis. The total combined monthly recoupment amount must not exceed 10% of the Total Needs for the single FA-EP case.
 - b. **After Categorical Change** - If a recoupment is initiated after the categorical change over to an FA- EP case, the monthly recoupment amount must not exceed 10% of the FA-EP case's Total Needs. The FA recipients and the EP share in the recoupment as they did in the overpayment.

F. WMS INSTRUCTIONS

When budgeting FA Essential Person cases in which a recoupment was being applied prior to the categorical change from SNA, the monthly recoupment amount must not exceed 10% of what the Total Needs would be if budgeting had continued on a cooperative case basis. This may be accomplished on ABEL by entering both 10% and the previously calculated monthly recoupment amount. ABEL will adjust the percentage rate of recoupment to match the recoupment amount entered.

G. DETERMINATION OF UNDUE HARDSHIP

In order to provide the recipient with an opportunity to submit evidence supporting an undue hardship claim, the local district must adhere to the following procedure for all types of recoupments.

1. **IDENTIFICATION OF REASON FOR RECOUPMENT** - Generally, for upstate districts there are six basic types of recoupments:

- a. Overpayments made to a recipient through agency error (ABEL Recoupment Type 1);
- b. Overpayments caused by non-intentional client error (ABEL Recoupment Type 2);
- c. Advance payment for shelter, fuel and/or utilities (ABEL Recoupment Type 3);
- d. Overpayment occasioned or caused by the recipient's willful withholding of information concerning income or resources (ABEL Recoupment Type 4 - TA Fraud/SNAP IPV). For TA purposes, this code should only be used in cases where fraud has occurred as determined through legal proceedings or where a recipient voluntarily admits and attests that fraud has been committed;
- e. Overpayments caused by IV-D payments being issued in error (ABEL Recoupment Type 5);
- f. Overpayments caused when a landlord evicts a recipient and keeps the security deposit. This action may be due to either non-payment of rent or client caused damages. The overpayment includes allowances which are granted for finders' or brokers' fees and/or moving expenses due to eviction (ABEL Recoupment Type 6).

The Temporary Assistance worker must identify the type of recoupment action being planned and send to the recipient the [LDSS-4015A: Notice of Intent to Change Benefits: Temporary Assistance, Supplemental Nutrition Assistance Program, Medical Assistance Coverage and Services \(Timely and Adequate\)](#), [DSS-4015B: Notice of Intent to Change Benefits: Temporary Assistance, Supplemental Nutrition Assistance Program, Medical Assistance Coverage and Services \(Timely and Adequate\)](#) or the CNS version.

2. **DETERMINING UNDUE HARDSHIP** - Any reduction in the TA grant will cause a hardship. An undue hardship occurs when a client is faced with the situation that income does not allow for enough to eat, to pay for his shelter, to pay for utilities, to clothe and purchase personal incidentals for the client's children or to pay for extraordinary medical needs that are not covered by MA.

It is the responsibility of the client who claims undue hardship will occur, or will become more severe, to submit verified evidence to support the claim. The worker is responsible for notifying the client, whenever a client claims undue hardship, of the

kinds of documents necessary to support the claim of undue hardship. These documents would include:

- a. Three months of utility bills;
- b. Three months of fuel bills;
- c. Rent receipts where the amount paid exceeds the maximum shelter allowance;
- d. Evidence of the need to purchase items to meet a health condition as verified by a doctor or other health professional where these needs are not covered by MA.

3. **CALCULATION OF UNDUE HARDSHIP** - To determine whether or not a recoupment will cause undue hardship, the worker must:

- a. Determine the following items of expenditures:

- (1) **Unmet Food Needs.** The unmet food needs of the client are determined by deducting the value of supplemental nutrition assistance program actually received by the client from the USDA's Thrifty Food Plan by family size. The difference equals the unmet food needs for undue hardship purposes only.

**THRIFTY FOOD PLAN
EFFECTIVE OCTOBER 2010**

1 person = \$200	6 people = \$952
2 people = \$367	7 people = \$1,052
3 people = \$526	8 people = \$1,202
4 people = \$668	8+ people = \$150 for each additional person
5 people = \$793	

Note: The Thrifty Food Plan is updated in October of each year. The most recent Thrifty Food Plan must be used in the undue hardship calculations.

- (2) Shelter obligation as verified.
- (3) Average of utility costs incurred for last three months.
- (4) Average of fuel costs incurred for the last three months.

Note: These amounts (1), (2), (3), (4) should be included as items of expense whether or not they have actually been paid and whether or not they are restricted to a vendor.

- (5) Clothing and personal incidentals for children at \$25.00 per month for each child.
 - (6) Special Needs. Special needs are items necessary to meet a health condition as verified by a doctor or other health professional when such needs are not covered by MA, (e.g., air conditioner or air filter for asthmatics; necessary over-the-counter medicines or remedies).
- b. Determine the following sources of income:
- (1) Amount of TA grant (prior to recoupment);
 - (2) Exempt or disregarded income;
 - (3) All other income, including but not limited to, net applicable income, Social Security, VA, child support pass-through payments, contributions of any other individuals in the household with income (e.g., a non-legally responsible relative), and all other contributions to the TA household. SSI benefits received by non-TA household members must not be counted as income.
- c. Compare the totals of both the necessary expenses and the sources of income:
- (1) If the total income exceeds the total expenditures, there is a monthly average amount available and a recoupment can be applied. The worker must determine, based upon this average, how much of a recoupment can be applied. This is done by dividing the monthly average amount available by the full TA needs, (exclusive of refrigerator rental), to find the percentage it represents. However, in no instance can a recoupment exceed 10% or be less than 5% of the total needs.
- Note: The case should be examined at recertification or when any change in circumstances occurs to determine if an increase or decrease of the recoupment amount is warranted.**
- Note: A recoupment may be instituted for as long as necessary to secure repayment of the overpayment or advance. However, in cases of large overpayments where the client has a valid undue hardship claim and only a minimum recoupment can be applied, the local district may consider encouraging the client to relocate to less expensive housing or may provide money management services.**
- (2) If the necessary expense exceed income, the local district must recoup at 5%.

H. NOTICE & DOCUMENTATION REQUIREMENTS

1. **NOTICE REQUIREMENTS** - Whenever any adjustment in grant is made, either for recoveries due to fraud, for an advance already made, or for an overpayment due to agency error, a notice must be sent to the recipient. When a timely and adequate notice is necessary a manual [LDSS-4015A](#) and [B](#): "Notice of Intent to Change Benefits: Temporary Assistance, Supplemental Nutrition Assistance Program, Medical Assistance Coverage and Services (Timely and Adequate)" or the CNS version must be sent. When only an adequate notice is necessary the manual [LDSS-4016A](#) and [B](#): "Notice of Intent to Change Benefits: Temporary Assistance, Supplemental Nutrition Assistance Program, Medical Assistance Coverage and Services (Adequate Only)" or the CNS version should be sent.

CNS supports notification of overpayment and recoupment actions. Manual notices should be used only if CNS is not available.

- a. **Closed Cases:** No recovery may begin before the individual or family has been provided notice of overpayment that states the amount of the overpayment, the reason for the overpayment and the period during which the overpayment occurred and which provides the individual with the opportunity to have a conference and/or fair hearing.

If the overpayment was identified after the TA case closed, the [LDSS-4682 - "Notification of Overpayment of Public Assistance to a Former Recipient and Demand Letter"](#) or the CNS version must be provided at least ten days before any collection activities may proceed. If the individual requests a fair hearing and requests a delay in collection activities within ten days of the date of the notice, collection activity must not proceed until after the fair hearing and a decision in favor of the agency.

Note: When a closed TA household is being informed of an overpayment as a result of an IPV, then the [LDSS-4682](#) is not used. In those cases, the **Intentional Program Violation Disqualification notice** is used.

2. **DOCUMENTATION OF RECOUPMENTS** - Whenever a grant is being reduced for recoupment purposes, the following shall be documented in the case record:
 - a. The amount of such recoupment,
 - b. The rate at which the recoupment is being applied,
 - c. The effective date and period of such recoupment, and,
 - d. The reason for the recoupment.

I. CORRECTION OF UNDERPAYMENTS/ERRONEOUS DENIALS AND DISCONTINUANCES

UNDERPAYMENTS - Local districts must correct any underpayments to current recipients and to those who would be current recipients if the error causing the underpayments had not occurred, by making appropriate payments in each case within 30 days after discovery of the underpayments.

The local district must make corrective payments to a former recipient who has an outstanding underpayment, who reapplies and is found to be eligible. Such retroactive payments must not be considered as income or as a resource in the month paid nor in the next following month.

Judicial determinations that enjoin or declare invalid Office policy do not create underpayments.

References

348.4
352.15
352.31
352.31(d)
352.31(e)
352.31(f)
352.7

[01 ADM-11](#)
[Attachment](#)

[00 ADM-6](#)
[98 ADM-12](#)
[91 ADM-38](#)
[Attachment](#)
[90 ADM-39](#)
[Errata](#)

89 ADM-49
82 ADM-49
81 ADM-55
80 ADM-39

[94 INF-11](#)
88 INF-59
86 INF-21

"All Commissioner" Letter (3/5/86)
"All Commissioner" Letter (6/7/85)
"All Commissioner" Letter (2/1/85)
"All Commissioner" Letter (3/14/83)

[GIS Message \(04 TA/DC006\)](#)
[Attachment](#)

GIS Message (94 ES/DC032)
GIS Message (87 IM/DC024)

Related Items

352.7 (g)
352.29

[90 INF-65](#)
Deeming of Sponsor's Income to Needs of an Alien ([TASB](#))
Budgeting of Recoupments
85 ADM-44
Determination of Undue Hardship ([TASB](#))
Utilizing the FA Essential Person Category ([TASB](#))

SNAPSB

CHAPTER 23: MISCELLANEOUS PROGRAMS

A. GRANTS OF ASSISTANCE FOR GUIDE DOGS (GAGD)

Under the SSI program, employed SSI recipients are permitted to deduct work-related expenses, such as maintenance of a guide/service dog, from their countable income. Since the SSI program provides no special provision for the maintenance of guide/service dogs for recipients who are not eligible for such earned income exemptions, State legislation was enacted to remedy this inequity. SSL § 303-a directs SSDs to provide assistance, in accordance with regulations of the department, to persons with disabilities who have been determined to be eligible for or are receiving federal SSI and/or additional state payments and using a guide dog, hearing dog, or service dog, for the purchase of food for such dog. This form of assistance is administered as a separate Temporary Assistance program called "Grants of Assistance for Guide Dogs" (GAGD).

For additional information regarding the GAGD, including definitions, factors of eligibility, determination of eligibility, granting of GAGD, authorization, recercertification, WMS instructions, reimbursement, notifcation, fair hearings and records/reports, see [Chapter 12, Section H](#).

B. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

The Supplemental Nutrition Assistance Program is mandated by the Federal government with regulatory authority designated to the United States Department of Agriculture (USDA). In New York State, the program is implemented by the local department of social services under the supervision of the New York State Office of Temporary and Disability Assistance.

The purpose of the SNAP Program is to reduce hunger and malnutrition by supplementing the food purchasing power of eligible low income individuals. Entitlement to SNAP is based upon the income and resources of applicant households.

Answers to questions concerning SNAP policy and procedures may be found in the Supplemental Nutrition Assistance Program Source Book ([SNAPSB](#)).

C. SECTION 8 HOUSING ASSISTANCE PAYMENTS FOR LOWER-INCOME FAMILIES (HAP)

The Section 8 Housing Assistance Payments Program (HAP) for lower-income families is designed to enable families who would be unable to afford decent, safe and sanitary housing from their own resources to live in such housing. TA families may qualify for this program.

HAP is administered by the U.S. Department of Housing and Urban Development (HUD) through its area offices and local Public Housing Agencies (PHA's). It provides for payment by HUD or a PHA to a property owner of an amount (subsidy) equal to the difference between the rent paid by an eligible family and the approved contract rent (including utilities) for the housing unit. An eligible family pays between 10 and 30 percent of its gross income (depending upon income, number of minors, and medical and child care expenses).

The Section 8 program is made up of the Voucher Program and other subsidy programs. When a suitable unit is found, a lease may be signed by the owner and the family. A HAP contract will be executed between the PHA and the owner provided that:

- The unit is decent, safe and sanitary,
- The PHA approves the lease.

A family need not move into a new housing unit. The current unit may be approved by HUD or the PHA for participation in HAP based on application by the owner.

1. **VOUCHER AND OTHER PROGRAMS** - HUD or the PHA determines eligibility for Section 8 Housing and the amount the family is obligated to pay toward the lease rent. The shelter needs for a household receiving housing assistance payments are determined as follows:

EXAMPLE: Four person family - 1 adult and 3 minor children. Contract rent (includes heat) for the Section 8 Housing Unit = \$600.

If a subsidy of \$350 was approved for this particular unit, the shelter needs for this family would be \$250, and the local district would allow \$250/month for shelter.

However, in no case will the grant for shelter exceed the local district shelter maximum for the appropriate family size.

- a. Local districts must always allow the TA client's actual rent cost up to the local district's shelter maximum in determining eligibility and amount of entitlement. The actual rent cost of the client is the amount the TA recipient is paying directly to the landlord. This does not include the Section 8 subsidy amount.

The amount of the HAP subsidy must not be considered income to the recipient since the subsidy is paid directly to the landlord and is not available to the recipient.

- b. At times, HUD will reduce a client's rental obligation (total tenant payment) by a utility allowance. In these instances, the local district is to treat the utility allowance as a

reduction of rent, since other components of the TA grant such as the fuel allowance, HEA, SHEA, and water allowance, already meet the costs of items that would be covered by the HUD utility allowance.

EXAMPLE: An Albany County family of four resides in an apartment which includes heat. The HUD contract requires total rent of \$400.00. Of this amount, the TA family is expected to contribute \$267.00 (total tenant payment) and HUD will provide the remaining \$133.00 as a Section 8 subsidy. However, as the family also pays for utility and water costs, HUD is reducing the total tenant payment by a utility allowance of \$92.00. In effect, the client actually pays only \$175.00 to his landlord. In these instances, the local district should only allow the actual rent cost of \$175.00.

When the HUD utility allowance is in excess of the total tenant payment, HUD will provide the TA family with a check for the difference. In these "negative rent" instances, local districts should budget the difference as unearned income.

c. Example Of Section 8 Budgeting

The Andrews family is in receipt of TA and also participates in the Section 8 Voucher Program. They reside in Erie County.

They pay \$295 per month more for their apartment than their Section 8 voucher amount. They pay for oil heat. The agency private shelter without heat maximum for that size household is \$377. The HUD utility allowance is \$89 ($\$295 - 89 = \206).

The Andrews family (5 persons) budget follows:

Basic	\$477.00
HEA	47.70
SHEA	37.00
Shelter	206.00
Fuel	<u>75.00</u>
Total	\$842.00 Rounded Down

The HUD utility allowance reduces the household rent obligation.

The Andrews family receives a shelter allowance of \$206 because participants in the Section 8 Voucher Program (and other HUD subsidy programs) are entitled to rent as paid up to the agency maximum. They are also entitled to a fuel allowance, if appropriate.

- SECTION 8 CERTIFICATE PROGRAM** - The Section 8 Certificate Program has been phased out. By September 2001, all households previously eligible for a Section 8 Certificate subsidy should have had their subsidy converted to the Section 8 Voucher program.
- SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM** - According to Supplemental Nutrition Assistance Program Regulations, the amount of rent actually paid by the applicant/recipient (contract rent less subsidy) is used as a shelter cost when

determining eligibility and the supplemental nutrition assistance program benefit. The subsidy payment itself is exempt as supplemental nutrition assistance program income.

4. **ADDITIONAL INFORMATION** - The circumstances of families occupying Section 8 units are reviewed annually by HUD or the PHA, and a redetermination of the family's contribution and the amount of the HAP payment is made.

Questions concerning HAP operations should be referred to HUD or a local PHA. Such inquiries could include eligibility criteria for families and owners/developers, responsibilities of participating tenants and landlords, application forms and applicable housing standards.

Following are the addresses of the two HUD area offices in New York State and the counties within their jurisdiction. The area offices can provide information on the local PHA's in the area.

New York City Area Office

U.S. Department of HUD
26 Federal Plaza
New York, New York 10278-0068
(212) 264-8068 - Area Manager's Office
(212) 264-8053

New York City	Rockland
Dutchess	Suffolk
Nassau	Sullivan
Orange	Ulster
Putnam	Westchester

Buffalo Area Office

U.S. Department of HUD
465 Main Street
LaFayette Court
Buffalo, New York 14203
(716) 551-5755

This office covers all counties not under the jurisdiction of the New York City office.

5. **FAMILY SELF-SUFFICIENCY PROGRAM (FSS)** - The mission of the FSS Program, which is administered by HUD, is to provide supportive services to enable participating families to achieve economic independence and self-sufficiency.
 - a. Under this program, certain families living in public housing or receiving Section 8 assistance enter into a contract which states the goals that the head of household wants to achieve and the steps that must be accomplished to achieve the goal.
 - b. During the contract term, as income increases, a portion of any rent increase resulting from increased earnings is credited to an escrow account.

- For example, a FSS participant who is employed and whose wages increased would also pay more rent to the housing authority pursuant to a HUD formula.
- c. The aggregate amount of the increased rent would then be transferred to an escrow account. These escrow funds can not be paid to the family as long as they are receiving any federal or state housing assistance or TA.
 - d. The funds in the escrow account will not be released to the family unless they complete the terms of the contract. Families who move from HUD housing prior to completing the terms of the contract will not be entitled to the funds in the escrow account.
 - e. Since the funds in the escrow account are not available to the family, the funds cannot be considered for the purpose of determining eligibility or degree of need for TA.
6. **WELFARE-TO-WORK VOUCHERS** - These HUD rental vouchers are treated as a Section 8 subsidy.

D. MEDICAL ASSISTANCE

Title XIX of the Social Security Act authorizes Federal reimbursement to the states for a program of Medical Assistance (MA).

MA is a tax-supported program that pays the expenses in whole or in part of those persons who require health care services but who cannot pay for them. In New York State, the Department of Health exercises overall direction and administration of the program with immediate administration handled by county and city departments of social services.

More information about the Medicaid program can be found at:

<http://www.health.state.ny.us/nysdoh/medicaid/mrg/index.htm>

E. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

The Special Supplemental Food Program for Women, Infants, and Children (WIC Program) was enacted by the Federal Government in 1974 as a result of the recognition that substantial numbers of pregnant, postpartum and breast-feeding women, infants and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. The WIC Program serves as an adjunct to good health care, during critical times of growth and development, in order to prevent the occurrence of health problems and improve the health status of these persons. The program, funded by the United States Department of Agriculture, is administered by the New York State Department of Health, which contracts with local health or community agencies to operate the program.

1. The purpose of the program is to provide eligibility individuals with:
 - a. Immediate supplemental foods through the use of food vouchers. The foods that can be furnished are milk, cheese, eggs, juice, cereal, infant cereal, infant juice, and iron-fortified infant formula;
 - b. Nutrition education to help participants get the most benefit from the food and their food money, and to increase their awareness of the importance of a good diet as a basis for good health.

The individual may also be referred for other programs and services including prenatal (PCAP) and postpartum care, well baby and child care, Head Start, and family planning.

2. Eligibility for the WIC Program requires the applicant to fall within one of these categories:
 - a. Pregnant woman;
 - b. Breast-feeding woman (woman up to 1 year following the completion of her pregnancy);
 - c. Infant (person under 1 year of age);
 - d. Child (person who has had his/her first birthday and not yet attained a 5th birthday);
 - e. Postpartum woman (woman up to six months following the completion of her pregnancy).
3. Applicant's gross family income must be no higher than 185% of the non-farm income poverty guidelines developed by the Federal Government's Office of Management and Budget.

The individual must have a medical or nutritional need determined by the nutritionist on the WIC staff and based on a nutritional assessment and the medical information furnished by the person's doctor or clinic.

The individual may receive WIC even if the individual is:

- a. Not a U.S. citizen
- b. Not a legal resident, a green card is not needed
- c. Without a Social Security number
- d. Receiving Supplemental Nutrition Assistance Program Benefits, Temporary Assistance or Medicaid
- e. A foreign student (F - 1 Visa)

A toll free telephone number for WIC is available. It is 1-800-522-5006

F. OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

1. **Eligibility** - The Office Adult Career and Continuing Education Services (ACCES) is the state agency responsible for the provision of comprehensive vocational rehabilitation services to individuals with disabilities other than blindness. Responsibility for determining eligibility of individuals for these services rests solely with ACCES. Eligibility for services, beyond those necessary to determine eligibility, is contingent upon the following:

- a. The presence of a physical or mental disability, which for the individual constitutes or results in a substantial impediment to employment;
- b. A determination that the individual requires vocational rehabilitation services in order to secure, retain or regain employment.

2. **Major Responsibilities**

- a. To provide individuals with disabilities with information about and access to a comprehensive, coordinated system of employment and vocational rehabilitation services.
- b. To develop, restore and/or improve the work capacities of eligible persons through the provision of vocational rehabilitation services.
- c. To provide work-ready individuals disabilities with employment opportunities, consistent with their unique employment factors and to assist them in attaining and maintaining suitable employment after provision of vocational rehabilitation services.
- d. To provide services subject to the conditions established by federal statute and regulation, ACCES regulations and policy and availability of resources.
 - 1) Evaluation for eligibility;
 - 2) Evaluation of rehabilitation needs;
 - 3) Counseling and guidance;
 - 4) Physical and mental restoration services;
 - 5) Vocational and other training;
 - 6) Disability related supports;
 - 7) Job-related services;
 - 8) Transportation in connection with the provision of vocational rehabilitation services;

- 9) Services to members of the individual's family if necessary for the achievement of the employment goal;
- 10) Post-employment services, necessary to assist individuals to maintain suitable employment;
- 11) Occupational licenses, tools, equipment, initial stock and supplies; and
- 12) Other goods and services determined necessary for the individual to achieve an employment outcome.

3. Referrals

- a. ACCES will refer to local districts those persons making application for or accepted for vocational rehabilitation when it is apparent that adequate income or resources are not available to meet their cash, medical or service needs.
- b. ACCES will also refer those applicants/clients to the Social Security Administration for Title II or Title XVI benefits where eligibility appears to exist.
- c. It shall be the ACCES counselor's responsibility to determine referral disposition. The results of this determination will be provided to the local district and the client by means of written communication.

4. Exchange Of Information

Information to be provided by ACCES shall include, but not be limited to:

- a. Evaluation reports or summaries;
- b. Progress reports and attendance reports as available;
- c. Program termination reports;
- d. Closure reports;
- e. Prompt consultation with the local district when an ACCES sponsored program change may occur.

5. Local Department of Social Services' Responsibilities (DSS)

a. Maintenance And Care

- (1) To the extent they are eligible, ACCES applicants/clients referred to local departments of social services will receive an amount to meet the regularly recurring standard of need, shelter, fuel for heating and home energy needs.
- (2) To the extent permitted by law and regulation, payments provided by ACCES for limited and specific purposes, such as educational grants, text books or transportation, shall not be considered as available income or resources for TA purposes.

- (3) The ACCES counselor, in cooperation with the appropriate local district official, must develop a plan for the provision of necessary care and maintenance should ACCES training be required outside the district of residence.
 - (a) When a dispute exists between local social services districts relating to an otherwise eligible applicant for TA, either district may request a fair hearing in accordance with Department regulations and procedures, and the decision shall be binding upon both districts.
 - (b) The local district in which the applicant is found shall be responsible to arrange, provide and pay for TA and care during the period pending resolution of the interjurisdictional dispute.
- (4) The TA household from which a member has left to participate in ACCES training shall, in accordance with Department laws and regulations, be budgeted to include persons who are temporarily absent from the household.

b. Referrals

- (1) Local districts will promptly investigate applications from persons referred by ACCES for TA and care. Initial and continuing eligibility and grant assistance or care will be determined in the same manner as for other applicants/recipients.
- (2) In recognition of their responsibilities, the local district agrees to initiate referral of all DSS clients potentially eligible for ACCES services. The local district further agrees to provide, with the permission of the client, accompanying documentation to the designated ACCES counselor.
- (3) A referral may be made by the local district personnel to the designated ACCES counselor in cases that meet the following minimum requirements:
 - (a) There exists a medically verifiable disability that is expected to last at least 6 months;
 - (b) The disability is not terminal in nature in the foreseeable future;
 - (c) The disability is a substantial handicap to employment and there is a reasonable expectation that vocational rehabilitation services will enable the individual to obtain and maintain employment; and,
 - (d) Individuals referred by the local district should have a minimal expectancy of employability within a competitive or other setting or display potential skills consistent with the Vocational Rehabilitation (VR) definition of employability as defined by Department of Education regulations which includes homemaker, family worker, homebound employment or other gainful work.
- (4) Prior to the ACCES's initial contact with the individual, the local district should submit the following material to the extent such information is available:
 - (a) General assessment of the current health status of the applicant which

should be as timely as possible and include an assessment of the functional limitations resulting from any medical condition.

- (b) Appropriate specialist reports including, but not limited to, psychological information including an assessment of the resulting functional limitations of the individual;
 - (c) Psycho-social summary including, but not limited to:
 - (i) Social history
 - (ii) Summary of current level of functioning, including any known impediments to employment
 - (iii) Personal history
 - (iv) Vocational/educational history
 - c. ACCES is responsible for determining the disposition of all client referrals and shall provide this information to the local district in writing.
- Information to be provided by the local districts should include, but is not limited to:
- (1) Client economic resource information and changes thereof (i.e., Supplemental Security Income, Social Security Disability Insurance, temporary assistance, etc.);
 - (2) Changes of address;
 - (3) Notification of any significant events in the client's life that may impact on ACCES programs.

6. Mutual Responsibilities of DSS and ACCES to Ensure Continuity of Program

Pursuant to the authority vested in the Office of Temporary and Disability Assistance under the Social Security Act and the Office Adult Career and Continuing Education Services, and related State and Federal statutes and regulations, the full range of services and programs provided by both OTDA and ACCES will be available to the disabled individual. Such services will be designed and provided to ensure that all eligible individuals with disabilities have access to appropriate individualized care and services.

- a. ACCES and the local district will cooperate in developing financial and service plans for any case receiving both TA and rehabilitation services. The local district will provide ACCES with a copy of the TA budget, a statement of the grant and any changes therein upon request from ACCES, and with the written permission of the client. ACCES will provide the local district agency with a statement of its supplementary maintenance and the IWRP upon written request from the local district and with the written permission of the client.
- b. Upon the mutual agreement of the ACCES District Manager and the local Social

Services Commissioner, a regular visitation schedule for ACCES staff at the office of the local district will be implemented.

- c. The ACCES counselor may be included in the local district screening process intended to identify and/or discuss appropriate referrals for vocational rehabilitation services.
- d. At any point in the individual's program when either the local district client coordinator or the ACCES counselor believes that the client's programming is not meeting the client's needs, the client's program may be jointly reviewed.
- e. Both parties agree that, whenever possible, the local district will provide ACCES with notice prior to the termination of an individual from benefits or services, and ACCES will provide similar notice to the local district prior to the termination of an individual from benefits or services.
- f. ACCES recognizes that a client's refusal to participate in a program of vocational rehabilitation without good cause may disqualify that individual from receiving TA. ACCES agrees to make available to the local district information concerning any client's failure or refusal to participate in such a program.

In order to facilitate the provision of coordinated vocational rehabilitation services and thereby restore clients to greater self-sufficiency, local districts are encouraged to enter into local agreements with the local ACCES District Manager. These agreements should reflect the specific scope of services that the local district and ACCES will make available along with the special terms and conditions under which these services will be provided.

G. TELEPHONE DISCOUNT: THE LIFELINE PROGRAM

In August 1983, the first New York Telephone Life Line proposal was submitted to the Public Service Commission. In June 1985, the Life Line Discount Program became effective. The Home Energy Assistance Program (HEAP) was added as a Life Line eligible program in April 1987. At the direction of the Public Service Commission New York telephone companies now offer two Life Line programs. The specific costs and fees vary from telephone company to telephone company. The following example is based upon the two Life Line programs that Verizon telephone formally known as the New York Telephone Company offers:

1. **Types Of Life Line Service** - The Life Line Program consists of the following components:
 - a. Basic Life Line Service
 - (1) Costs \$1 per month, plus tax and surcharge
 - (2) Customer pays Message Rate charges for all outgoing calls
 - (3) Customer does not pay FCC line charge
 - b. Flat Rate Life Line Service (where available)
 - (1) Customer pays \$2.00 less than the total cost of the flat rate service.
 - (2) Flat Rate Service allows the customer to make an unlimited number of calls within the primary calling area.
2. **Additional Life Line Benefits**
 - a. There are reduced service connection charges when a new Life Line customer applies for telephone service.
 - (1) Customer pays \$5 for the cost of installation.
 - b. Connection charges can be paid off in monthly installments from 2 months up to 12 monthly installments.
 - c. In most cases no security deposit is required.
3. **Eligibility** - The phone companies will make all decisions on the eligibility for the Life Line Program. In order to benefit from this program an applicant must:
 - a. Contact the phone company to apply for the Life Line Service. The applicant can call the residential service representative whose number appears in their local telephone directory.
 - b. Forward the application and a copy of proof of eligibility to the telephone company.

c. Demonstrate receipt of:

- (1) FA
- (2) SNA
- (3) HEAP
- (4) MA
- (5) SSI
- (6) NPA SNAP
- (7) Veteran's Disability or Surviving Spouse Pension (non-service related disability)

Note: In addition, the phone must be in the name of the benefit recipient.

4. **Documentation** - In order to demonstrate receipt of the programs in paragraph 3c above, the applicant must provide the following:

a. A CIN or RIN number:

- (1) For upstate cases the CIN (Client Identification Number) appears on their Common Benefit Identification Card (CBIC).
- (2) For NYC cases the RIN (Recipient Identification Number) appears on their CBIC card.

b. For HEAP only cases, either a copy of the HEAP Notice of Final Action or a copy of a fuel/utility bill which shows a HEAP credit, or a letter on the local department of social services or local office for the aging letterhead certifying eligibility.

If the client cannot provide the above eligibility documentation, the client will contact the local district to obtain that information.

Note: The above is a general procedure developed by OTDA and Verizon, formerly known as New York Telephone. Local districts are advised that the cost of the two Life Line programs vary from telephone company to telephone company.

5. Local District Responsibility

- a. Since many clients will be contacting the local districts to obtain their CIN, RIN or proof of HEAP eligibility, local districts may want to consider establishing a focal point within the local district to handle these requests.
- b. Since the costs and benefits of Lifeline vary from telephone company to telephone company, local districts are advised to contact their local telephone company(ies) to establish an understanding of the program benefits available in their area. In addition, local districts are encouraged to cooperate with local phone companies in

developing mutually satisfactory procedures that will guarantee client confidentiality and provide the client with Life Line benefits.

- c. Client complaints pertaining to application decisions, billing errors, etc. should be referred to the phone company.

References

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397.10
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CHAPTER 24: NON-CITIZEN ELIGIBILITY

A. BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA 8 U.S.C. 1612(a)(2)] established new non-citizen eligibility criteria for the receipt of Temporary Assistance (TA) benefits. It introduced the concept of qualified and non-qualified non-citizens. Only qualified non-citizens are eligible for federally funded benefits. Because of their immigration status, the federal government grants certain qualified non-citizens special access to all federal benefit programs. The Office of Temporary and Disability Assistance (OTDA) identifies these non-citizens as specially qualified.

The State Welfare Reform Act of 1997 incorporated the PRWORA non-citizen changes in State Social Services Law by adding a new Section 122 for non-citizens. Local districts were notified of these new criteria in directive [97 ADM-8](#). Since the publication of that ADM, federal laws were passed that modify the non-citizen eligibility criteria by adding various immigration statuses to the specially qualified non-citizen designation.

1. QUALIFIED NON-CITIZENS

The list below sets forth all qualified non-citizens. A subset of this group is the **“specially qualified non-citizens”** who are not subject to the 5-year bar on federal benefits and who are not subject to the federal sponsorship deeming requirements.

a. The "specially qualified non-citizens" are as follows:

- (1) A refugee admitted under Section 207 of the Immigration and Nationality Act (INA)
- (2) A Cuban Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980) paroled into the United States (U.S.)
- (3) An asylee granted asylum status under Section 208 of the INA
- (4) A non-citizen admitted into the U.S. as an Amerasian immigrant as described in Section 402(a)(2)(A)(i)(V) of PRWORA
- (5) A non-citizen whose deportation was withheld under section 243(h) of the INA as in effect prior to April, 1997 or whose removal was withheld under section 241(b)(3) of the INA
- (6) Hmong or Highland Laotian tribe members who are members of a tribe who rendered assistance to the U.S. by taking part in a military or rescue operation during the Vietnam era between August 5, 1964 and May 7, 1975, and who are legally residing in the U.S.. The individual must be born prior to 05/08/75 and state they are a member of a Hmong or Highland Laotian tribe who rendered assistance to the U.S. during the Vietnam era. Such tribe members, their

spouses, their unremarried surviving spouses, and/or their unmarried children are eligible for the date qualified status was granted

- (7) A person granted conditional entry into the U.S. under Section 203(a)(7) of the INA
 - (8) Certain Iraqi or Afghan nationals granted special immigrant status under Section 101(a)(27) of the INA or Section 602(B)(1) AAPA/Sec 1059(a) NDAA 2006
 - (9) Certain Afghans granted humanitarian parole under Section 212(d)(5)(A) of the INA
 - (10) Active Military personnel who are qualified non-citizens who are on active duty, other than active duty for training, in the U.S. Armed Forces, or their spouse, un-remarried surviving spouse, or unmarried dependent child if such spouse or dependent child is also a qualified non-citizen, are eligible from the date qualified status was granted
 - (11) A victim of severe forms of trafficking in persons with a certification letter (for adults) or an eligibility letter (for children) from the Office of Refugee Resettlement (ORR)
 - (12) U.S. veterans who are qualified non-citizens and who (1) have received a discharge from the U.S. Armed Forces characterized as honorable and not on account of alienage, or (2) have a qualifying condition, as defined in Section 350 of the New York State Executive Law, and have received a discharge other than bad conduct or dishonorable (and not on account of alienage) from the Armed Forces, or (3) are a discharged LGBT veteran, as defined in Section 350 of the New York State Executive Law, and have received a discharge other than bad conduct or dishonorable (and not on account of alienage) from the Armed Forces and who fulfilled the minimum active duty requirement (two years); or their spouse, un-remarried surviving spouse, or unmarried dependent child if such spouse or dependent child is also a qualified non-citizen, are eligible from the date qualified status was granted
 - (13) Native Americans are eligible indefinitely if they meet one of the following criteria:
 - (a) Born in Canada and possess at least 50% American Indian blood
 - (b) Born outside of the U.S. and a member of a federally recognized tribe
- b. Other "qualified non-citizens" are as follows:
- (1) A person lawfully admitted for permanent residence in the U.S. (LPR)
 - (2) A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one year
 - (3) Battered non-citizens who are married to a U.S. Citizen or an LPR if they meet all four of the following eligibility requirements:

- (a) Be a credible victim of battery or extreme cruelty
- (b) Have appropriate immigration documentation
- (c) Be able to show a substantial connection between the need for benefits and the battery or extreme cruelty
- (d) No longer reside in the same household as the abuser

2. QUALIFIED BATTERED NON-CITIZENS

The following non-citizens potentially could be considered to be “qualified battered non-citizens”:

- a. **A NON-CITIZEN** who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent, or by a member of the spouse or parent’s family residing in the same household as the non-citizen and the spouse or parent consented to, or acquiesced in, such battery or cruelty.
- b. **A NON-CITIZEN WHOSE CHILD** has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent of the non-citizen (without the active participation of the non-citizen in the battery or cruelty), or by a member of the spouse or parent’s family residing in the same household as the non-citizen and the spouse or parent consented or acquiesced to such battery or cruelty, and the non-citizen did not actively participate in such battery or cruelty.
- c. **A NON-CITIZEN CHILD** who resides in the same household as a parent who has been battered or subjected to extreme cruelty in the U.S. by that parent’s spouse or by a member of the spouse’s family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty.
- d. The abuser spouse or the abuser parent, referenced above, must be a U.S. Citizen or an LPR.
- e. If the abuser was an employee of the U.S. government or a member of the uniformed services of the U.S., the abuse would then not necessarily have to have occurred in the U.S. for purposes of “qualified battered non-citizen” status.

3. CREDIBLE VICTIMS OF BATTERY OR EXTREME CRUELTY

- a. Some non-citizens who apply for public benefits and assert that they were battered may have already been determined to be credible victims of domestic violence via the finding of prima facie eligibility of an I-360 self-petition by the United States Citizenship and Immigration Services (USCIS) or via the approval of an I-360 self-petition by the USCIS or via the finding of a prima facie case of abuse by the Executive Office for Immigration Review (EOIR).
- b. Non-citizens who have been determined to be credible victims of domestic violence as set forth above should present the following documentation:

- 1) I-797 (Notice of Action) indicating PRIMA FACIE ELIGIBILITY of an I-360 self-petition under Section 204(a)(1)(A)(iii) or (iv) or Section 204(a)(1)(iii)(B)(i) or (iii) of the Immigration and Nationality Act (INA)
- 2) I-797 (Notice of Action) indicating APPROVAL of an I-360 self-petition under Section 204(a)(1)(A)(iii) or (iv) or Section 204(a)(1)(iii)(B)(i) or (iii) of the INA Order from the EOIR granting suspension of deportation under section 240A(b)4 of the INA
- 3) Order from the EOIR granting cancellation of removal under section 240A(b)(2) of the INA

Note: Referral to a domestic violence liaison (DVL) is not required.

Note: “Prima facie” eligibility is a determination by USCIS that it has initially accepted the non-citizen’s claim of domestic violence and is allowing the battered non-citizen(s) to remain in the U.S. while he/she awaits a decision on his/her, I-360 self-petition for LPR status.

- c. Non-citizens who present the above documentation will have satisfied the first requirement that they are credible victims of battery or extreme cruelty. These persons should not be referred to a DVL for a duplicate determination.

Note: A non-citizen’s submission of the above documentation will also satisfy the second requirement that s/he have appropriate immigration documentation.

4. REFERRAL TO A DVL IS REQUIRED

- a. All other non-citizens who assert that they were battered will require a credibility assessment and a determination of battery by the DVL in order to establish that s/he is a domestic violence victim. The DVL is responsible for assessing the situation and making these determinations. In these situations, a credibility assessment and determination of battery by the DVL are needed before eligibility as a qualified battered non-citizen can be established.
- b. Non-citizen applicants who present the immigration documents listed below and make a claim of domestic violence must be referred to the DVL for a credibility assessment and determination of battery:
 - 1) I-797 indicating PENDING I-360 self-petition (without a prima facie determination) under section 204(a)(1)(A)(iii) or (iv) or section 204(a)(1)(iii)(B)(i) or (iii) of the INA
 - 2) I-797 indicating PENDING or APPROVED I-130 (Petition for Alien Relative) under section 201(b) (spouse or child of a U.S. citizen) of the INA or Section 203 (a)(2)(A) (spouse of a permanent legal resident) of the INA
 - 3) I-94 (Arrival/Departure Record) coded K3, K4, V1, V2 or CR 1-7 and a pending or approved I-130

- 4) I-688B or I-766 (Employment Authorization Documents [EAD]) annotated (a)(9) or (a)(15);
- 5) Any other USCIS document indicating the non-citizen has a K or V visa and a pending or approved I-130.

Note: K or V visas are family based visas. K visas may be issued to the fiancée, the spouse or the child of a U.S. citizen. V visas may be issued to the spouse or child of an LPR.

Non-citizens who present one of the above documents will need to be referred to a DVL to determine whether they are credible victims of domestic violence and thus meet the first requirement. The submission of these documents alone does not establish that a person is a credible victim of domestic violence.

Note: A non-citizen's submission of the above documents, however, does satisfy the second requirement that s/ he have appropriate immigration documentation.

- c. Non-citizens who do not have any of the immigration documents listed above, but are claiming that they are victims of domestic violence must be referred to the DVL for a credibility assessment and determination of battery. The DVL will review any documents provided by the non-citizens that support their claim of domestic violence. **However, the DVL can make a credibility assessment and determination of battery without any the above documents, if such documents are not available.**

Note: In this instance, any noncitizen seeking assistance as a “qualified non-citizen” based on a DV claim must meet with the DVL as a mandatory part of the eligibility process.

- d. Consequently, the failure to meet with the DVL will result in a determination that the non-citizens are not qualified battered non-citizens and thus are ineligible for FA, SNA and SNAP on these grounds. This ineligibility will apply to both the noncitizen and any foreign-born children covered by the pending I-360 self- petition.
- e. The DVLs are only responsible for determining if the non-citizen is a credible victim of battery or extreme cruelty, which is the first requirement for a qualified battered non-citizen. If the DVLs determine a person is a credible victim of battery or extreme cruelty, TA staff will be responsible for determining whether or not the non-citizen meets the other three requirements and is thus a qualified battered non-citizen.

5. APPROPRIATE IMMIGRATION DOCUMENTATION

Pursuant to the second requirement to establish qualified battered non-citizen status, the center workers must determine whether the non-citizen has appropriate immigration documentation. This necessitates the review of all immigration documents the non-citizen has available. As set forth above, the following immigration documents will satisfy this requirement:

- a. I-797 (Notice of Action) indicating PRIMA FACIE ELIGIBILITY of an I-360 self-

- petition under Section 204(a)(1)(A)(iii) or (iv) or Section 204(a)(1)(iii)(B)(i) or (iii) of the INA;
- b. I-797 (Notice of Action) indicating APPROVAL of an I-360 self-petition under Section 204(a)(1)(A)(iii) or (iv) or Section 204(a)(1)(iii)(B)(i) or (iii) of the INA;
 - c. Order from the EOIR granting suspension of deportation under section 240A(b) of the INA;
 - d. Order from the EOIR granting cancellation of removal under section 240A(b)(2) of the INA;
 - e. I-797 indicating PENDING I-360 self-petition (without a prima facie determination) under section 204(a)(1)(A)(iii) or (iv) or section 204(a)(1)(iii)(B)(i) or (iii) of the INA;
 - f. I-797 indicating PENDING or APPROVED I-130 (Petition for Alien Relative) under section 201(b) (spouse or child of a U.S. citizen) of the INA or Section 203 (a)(2)(A) (spouse of a permanent legal resident) of the INA;
 - g. I-94 (Arrival/Departure Record) coded K3, K4, V1, V2 or CR 1-7 and a pending or approved I-130;
 - h. I-688B or I-766 (Employment Authorization Documents [EAD]) annotated (a)(9) or (a)(15);
 - i. Any other USCIS document indicating the non-citizen has a K or V visa and a pending or approved I-130.

6. SUBSTANTIAL CONNECTION

Pursuant to the third requirement to establish qualified battered non-citizen status, there must be a substantial connection between the abuse and the need for benefits. This requirement will not be satisfied solely by a determination that the applicant has been subjected to battery or extreme cruelty. It is the responsibility of the TA worker to determine whether this connection exists. A substantial connection between the abuse and the need for benefits exists when circumstances such as the following exist:

- a. Benefits are needed to enable the applicant/victim or their child to become self-sufficient following separation from the abuser.
- b. Benefits are needed to enable the applicant/victim or their child to escape the abuser and/or the community where he abuser lives or to insure the safety of the applicant/victim and/or their child.
- c. Benefits are needed due to the loss of financial support resulting from the applicant/victim or his/her child's separation from the abuser.
- d. Benefits are needed because of lost housing or lost income or because fear of the abuser jeopardizes the applicant victim's ability to care for their child.

- e. Benefits are needed because the applicant/victim or his/her child requires medical attention or mental health counseling or has become disabled as a result of the battery or cruelty.

These examples are not all inclusive, and the TA workers should consider the circumstances of each case to determine whether the required substantial connection exists.

7. BATTERED APPLICANT NO LONGER RESIDES IN THE SAME HOUSEHOLD AS THE ABUSER

Pursuant to the fourth requirement to establish qualified battered non-citizen status, the battered noncitizen can no longer reside in the same household as the abuser. TA workers are responsible for verifying the battered non-citizen's residence just as they would for any applicant for assistance. Districts should consider any relevant credible evidence supporting the claim of non-residency with the batterer, including, but not limited to, any of the following:

- a. Proof of residence in a domestic violence or homeless shelter
- b. Orders of protection requiring the abuser to stay away from the applicant
- c. Civil order evicting the batterer from the applicant's residence
- d. Employment records
- e. Utility receipts
- f. School records
- g. Hospital or medical records
- h. Statement from a friend or relative regarding the noncitizen victim's staying with him or her

Since the noncitizen has been found to be a credible victim of domestic violence by the DVL, districts should not contact the batterer for any verification of living arrangements or any other factor of eligibility.

8. DERIVED QUALIFIED STATUS FOR CHILDREN

When a battered non-citizen files an I-360 self-petition, he/she is both the petitioner and the beneficiary of that petition. If the petitioner has foreign-born minor children, the foreign-born minor children who are listed will be covered by the same I-360 self-petition.

In the context of I-360 self-petitions, foreign born children of battered non-citizens derive their benefit eligibility from their parents. If the parent petitioners are determined to be qualified non-citizens, their foreign born children are also determined to be qualified non-citizens.

Example of a qualified battered non-citizen is as follows

Kadife and Oban married in Turkey where Oban was working. Kadife was born in Turkey, and Oban is a U.S. citizen. Oban's company moved the family to the U.S. where they have resided for the past 18 months. Seven months after arriving in the U.S., a child was born. Shortly thereafter, Oban lost his job and was unable to find work. Oban began abusing his wife verbally, refusing to give her pocket money, and preventing her from talking to friends. Oban developed a heroin addiction which depleted the family's resources and led to angry erratic outbursts against Kadife. To safeguard her well-being, Kadife and the child left their home to live with a friend. Kadife filed an I-360 self-petition, and due to the loss of Oban's financial help, she went to a Job Center to apply for assistance for herself and her child. At the Job Center, Kadife presented an I-797 indicating prima facie eligibility of her I-360 self-petition.

The designated Agency worker determined that if all other eligibility requirements are met, Kadife is eligible for Safety Net Assistance (SNA) as a qualified battered non-citizen. Due to the I-797 indicating prima facie eligibility of her I-360 self-petition, Kadife is a credible victim of battery or extreme abuse, and she has documented that she has an appropriate status (immigration-related). The designated Agency worker also determined there is a substantial connection between the need for the benefits sought and the battery or extreme cruelty. The abuse caused Kadife to leave Oban, and as a result, Kadife has experienced a financial loss and an increase in living expenses. Lastly, Kadife is no longer residing in the same household as Oban. It is noted that Kadife is not eligible for Family Assistance (FA) because she has not resided in the U.S. for 5 years in a qualified status.

The designated Agency worker determined that if all other eligibility requirements are met, Kadife's child is eligible for FA as a U.S. citizen. It is noted that if the child had not been a citizen, the child would have had qualified non-citizen status as a child of a battered non-citizen and would have been eligible for SNA, if all other eligibility requirements were met.

B. ELIGIBILITY CRITERIA

No person except a citizen or a specially qualified non-citizen shall be eligible for FA, federally participating SNA, or services funded under Title XX of the federal social security act, except as follows:

1. A qualified non-citizen, who is not a specially qualified non-citizen, who was a lawful resident of the U.S. before August 22, 1996, or who has resided in the U.S. on or after August 22, 1996, for five or more years in a qualified status is, if otherwise eligible, is eligible for FA, and services pursuant to Title XX of the federal social security act. A qualified non-citizen, who is not a specially qualified non-citizen, who entered the U.S. on or after August 22, 1996 but who has resided in the U.S. for less than five years in a qualified status shall, if otherwise eligible, be eligible for SNA, but shall be ineligible for FA.
2. A non-citizen whose status is not within the meaning of the term qualified non-citizen but who is otherwise Permanently Residing Under Color of Law (PRUCOL) in the U.S. is, if otherwise eligible, eligible for SNA.
3. A person paroled into the U.S. under Section 212(d)(5) of the INA for a period of less than one year is, if otherwise eligible, eligible for SNA.
4. Nothing herein shall preclude the receipt by a non-citizen of community based non-cash assistance in accordance with the directions of the U.S. Attorney General.
5. Any non-citizen, including an non-citizen who is not a qualified non-citizen, is eligible for adult protective services and services and assistance relating to child protection to the extent that such person is otherwise eligible pursuant to this section and the regulations of the department.
6. A non-citizen is eligible for additional state payments for aged, blind and disabled persons under social services law only to the extent that such person is not ineligible for federal SSI benefits due to non-citizen status.

C. DATE OF ENTRY

A battered non-citizen who meets the requirements for “qualified non-citizen” is not exempt from the 5 year-bar on federal benefits. If they entered the U.S. on or after August 22, 1996, they must have 5 years in a qualified status before they are eligible for federal benefits based on immigration status. However, a person is not subject to the 5-year bar for Temporary Assistance for Needy Families (TANF) funded-benefits if they entered the U.S. before August 22, 1996, even if they did not obtain a lawful qualified immigration status until some time after she/he entered. As long as a person “continuously resided” in the U.S. from the earlier date, that date will be considered the date of entry. Continuously resided means the person may only have left the U.S. for short periods of time. The following example will illustrate the meaning of this provision for a battered non-citizen.

Example 1

A woman came to the U.S. in 1995 as an undocumented non-citizen and resided in the U.S. since that time. In 1996 she married a U.S. citizen. In 2001 she filed an I-360 self-petition and received an I-797, Notice of Action from the USCIS stating she had a “prima facie case.” She is not subject to the five-year bar for TANF- funded benefits because her date of entry is 1995.

When a non-citizen who was physically present in the U.S. before 8/22/96 is determined to be a “qualified non-citizen” under the battered non-citizen provisions of the Act, the date of qualified status is her original date of entry.

Non-citizens who entered the U.S. on or after 8/22/96 must reside in the U.S. for 5 years in a qualified status to be eligible for any federal TANF program. For a non-citizen who is determined to be a “qualified non-citizen” under the battered non-citizen provisions of the Act, and who entered the U.S. on or after 8/22/96, the 5 year clock will begin on the date of application for benefits.

Districts must note this date in the case record as this date may determine when the non-citizen has completed the 5 year residency in the U.S. in a qualified non-citizen status, at which time he/she may be eligible for federal benefits. The date of qualified status for battered non-citizens who entered on or after 8/22/96 is distinct from their date of entry, which is when they physically entered the U.S.

Districts must note this date in the case record as this date may determine when the non-citizen has completed the 5 year residency in the U.S. in a qualified non-citizen status, at which time he/she may be eligible for federal benefits. The date of qualified status for battered non-citizens who entered on or after 8/22/96 is distinct from their date of entry, which is when they physically entered the U.S.

Example 2

A woman came to the U.S. in 2003 on a visitor’s visa. In 2004 she married a lawful permanent resident who filed an I-130 petition for her on January 2, 2005. She is now a victim of domestic violence and no longer living with her lawful permanent resident spouse and has applied for benefits on March 2, 2006. If she meets the battered non-citizen’s requirements for “qualified” non-citizen she became a “qualified non-citizen” on March 2,

2006. Her 5- year bar on federal benefits will be over on March 1, 2011, if she has 5 years as “qualified non-citizen” either as battered non-citizen or in some other qualifying immigration status.

D. DOCUMENTATION REQUIREMENTS

1. At each application and at each recertification for FA, SNA, or services funded under Title XX of the Social Security Act, the applicant/recipient must provide documentation to the local district for each member of the applying/recipient household of the person's U.S. citizenship or qualified non-citizen status granted by the USCIS.
2. Any member of the applying/recipient household who is not a U.S. citizen must provide the local district, as a condition of eligibility, with documentation as to the immigration status granted to them by USCIS.
3. In addition, all applicants/recipients who were lawfully admitted for permanent residence must provide the local district, as a condition of eligibility, with USCIS documentation regarding the date of their lawful entry into the U.S.
4. If the non-citizen documents that they were lawfully admitted for permanent residence on or after August 22, 1996, the non-citizen must also document the number of quarters of qualified employment they worked or can be credited with. The local district can verify the majority of the previous quarters to credit a non-citizen by use of WMS (Main Menu choice 26, SSA 40 Quarter Data Exchange).
5. All non-citizens who are serving in the U.S. Armed Forces or veterans honorably discharged from the U.S. Armed Forces and their spouses, their un-remarried surviving spouses and unmarried dependent children must, as a condition of eligibility, provide USCIS documentation that they are qualified non-citizens.
6. The applicant/recipient is responsible for providing the required documentation. However, if they cannot provide the needed documentation, the local district must provide reasonable assistance to help the applicant/recipient to obtain the documentation. Once the documentation has been provided, the local district is not required to obtain it again unless the applicant/recipient has an immigration status that can be changed.
7. Local districts must review and analyze the citizenship/non-citizen status documentation provided by the applicant/recipient and make an eligibility determination consistent with the documentation provided.
8. Districts can contact the OTDA TA Bureau at: otda.sm.cees.tabureau@otda.ny.gov, or by telephone at: (518) 474-9344, if they need assistance with evaluating a non-citizen's USCIS documentation.

E. DOCUMENTATION

Citizenship or qualified/satisfactory non-citizen status may be verified in the following ways:

Evidence of U.S. Citizenship

1. A birth certificate identifying birth location as one of the following:
 - a. One of the 50 States
 - b. The District of Columbia
 - c. Puerto Rico (on or after January 13, 1941)
 - d. The U.S. Virgin Islands (on or after January 17, 1917)
2. Certificate of Naturalization (N-550 or N-570)
3. Certificate of Citizenship (N-560, N-561, N-600)
4. U.S. Citizen Identification Card (I-197 or I-179)
5. Valid U.S. passport
6. Enhanced New York State Drivers License
7. Statement provided by a U.S. Consular Officer certifying that the individual is a U.S. citizen or
8. Military discharge papers (DD-214) that identify the individual as a U.S citizen

Evidence of qualified non-citizen status

See this Chapter, Sections [B](#), [D](#), and [E](#) and the [NON-CITIZEN ELIGIBILITY DESK AID \(LDSS-4579\)](#).

Evidence of PRUCOL

See [this Chapter, Section G](#), and the [NON-CITIZEN ELIGIBILITY DESK AID \(LDSS-4579\)](#).

F. SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM

The U.S. Department of Homeland Security (DHS) USCIS SAVE Program is an intergovernmental information-sharing initiative designed to aid federal, state and local government agencies that issue public benefits in verifying an applicant/recipient's immigration documents. Congress mandated SAVE through the Immigration Reform and Control Act of 1986 (IRCA).

Non-citizen applicants/recipients must provide a USCIS document as evidence of a satisfactory immigration status for benefit eligibility. The amendments made by IRCA require a further step to verify the validity of the immigration document presented by the applicant/recipient. SAVE provides a re-verification of the non-citizen's documented immigration status against the USCIS Verification Information System (VIS) files to confirm the accuracy of the non-citizen's documented immigration status established during application processing.

SAVE only verifies the validity of the immigration document provided by the applicant/recipient. The SAVE Program does not do any of the following:

- Determine immigration status
- Make determinations on any applicant's eligibility for a specific benefit
- Verify status for employment

1. Reasonable Opportunity to Provide Documentation

Applicants/recipients must be given a reasonable opportunity to provide documentary evidence of satisfactory immigration status prior to any action to deny, delay, reduce or terminate benefits. The timeframes for the provision of documentary evidence follow current guidelines for Temporary Assistance programs. Districts must verify the immigration status of applicants/recipients as follows:

- a. at time of application;
- b. when a new person is added to the assistance unit; or
- c. any time there is a change in immigration status

When an immigration document listed under "Common Documentation" on the [LDSS-4579 "Non-citizen Eligibility Desk Guide"](#) is provided, the VIS must be accessed to verify the document submitted.

2. No Delay in Benefits Pending Verification of Non-Citizen Status Through the SAVE/VIS

Benefits must not be delayed, denied, reduced, or terminated pending verification of a non-citizen's documentation through SAVE. If all other factors of eligibility have been established and the non-citizen is otherwise eligible, benefits must be granted while awaiting a response from the VIS.

Note: Non-citizen applicants must be given a reasonable opportunity to present a USCIS document indicating their immigration status prior to issuing benefits. Non-citizen applicants who fail to provide USCIS documentation of their immigration status must be denied benefits because of failure to establish a satisfactory immigration status. If a non-citizen applicant provides an immigration document that is not listed on the [LDSS-4579](#), or if there are any questions regarding immigration documentation, district staff should contact the OTDA Bureau of Temporary Assistance for guidance.

See [13 ADM-07 “Systematic Alien Verification for Entitlements \(SAVE\) Program: Replacement of Manual Form G-845 \(Document Verification Request\) with Verification Information System Web-3 Access”](#) for more information.

G. PERMANENTLY RESIDING UNDER COLOR OF LAW (PRUCOL)

A non-citizen is considered by OTDA to be PRUCOL if it has been officially determined by the USCIS that the non-citizen is legitimately present in the U.S. and the USCIS is allowing the non-citizen to reside in the country for an indefinite period of time. PRUCOL is not an immigration status, but a public benefit category used by OTDA for the purposes of SNA eligibility.

The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) created new eligibility criteria for non-citizens to receive federal benefits. As a result, certain non-citizens who were previously eligible for federal benefits are no longer eligible for federal benefits. PRWORA provided states with the authority to grant state and/or local benefits to those non-citizens made ineligible for federal benefits. The PRUCOL category is used by OTDA to determine certain non-citizens' eligibility for SNA, including some of the non-citizens made ineligible by PRWORA.

1. Non-citizens who meet the OTDA PRUCOL criteria and who may be eligible for SNA include:
 - a. Non-citizens paroled into the U.S. under Section 212(d)(5) of the Immigration and Nationality Act (INA) for less than one year; or
 - b. Non-citizens residing in the U.S. pursuant to an Order of Supervision under Section 241(a)(3) of the INA; or
 - c. Non-citizens granted cancellation of removal pursuant to Section 240A of the INA; or
 - d. Non-citizens granted deferred action status; or
 - e. Non-citizens granted "K3," "K4," or "V" visa status established under the Legal Immigration Family Equity Act (Life Act); or
 - f. Non-citizens granted deferred action as interim relief for a "U" visa; or
 - g. Non-citizens granted "S" or "U" visa status; or
 - h. Non-citizens who demonstrate that they entered the U.S. and have continuously resided in the U.S. prior to January 1, 1972, pursuant to Section 249 of the INA; or
 - i. Non-citizens who are permanent nonimmigrants, pursuant to Public Law (P.L.) 99-239, as amended by P.L. 108-188 (applicable to certain citizens of the Federated States of Micronesia and the Republic of the Marshall Islands) or P.L. 99-658 (applicable to citizens of the Republic of Palau); or
 - j. Non-citizens granted Temporary Protected Status (TPS) by the USCIS; or
 - k. Non-citizens who have an asylum application pending and have been granted employment authorization by the USCIS; or

- l. Non-citizens who are beneficiaries of deferred enforced departure pursuant to a designation by the President of the U.S.; or
- m. Non-citizens approved by the USCIS for Special Immigrant Juvenile (SIJ) classification; or
- n. A non-citizen who the USCIS has officially determined is legitimately present in the U.S. and who the USCIS is allowing to reside in the country for an indefinite period of time.

H. NON-IMMIGRANTS

Non-citizens who are allowed to enter the U.S. for a specific purpose and for a limited period of time are classified as non-immigrants. Examples of non-immigrants include tourists, students, and visitors on business. Most non-immigrants are required to show that they intend to maintain their residence abroad. Some categories of non-immigrants, such as temporary workers and students are permitted to work under certain specific restrictions. Non-immigrants are issued an Arrival/Departure Record (I-94) by USCIS to show their non-citizen status.

Note: Non-immigrants are not eligible for benefits (except emergency Medicaid) because of their non-citizen status.

I. REFERRAL REQUIREMENTS

Any applicant or recipient who has been determined to be ineligible for FA, or SNA because they are a non-citizen unlawfully residing in the U.S. or because they failed to furnish evidence that they are lawfully residing in the U.S. shall be immediately referred to the USCIS, or the nearest consulate of the country of the applicant or the recipient for the service or consulate to take appropriate action or furnish assistance. The USCIS, or consulate can take appropriate action or furnish assistance. Local districts comply with referral requirements by providing the non-citizen applicant or recipient with the address of the nearest USCIS office or home country consulate. Districts should also advise the applicant or recipient that they should probably seek legal counsel before contacting the USCIS or their consulate.

J. REPORTING REQUIREMENT

1. Each local district shall report to OTDA, the name and address and other identifying information known to it with respect to any non-citizen known to be unlawfully in the U.S. A determination that an individual is not lawfully present can only be made about someone who is applying for benefits. A unlawful determination cannot be made about an individual who is only submitting an application for benefits on behalf of other family members.
2. The Office has identified two specific conditions that establish that a non-citizen is unlawfully present. Accordingly, the report of "Non-citizens Unlawfully in the U.S." should only include non-citizens who meet either of the following two conditions:
 - a. Non-citizens with a final USCIS Order of Deportation outstanding. An outstanding order of deportation is final when it is not subject to appeal, either because:
 - (1) the relevant statutory appeal period (10 days) has expired
 - (2) there are no lawful grounds upon which an appeal may be based
 - (3) the available administrative and/or judicial appeals have been exhausted and the order is not subject to review under the limited standards for reopening or reconsideration.
 - b. Non-citizens for which the SAVE response to a USCIS G-845S (Document Verification Request) indicates that the person has submitted false immigration documents to the agency.

When either of the above situations is applicable to an applicant or recipient of FA or SNA, you should submit the name(s) and address(es) of the individual(s), along with identification of the documentation establishing their being unlawfully present in the U.S., including copies of the documentation when possible, to:

NYS Office of Temporary and Disability Assistance
Employment and Income Support Programs - 11th Floor
40 North Pearl Street
Albany, NY 12243

This information should be provided on a copy of the reporting form, "Non-citizens Unlawfully in the U.S." You should submit the form within 10 days from the end of any month in which you identify "reportable" non-citizens.

Note: There are no reporting requirements for Medical Assistance (MA) or the Supplemental Nutrition Assistance Program (SNAP). When an applicant is applying only for MA and/or SNAP, you should not include them on the report.

K. NON-CITIZEN SPONSORSHIP DEEMING

1. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA):
 - a. PRWORA mandates that the income and resources of the sponsor(s) of a non-citizen must be deemed to the sponsored non-citizen(s) when:
 - 1) The sponsored non-citizen is applying for federal, means-tested public benefits; and,
 - 2) The sponsor has executed the new USCIS form I-864 Affidavit of Support on behalf of the immigrant.
 - b. Additionally, PRWORA requires that the sponsor reimburse any agency for federally funded means-tested benefits granted to non-citizens covered by the new Affidavit of Support. This requirement also applies to any state programs which are determined by the state as means-tested public benefits.
 - c. Also, under PRWORA such designated state programs may apply sponsor deeming to the eligibility determination.

Note: New York State Social Services law prohibits deeming in state/locally funded TA programs.

- d. The federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) amended section 213A of the Immigration and Nationality Act (INA) to establish a legally enforceable I-864, Affidavit of Support. In signing the new affidavit, the sponsor agrees to provide financial support to the sponsored non-citizen and to reimburse any agency which provides means-tested public benefits to a sponsored non-citizen.
 - e. Interim federal regulations were published implementing the use of the revised, legally enforceable, I-864 Affidavit of Support effective as of December 19, 1997. The federal, state and local governments can enforce these agreements in the same way that they enforce contracts.
 - f. The State Welfare Reform Act of 1997 (WRA) provides that the income and resources of a sponsor of a non-citizen who has signed an affidavit of support pursuant to section 213A of the INA as amended shall be deemed available to such non-citizen for determining eligibility for FA, other public assistance funded under the federal TANF block grant and Medicaid.
2. Definitions
 - a. Sponsored Non-citizen – Any non-citizen who is seeking an immigrant visa or adjustment of status as:
 - 1) An immediate relative, including orphans and family-based immigrants; or,

- 2) An employment based immigrant where a relative is the petitioning employer or has a significant ownership interest in the business that is filing the petition on behalf of the immigrant.

Non-citizens in the above groups are described in this Chapter under "Other Qualified Non-citizens" (These are LPRs, Certain Battered Non-citizens and Persons Paroled into the U.S. for a least one year). Generally, it is immigrants in these groups who will have a sponsorship agreement.

Note: Non-citizens in these groups who entered the U.S. on or after August 22, 1996 are not eligible for federally funded public assistance benefits until they have resided in the U.S. for 5 years in a qualified status. Determination of eligibility for public assistance, if any, must be made under the non-federally funded SNA programs.

- b. Specially Qualified Non-citizens are exempt from having a sponsor. These include:

- 1) Refugees
- 2) Conditional Entrants (A status granted to Refugees prior to 1980)
- 3) Iraqi/Afghan Special Immigrant Visa Holders or SQ/SI Parolees
- 4) Certain Afghan Humanitarian Parolees
- 5) Cuban/Haitian Entrants
- 6) Amerasians
- 7) Asylees
- 8) Immigrants with Deportation or Removal Withheld
- 9) Certain Victims of Human Trafficking
- 10) Certain Military Individuals and Veterans Who are Qualified Non-citizens
- 11) Certain Hmong or Highland Laotians
- 12) Certain Native Americans

- c. Sponsor – The sponsor must be:

- 1) A citizen or national of the U.S. or a non-citizen Lawfully Admitted to the U.S. for Permanent Residence;
- 2) At least 18 years of age; and,
- 3) Domiciled in the U.S. or its possessions.

The sponsor must demonstrate to USCIS the means to maintain an income of at least 125% of the Federal poverty guidelines based on a household size including family members residing with the sponsor plus all sponsored immigrants. The sponsor, by signing the I-864 Affidavit of Support agrees to reimburse any agency which provides means-tested public benefits to the sponsored non-citizen(s).

- d. USCIS Form I-864 – Affidavit of Support (under Section 213A of the Act) – This revised form is mandated by federal law for use by a petitioning relative when submitting an affidavit on their relative's behalf on or after December 19, 1997. The executed form creates a legally enforceable contract between the sponsor and any Federal, state or local governmental agency, or by any other entity that provides means-tested public benefits to the sponsored non-citizen.

Note: The 213A affidavit is different from the old 213 affidavits, which are not enforceable except in the Supplemental Nutrition Assistance Program (SNAP). Section 213 affidavits, which include all I-864 Affidavit of Support issued prior to December 19, 1997, may not be used for TA deeming.

The I-864 remains valid until the sponsored non-citizen(s):

- becomes a naturalization citizen;
 - can be credited with 40 qualifying quarters of work under the Social Security Act;
 - loses or abandons his or her permanent resident status;
 - dies.
- e. Means-tested public benefits – The federal Department of Health and Human Services (DHH) has designated TANF and Medicaid as federal means-tested programs. The United States Department of Agriculture (USDA) has designated the Supplemental Nutrition Assistance Program (SNAP) as a federal means-tested program. The Social Security Program has designated Supplemental Security Income (SSI) as their only means-tested program.

In addition, each state must determine which state and/or local programs are considered means-tested public benefits. New York State has designated non-TANF funded SNA as a means-tested public benefit program.

L. FEDERAL NON-CITIZEN SPONSORSHIP REQUIREMENTS

1. USCIS requires that a sponsor (including any joint sponsor), when executing an Affidavit of Support, must demonstrate the means to maintain an annual income equal to at least 125% of the Federal poverty level. (It is reduced to 100% of the Federal poverty level for sponsors who are on active duty in the U.S. Armed Forces who are filing on behalf of their spouse or child).
2. When USCIS determines whether the sponsor meets the 125% test, sponsor's household size is considered to include the sponsor, all related persons residing with the sponsor, plus all non-citizens included in the current Affidavit of Support and any non-citizens previously sponsored by the sponsor for whom the sponsor still has a financial obligation.
3. The sponsor is required to submit to the USCIS Federal income tax returns for each of the three most recent tax years. For purposes of demonstrating means to maintain income, the total income before deductions for the most recent tax year will generally be matched against the Federal poverty level for the household as described above to determine if it is greater than 125%. The law does allow USCIS to use other sources, such as a W-2 wage report, when necessary to verify most recent income.
4. The law also allows an assets test to be considered in addition to or in lieu of the income test in situations where significant assets exist. Under this test, the assets of the sponsor and/or the sponsored non-citizens, if such assets are available for support of the sponsored non-citizens, are evaluated.
5. USCIS has determined that the assets must be sufficient to support the non-citizens for at least five years, if necessary, as sufficient for demonstrating the ability to support the sponsored non-citizen. They consider the assets to be sufficient if they are at least five times the difference between the sponsor's income and 125% of the Federal poverty level for the sponsor's household size.

M. FEDERAL NON-CITIZEN SPONSORSHIP DEEMING REQUIREMENTS

1. PRWORA mandates that all of the income and resources of the sponsors must be deemed to be available to the sponsored non-citizen when determining eligibility for Federal means-tested public benefits. The sponsor is considered able to support the sponsored non-citizen at 125% of the federal poverty level. Since under the State's poverty level test for public assistance, gross earned and unearned cannot exceed the poverty level, the sponsored non-citizen would be ineligible for the federally funded benefit sought.
2. The Federal law does allow for exception to deeming in hardship situations. The exception applies only if the social services district makes a **Determination of Indigence**. Indigence is defined as existing when the unavailability of the sponsor's income results in the sponsored non-citizen being unable to obtain food and shelter without public assistance.
3. In determining whether the non-citizen and his/her family are indigent, only the amount of income and support actually received from the sponsors is budgeted when determining eligibility for Federal means-tested public benefits. Such local district's determinations of indigence are valid for no longer than 12 months.
4. In signing the I-864 Affidavit of Support, the sponsor attests in Part 7:
 - a. "I agree to provide the sponsored immigrant(s) whatever support is necessary to maintain the sponsored immigrant(s) at an income that is at least 125% of the Federal poverty guidelines."
 - b. "This contract is designed to protect the U.S. Government and State and local government agencies or private entities that provide means-tested public benefits, from having to pay benefits to or on behalf of the sponsored immigrant(s), for as long as I am obligated to support under this affidavit of support. I understand that the sponsored immigrants, or any Federal, State, local, or private entity that pays means- tested benefits to or on behalf of the sponsored immigrant(s), are entitled to sue me if I fail to meet my obligations under this affidavit of support, as defined by section 213A and USCIS regulations."
5. In signing the I-864 Affidavit of Support, the sponsor also authorizes USCIS, as a matter of routine use, to disclose I-864 information to Federal, State, and local agencies or private entities providing means-tested benefits for use in civil action against the sponsor for breach of contract.
6. Determination of Indigence – When the sponsored non-citizen reports that the sponsor is not providing and will not provide adequate support, the local district must determine, if without public assistance the non-citizen would be unable to obtain food and shelter. In such even, the local district must take into account only the amount of income actually received from the sponsor; any food, housing or other assistance provided by the sponsor or other individuals; and the income and resources of the applicant and other members of the filing unit when determining eligibility for federally funded means-tested

assistance. When the local agency makes a determination that the sponsored non-citizen would, in the absence of assistance provided by the agency, be unable to obtain food and shelter the application for assistance must be considered under the indigence exception. When processing an indigence situation case for federally-funded means-tested public assistance, the local district must budget only amount of income and resources the sponsor actually contributes to the non-citizen.

Note: A Determination of Indigence under federal regulations is considered to last only 12 months. A new Determination of Indigence may be made after 12 months in the local district determines that is sponsor is still not providing adequate support.

N. FEDERALLY FUNDED PUBLIC ASSISTANCE

1. FA and all public assistance programs funded under the TANF Block Grant:

When a non-citizen who is required to have a sponsor applies for public assistance, the local district must establish whether the affidavit of support was established on or after December 19, 1997 using the new I- 864 form. If so, under PRWORA, the sponsor's income and resources must be deemed available to the non-citizen(s) for the purpose of determining eligibility for FA and TANF funded SNA.

Note: Most non-citizens subject to having an Affidavit of Support will be Qualified Non-citizens who are NOT eligible for federally funded benefits for the first five years they are in the U.S.

2. Verification of Affidavit of Support

When a non-citizen applying for public assistance is potentially eligible for federally funded benefits (i.e., is a lawful permanent resident who have been in the country for five years benefits), the local district must ask the immigrant for the name of his /her sponsor. The district should also ask the non-citizen to provide the agency with a copy of the I-864 Affidavit of Support.

If the client does not have a copy of the I-864, local districts can obtain information about the sponsor from USCIS through the SAVE process. To obtain sponsorship information local districts must include the G845 Supplement Document – Verification Request Supplement along with the standard form G-845S, Document Verification Request.

The USCIS will provide local districts with the name of the sponsor(s), the sponsor's social security numbers and the sponsor's address listed in USCIS files. It is recommended that districts always complete the G845 Supplement when submitting the standard G-845S Document Verification Request.

3. Seeking Reimbursement From the Sponsor

The local district must seek reimbursement from the sponsor for any means-tested public benefits provided to a sponsored non-citizen who was sponsored under the new I-864 Affidavit of Support. This applies to federally and non-federally funded means-tested public benefits. The following procedures must be followed when requesting reimbursement:

- a. Request for reimbursement – The request for reimbursement must be served by personal service. It must specify the:
 - (1) date of the I-864 Affidavit of Support;
 - (2) sponsored non-citizen's name non-citizen registration number, address, and date of birth;
 - (3) types of means-tested public benefits;

(4) dates of sponsored non-citizen received the benefits;

(5) total amount of benefits received.

The request for reimbursement shall also notify the sponsor that the sponsor must, within 45 days of the the date of service of the request respond to the request for reimbursement either by paying the reimbursement or by arranging to commence payments pursuant to a payment schedule that is agreeable to the local district.

Personal service under immigration law means:

(1) delivery of a copy personally;

(2) delivery of a copy at a person's dwelling by leaving with a person of suitable age and discretion;

(3) delivery of a copy at the office of an attorney or other person, including a corporation, by leaving with a person in charge;

(4) mailing a copy by certified or registered mail, return receipt requested to the sponsor at his/her last known address.

- b. Failure to respond – If the sponsor fails to respond to a formal request for reimbursement issued by the local district within 45 days by indicating a willingness to commence payment, the local district may sue the sponsor in State or Federal court.

Remedies available to enforce an I-864 Affidavit of Support include all of the remedies described in sections 3201, 3202, 3204, 3205 of title 28 of the U.S. Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law; provided; however, that no action shall be brought more than 10 years after assistance was last given.

O. STATE FUNDED PUBLIC ASSISTANCE

1. Under State Social Services Law non-citizen sponsor deeming provisions cannot be applied to applicants or recipients or state/locally funded cash assistance programs. Thus, the income and resources of the sponsor cannot be deemed as available to a non-citizen applicant or recipient or non-TANF funded SNA.
2. Budgeting of Sponsor's Income and Resources – For SNA, the local district must consider and pursue the sponsor's support and income as an available resource for the applicant/recipient. However, the eligibility for SNA must be determined and benefits granted based on the income and resources of the sponsored non-citizen, which must include any income and support actually received from the sponsor.

REFERENCES

18 NYCRR 349.3
18 NYCRR 352.33
18 NYCRR 370.2

[13-ADM-07](#)
[04-ADM-08](#)
[03 ADM 01](#)
[97 ADM-8](#)
[97 ADM-23](#)
[Attach 1-11](#)
[Attach 12](#)
[Errata](#)
89 ADM-27
85 ADM-33
[19-INF-07](#)
[07 INF-15](#)
[07-INF-01](#)
[06 INF-14](#)
[06 INF-23](#)
[03 INF 19](#)
[99 INF-17](#)
[95 INF-8](#)
[92 INF-32](#)
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[GIS 21 TA/DC071](#)
[GIS 21 TA/DC059](#)
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[GIS 21 TA/DC028](#)
[GIS 19 TA/DC038](#)
[GIS 18 TA/DC042](#)
[GIS 18 TA/DC013](#)
[GIS 17 TA/DC047](#)
[GIS 17 TA/DC023](#)
[GIS 16 TA/DC053](#)
[GIS 15 TA/DC046](#)
[GIS 10 TA/DC005](#)
[GIS 08 TA/DC008](#)
[GIS 07 TA/DC001](#)
[GIS 03 TA/DC012](#)
[GIS 01 TA/DC027](#)

CHAPTER 25: ALCOHOLISM AND DRUG ABUSE

A. CONDITIONS OF ELIGIBILITY

Local districts must screen all heads of household and all adult applicants and recipients of TA (including CAP) for alcoholism or substance abuse. The Office of Alcohol and Substance Abuse Services (OASAS) credentialed drug and/or alcohol counselors must assess all adults and head of households identified through the screening process to determine whether they are unable to work because of alcohol and/or substance abuse. All individuals who are determined unable to work because of alcohol and/or substance abuse must be referred to mandated treatment.

Additionally, all individuals and members of households with individuals identified as abusing drug and/or alcohol problems and unable to work must receive assistance through the non-cash SNA program.

Subdivision (i) of Section 351.2 of Office regulations include the requirements for screening, assessment and treatment for alcohol and substance abuse.

Since individuals responsible for the care of children may be identified as having drug and/or alcohol problems, linkages with protective services may be necessary.

B. DEFINITIONS

The local district must use the following definitions for purposes of Alcoholism and Substance Abuse screening, assessment and treatment requirements:

1. **ADULT** - An adult is considered any individual in the household age 18 or older who is applying for or in receipt of temporary assistance. Individuals age 18 who are participating in a full-time secondary school, or in the equivalent level of vocational or technical training, are not considered adults for purposes of screening, assessment and treatment for alcoholism and/or substance abuse.
2. **APPROPRIATE TREATMENT PROGRAM** - To be considered an appropriate treatment program, the program must:
 - a. Be licensed or certified by the Office of Alcoholism and Substance Abuse Services 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;
 - b. Develop a treatment plan for the individual which includes an expected date of availability for work related activities and provide a copy of such plan to the SSD responsible for payment;
 - c. Provide, at a minimum of every three months, a treatment progress report for each recipient of temporary assistance to the local district responsible for payment; and,
 - d. Request the approval of the local district responsible for payment, prior to changing an individual's level of treatment care.

C. SCREENING

Responsibility of the Local District:

1. APPLICANTS

The local district must screen all heads of households and all adult household members applying for TA using the [LDSS-4571: "Alcohol and Drug Abuse Screening and Referral Form"](#).

2. RECIPIENTS

The local district must screen all heads of household and adult recipients of TA, using the [LDSS-4571 "Alcohol and Drug Abuse Screening and Referral Form"](#), at a minimum whenever there is evidence to indicate potential alcohol and/or substance abuse, unless the recipient is actively participating in alcoholism and/or substance abuse treatment in accordance with 18 NYCRR 351.2(i).

Additionally, local districts may routinely screen recipients of TA using the [LDSS-4571: "Alcohol and Drug Abuse Screening and Referral Form"](#) on a schedule determined by the local district provided the policy is applied consistently and is no more frequently than every six months.

For example: a local district may opt to screen all SNA recipients at each recertification, but may screen FA recipients only when there is evidence of potential alcohol and/or substance abuse.

Besides physical signs, evidence of potential alcohol and/or substance abuse can include, but is not limited to, missing a worksite assignment and tardiness to required employment activities assignments.

D. INSTRUCTIONS FOR ADMINISTERING THE LDSS-4571 "Alcohol and Drug Abuse Screening and Referral Form" ([01 ADM-10](#))

A copy of the completed [LDSS-4571](#) must be maintained in the case file. If an applicant/recipient is referred for assessment a copy of the [LDSS-4571](#) must be forwarded to the person conducting the assessment.

The two-part screening and referral form is designed to help the worker identify applicants/recipients who may have an alcohol/substance abuse barrier to work. The screening section generally relies on a discussion between the worker and the client, while the behavioral observation section can be completed based on observation of the client and the case record. Following are instructions to use this form.

To begin the screening process, the worker reads the following statement to the client:

“We are asking the following questions in order to understand factors, such as alcohol or substance abuse, that might make it hard for you to work and become self-sufficient. We use this form to help you recognize those factors and to assist you and your family if needed. Depending upon your responses to the questions, you may be referred for an alcoholism/substance abuse assessment.”

Please see matrix below for specific form completion requirements:

PROGRAM	CLIENT STATUS	SCREENING and REFERRAL Section A	OBSERVATION Section B
Temporary Assistance	Head of Household	LDSS staff must read/discuss 10 questions and record answers, during client interview. If answer is yes to any two (2) or more questions or answer is yes to any one (1) of questions #4- 10, client must be referred for assessment. Result: If client referred for assessment, Section B is optional. OR Result: If client not referred for assessment, LDSS staff are required to complete Section B based on observation of client and case record.	When Observation Section B is completed and worker indicates at least one sign of alcohol/substance abuse in Section B (1) or two or more boxes checked in Section B (2), client must be referred for an assessment. Completion of Section B is outlined below: <ul style="list-style-type: none"> • Optional (as described in Section A Column) • Required (as described in Section A Column)
	Other Adult Household Members	LDSS staff may read/discuss 10 questions and record answers during interview or tear perforated form and hand/mail Section A to client, for completion. Does not require face-to- face completion. If answer is yes to any two (2) or more questions or answer yes to any one (1) of questions #4-10, client must be referred for assessment. There is no requirement to complete Section B.	<ul style="list-style-type: none"> • Optional (as described in Section A Column) • Assessment requirements are the same as outlined above for Heads of Households
Medical Assistance Only (MA Only)	Single Individuals/ Childless Couples not certified disabled or pregnant	LDSS staff may read/discuss 10 questions and record answers during interview or tear perforated form and hand/mail Section A to client, for completion. Does not require face-to-face completion. If answer is yes to any two (2) or more questions, client must be referred for assessment. There is no requirement to complete Section B.	<ul style="list-style-type: none"> • Optional (as described above in Section A Column) • Assessment requirements are same as outlined above for TA

Note: Elimination of Drug/Alcohol Requirements for Medicaid

Effective April 1, 2008, drug/alcohol requirements are eliminated for Medicaid eligibility for Medicaid applications, recertifications and undercare case processing. Drug/alcohol screenings, assessments, mandated drug and alcohol treatment, and monitoring of compliance with such treatment are no longer a condition of medicaid eligibilty.

Applicants and recipients must not be denied Medicaid benefits due to previous drug/alcohol requirements, or any continuing drug/alcohol requirements associated with Temporary Assistance. Welfare Reform Exception Code 83 should no longer be used for these individuals. The LDSS must continue to enter Code 83 for managed care enrollees in Temporary Assistance cases, but only where appropriate.

Responsibility of applicants/recipients:

1. Heads of households and adult applicants and recipients of TA must participate in the screening process. A person who fails to participate in the screening process, without good cause, is ineligible for TA.
2. Other members of a household that contains a person who failed to participate in the screening process shall, if otherwise eligible, receive TA through the non-cash SNA program.
3. Good cause is when a verified unforeseen circumstance occurs that is beyond the applicant's or recipient's control such as illness or a death in the family.

E. ASSESSMENT

1. RESPONSIBILITY OF LOCAL DISTRICTS

- a. The local district must conduct a formal assessment, which may include drug testing at local district option, to be performed by a person who bears an alcohol and/or substance abuse counselor credential or provisional substance abuse counselor credential, which is currently in good standing, issued by OASAS, to assess individuals for alcoholism and/or substance abuse whenever:

- (1) The screening process indicates that there is reason to believe that an applicant or recipient is abusing or dependent on alcohol or drugs;
- (2) There is evidence to indicate that an applicant or recipient is abusing or dependent on alcohol and/or drugs;
- (3) An individual was deemed exempt from the screening process as a result of their participation in an appropriate treatment program. Such assessment must be conducted as soon as possible but no later than the next recertification; and,
- (4) A recipient requests to be reassessed to enable movement from non-cash safety net assistance to cash assistance.

The assessment may be performed directly by a credentialed alcoholism and substance abuse counselor employed by the local district or the local district may contract out the assessment function.

- b. The assessment must determine:

- (1) If the individual is abusing alcohol and/or drugs; and,
- (2) If abuse is found, whether the individual is able to work or not, and,
- (3) If abuse is found and the individual is unable to work because of the abuse, the appropriate level of care.

- c. If the assessment determines that the individual is not abusing alcohol and/or drugs, the eligibility process should continue in accordance with existing procedures.

- d. If the assessment determines that the individual is abusing alcohol and/or drugs but is able to work, the eligibility process should continue in accordance with existing procedures.

- (1) Treatment is no longer required as a condition of eligibility unless the individual is determined unable to work.
- (2) The local district may opt to refer an individual determined to be abusing drugs and/or alcohol but able to work to treatment as part of the individual's

employability plan. Non-compliance with treatment in that case is considered non-compliance with work requirements and is an employability sanction.

- e. If the assessment determines that the individual is unable to work by reason of his or her alcoholism or substance abuse, the individual must be referred to an appropriate treatment program.

The individual must attend such treatment if treatment is available. The individual and the individual's household, if otherwise eligible, must receive assistance through the non-cash SNA program.

- f. The local district making the referral to treatment can require in-district treatment unless a court of competent jurisdiction has ordered placement into a different facility. When residential treatment is appropriate for a single custodial parent, the local district shall make diligent efforts to refer the parent to a program that would allow the family to remain intact for the duration of the treatment.
- g. When the local district determines that an individual or individuals category of assistance or method of benefit disbursement must be changed to non-cash SNA, the district will make such change after providing timely and adequate notice.

Note: Clients participating in court ordered treatment must be assessed under the drug and/or alcohol provisions. However, the court ordered treatment takes precedence. The local district may pursue a modification of the court order.

2. RESPONSIBILITY OF APPLICANTS/RECIPIENTS

- a. Heads of households and adult applicants and recipients of TA must participate in the assessment process. A person who fails to participate in the assessment process without good cause is ineligible for TA.
- b. Other members of a household that contains a person who failed to participate in the assessment process shall, if otherwise eligible, receive TA through the non-cash SNA program.
- c. Good cause is when a verified unforeseen circumstance occurs that is beyond the applicant's or recipient's control such as illness or a death in the family.

F. TREATMENT

1. RESPONSIBILITY OF SOCIAL SERVICES DISTRICTS

- a. **Refer** each head of household and adult **applicant or recipient determined unable to work** by reason of their alcoholism and/or substance abuse **to an appropriate treatment program**.
- b. **Maximize** use of available United States Veterans Administration Hospital treatment programs.
- c. Provide applicants/recipients referred to treatment with the [DSS-4524:"Notice About Signing the Required Consent for Disclosure of Medical and Non-Medical Records from Alcoholism and Drug Abuse Treatment Programs"](#) and the [DSS-4525: "Consent for Disclosure of Medical and Non-Medical Records from Alcoholism and Drug Abuse Treatment Programs."](#) An individual who refuses to sign and/or withdraw a required consent is ineligible for temporary assistance. Other household members, if otherwise eligible, must receive non-cash safety net assistance.
- d. Maintain ongoing contact with treatment programs and monitor the individual's progress and attendance at least every three months, in order to identify any applicant/recipient who fails without good cause to participate in, or complete, a required treatment program.

The local district must also identify any applicant/recipient who leaves such program prior to completion. Completion of the program must be solely determined by the guidelines and rules of the treatment program. The local district must establish and monitor attendance parameters. For example, the local district may require weekly attendance reports and immediate reporting of non-attendance.

- e. Consider an applicant or recipient to have good cause for failing to participate in or failing to complete a treatment program when:
 - (1) The local district, the facility, and the applicant or recipient agree that the applicant or recipient is in need of a different program than the one in which he or she was referred originally, or, which he or she is attending and the applicant or recipient has enrolled in another treatment program which the local district has determined appropriate; or
 - (2) A verified unforeseen circumstance occurs that is beyond the applicant's or recipient's control such as illness or a death in the family.
- f. After proper notice, sanction applicants or recipients who fail without good cause to participate in, or complete, an appropriate treatment program (out-patient and residential programs) as required by Office regulation 351.2(i).

Such sanctions must remain in effect until the failure ceases but not less than:

- (1) 45 days in the first instance of non-compliance;
- (2) 120 days in the second instance; and,
- (3) 180 days in the third and subsequent instances.

A sanction may end, and an otherwise eligible individual may receive assistance through the non-cash SNA program, if the sanctioned individual returns to required treatment prior to the end of the disqualification period and is receiving care in an OASAS certified congregate care level II facility, or a United States Veterans Hospital drug and/or alcohol residential program.

During the drug/alcohol sanction period, the sanctioned individual is not eligible for emergency or immediate need assistance, however, the remainder of the household may be eligible to receive non-cash SNA.

Similarly, during the sanction period the local district must not start the clock for the 45 day SNA program waiting period. The 45 day waiting period starts with the first TA application following the end of the sanction period.

SNA can be granted to meet an emergency during this 45 day waiting period.

- g. The personal needs allowance of all TA recipients required to participate in an appropriate residential treatment program as required by Office regulation 351.2(i) must be restricted to the treatment program as a conditional payment.

The local district must also make arrangements with the programs to recover, as an overpayment, any accumulated personal needs allowance monies left in the account of TA recipients who leave such program prior to completion.

Completion of the program is to be determined by the guidelines and rules of the treatment program.

2. RESPONSIBILITY OF APPLICANTS/RECIPIENTS

- a. Heads of households and adult applicants and recipients of TA must participate and comply with required treatment or complete appropriate treatment, provide written consent on the [DSS-4525: "Consent for Disclosure of Medical and Non-Medical Records from Alcoholism and Drug Abuse Treatment Programs"](#) and document compliance with the treatment program.
- b. A person who fails to sign a required consent or withdraws a required consent is ineligible for temporary assistance.
- c. A person who fails to participate or comply with required treatment or fails to complete required treatment or document compliance with required treatment may be sanctioned from temporary assistance.

3. OPTION FOR IN-DISTRICT D/A TREATMENT

- a. Office regulation 351.2(i)(1)(vi) provides that when a local district is responsible for payment of drug/alcohol treatment, the local district can require in-district treatment provided an appropriate treatment program is available.
- b. In determining whether an appropriate treatment program is available locally, it is essential that the local district's Credentialed Alcohol and Substance Abuse Counselor (CASAC), or other qualified health professional drug/alcohol staff that would approve and monitor treatment, communicate with the in-district treatment provider and with the out-of-county local district's treatment provider to assure that adequate arrangements can be made for in-district treatment.
- c. Factors that must be reviewed are progress plans and plans for continued drug/alcohol care. Local districts must be careful to assure that appropriate care is available in-district before requiring an individual to return, if the individual was receiving treatment with an out-of-county provider. In addition, local districts must assure that the family of the recipient remains intact and that court-ordered treatment is adhered to and not disrupted.
- d. In the event there is a disagreement between professional staff in the district requiring the individual to return, and the out-of-county treatment providers staff, the former will be responsible for the final decision on whether the in-district care is adequate. D/A professional staff in the district requiring an individual to return must carefully document the basis for their final decision.
- e. Once a decision has been made to require a temporary assistance recipient to return for in-district care, the district must provide an informational letter to the recipient specifying the following:
 - (1) A decision has been made based on Office regulation 351.2(i)(1)(vi) that appropriate drug/alcohol care is available in-district;
 - (2) Who the individual must contact to arrange for in-district treatment; and,
 - (3) Reasonable time frames within which the recipient must comply. A reasonable time frame must be at least 30 days.
- f. If a temporary assistance recipient refuses to comply with the local district's request to return for in-district care, a durational sanction must be imposed against the recipient in accordance with 351.2(i)(2)(iii) after timely notice has been provided.

G. BUDGETING

1. Applicants/recipients who fail to comply with the requirements for screening, assessment and/or treatment for alcohol and/or substance abuse are either ineligible or durationally sanctioned from TA.
2. Any remaining eligible temporary assistance individuals in the household would be budgeted under the non-cash safety net assistance program using pro-rata sanctioning methodology. That is, the temporary assistance grant for the remaining eligible individuals is determined by reducing the household's original full temporary assistance grant (inclusive of the ineligible/sanctioned individuals) by the ineligible/sanctioned individuals pro-rated share of the grant. In the event the ineligible individual has income, that income is applied in determining the household's full temporary assistance grant.

For example: A household of three individuals in Schenectady County (rent maximum of \$224.00 with gas heat) is eligible for a monthly temporary assistance grant of \$573.00. If one individual fails to comply with drug/alcohol abuse screening, the household is eligible for a temporary assistance grant calculated to 2/3 of the full \$573.00 temporary assistance grant which would equal \$382.00. This is accomplished on ABEL by leaving the non-compliant person in the household count and case count and entering "1" (one non-compliant person) in the "PSP" field. The entry is made in the "PSP" field since the individual is not also sanctioned for SNAP for the same reason. ABEL will carry over the correct TA income to the SNAP budget. The \$382.00 temporary assistance grant would be issued to the temporary assistance household on a non-cash basis under the safety net assistance program.

H. SYSTEMS IMPLICATIONS

Individual Reason Codes MX1, MX2 and MX3 (durational sanction codes) must be entered on screen 03 for an applicant who is required to participate in an appropriate drug/alcohol treatment program and refuses, or leaves an appropriate drug/alcohol treatment program, without good cause as required by [Section F](#) above.

Individual reason codes GX1, GX2 and GX3 must be entered, as appropriate, for recipients. The above codes should also be used for individuals sanctioned for failing to document compliance with the treatment program as required by Office Regulation 351.2(i).

References

369.2(d)
369.2(g)
369.2(h)
370.2(c)
370.2(d)

[01ADM-10](#)
[Attach - Form LDSS 4571](#)
[Attach - Identification Training Outline](#)

[97 ADM-23](#)
[Attach 1 - 11](#)
[Attach 12](#)
[Errata](#)

82 ADM-60

74 PWD-111

[02 INF-22](#)
[Attach A](#)
[Attach B](#)

[99 INF-19](#)
[99 INF-9](#)
[99 INF-4](#)
[97 INF-16](#)
81 INF-8

[98 LCM-14](#)

CHAPTER 26: ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE

A. FAMILY VIOLENCE OPTION (FVO)

The federal Wellstone-Murray Family Violence Option allows states to address the safety needs of domestic violence victims and their children within the state's TANF plan. The Family Violence Option includes procedures for domestic violence screening, assessment, service referrals and temporary waivers of TA requirements which would place victims and/or their children at further risk or make it more difficult for them to escape the abuse.

1. DEFINITIONS

- a. **A VICTIM OF DOMESTIC VIOLENCE** means an individual who has been subjected to:
 - (1) Physical acts that resulted in, or threatened to result in, physical injury to the individual;
 - (2) Sexual abuse;
 - (3) Sexual activity involving a dependent child;
 - (4) Being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities;
 - (5) Threats of, or attempts at, physical or sexual abuse;
 - (6) Mental abuse;
 - (7) Neglect or deprivation of medical care, and,
 - (8) Such act or acts are or are alleged to have been committed by a family or household member
- b. For domestic violence purposes, **FAMILY or HOUSEHOLD MEMBERS** means the following persons:
 - (1) Persons related by blood or marriage;
 - (2) Persons legally married to one another;
 - (3) Persons formerly married to one another regardless of whether they still reside in the same household;
 - (4) Persons who have a child in common regardless of whether such persons are married or have lived together at any time;

- (5) Unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or
- (6) Unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household. Access here means accessibility to the person whether in the dwelling unit itself or elsewhere in the community.

2. REQUIREMENTS

The regulations which implement the Family Violence Option require that starting April 1, 1998:

- a. All applicants for and recipients of TA receive information about domestic violence and the protections and services available;
- b. As part of the application and recertification process, applicants/recipients will be screened to determine those currently affected by domestic violence;
- c. Disclosure will be voluntary and confidential; and,
- d. Individuals who self identify as victims must be referred to a specially trained domestic violence liaison who will assess whether the domestic violence claim is credible and whether it impacts the individual's ability to meet TA program requirements.
- e. Local districts continue to have an obligation to provide residential and non-residential services to victims of domestic violence. This requirement and the related funding continues as outlined in [94 ADM-11](#).
- f. TA policy provides that if a victim is in a shelter or does not live in the same household as the spouse, income and resources which belong to the victim's spouse or are jointly owned are not considered to be available to the victim unless the victim has access to them without putting the victim in danger, or can obtain access through legal means. Such limitations must be taken into consideration when making any TA eligibility determinations. (see [94 ADM-11](#)).

Note: The concept of actual availability of income and resources is important in domestic violence situations. The circumstances under which victims leave their homes often means that they may not have income and/or resources with them, such as cash, bank books, credit cards, etc. Also, they usually do not have ready access to this income and/or resources while they are in a domestic violence residential program.

- g. Workers continue to be mandated reporters and are required to report suspected child abuse and maltreatment to the Statewide Central Register.

- h. Confidentiality continues to be crucial to ensuring the personal safety of victims of domestic violence since local districts are identifying and offering special services to victims of domestic violence. To safeguard confidentiality, Office regulations continue to require that the street address of a residential program for victims of domestic violence be kept confidential.

3. LOCAL DISTRICT RESPONSIBILITY

a. Notification:

- (1) Local districts must provide all applicants for and recipients of TA with [LDSS-4905: "Domestic Violence Information for All Temporary Assistance Applicants"](#). This notice provides information on procedures for protection from domestic violence and of the availability of services. This notice must be included as part of the application/recertification packet. The LDSS-4905 must be provided prior to referrals to any programs that may place a person living with a Domestic Violence situation at risk of further harm or make it more difficult for him/her to escape an abusive situation. This information must be made available to any case member who is required to meet TA program requirements.
- (2) Local districts may provide the hotline telephone number of a locally approved domestic violence provider on the space indicated on the [LDSS-4905](#).
- (3) Local districts must also provide each applicant/recipient with a small "palm" card ([LDSS-4583A](#) and [LDSS 4583AS](#)) containing the same information as the [LDSS-4905](#). The "palm" card will be part of application/recertification packet and will be supplied by this Office.
- (4) The cards should be available wherever other informational material is displayed in the local district and also made available to other local service providers. The purpose of the "palm" card is to provide a small document that the victim can keep hidden and refer to at a later date.
- (5) Local districts may also provide this information during a general orientation or recertification session for applicants and recipients of TA.

b. Screening and Referral to Liaison:

- (1) Local districts must screen all TA applicants and recipients who are subject to TA program requirements to determine if domestic violence affecting the individual exists in the household using the [LDSS-4583: "Domestic Violence Screening Form"](#).
- (2) Local districts must advise individuals that responding to questions regarding the existence of domestic violence is voluntary and that any response will remain confidential provided, however, that information regarding suspected maltreatment or abuse of children will be reported to the Statewide Central Register.

- (3) Local districts must make the screening form available for voluntary completion, in writing, at the application and recertification interview. However, the local district must accommodate individuals who wish to provide this screening information verbally, when completion is not possible due to literacy problems.
- (4) Local districts must accommodate individuals who wish to provide this information at another time, when completion is not initially possible due to risk of danger to themselves (i.e., due to presence of batterer at the time of initial screening).
- (5) Local districts must provide the screening form to any individual who at any time identifies himself/ herself as a victim of domestic violence, or who otherwise requests such screening. For example, the issue may not arise until the individual is discussing work requirements with an employment worker.
- (6) When an individual indicates the presence of domestic violence by checking yes on the screening form and signing it, or by verbally stating he/she is a victim of DV regardless of their ability or inclination to sign the [LDSS-4583](#), the local district must inform that individual of his/her right to meet with a domestic violence (DV) liaison and refer any applicant or recipient to the DV Liaison as soon as practicable and prior to any other assessment, such as for drug or alcohol abuse or employment.

Note: Once this process is initiated, it should be expedited so that other assessments can proceed, without delaying the overall application process. All other assessments are on hold until the DV assessment is completed.

- (7) When an individual indicates the presence of domestic violence to a local child support enforcement worker, that worker must refer the individual to a domestic violence liaison for screening and assessment. All other workers should provide for the completion of the screening form prior to a referral to the liaison for assessment.
- (8) Local districts must have procedures that include tracking DV liaison referrals and outcomes to insure applicants/recipients are appropriately referred following the completion of the DV assessment.
- (9) Local districts must be sensitive intake, especially if more than one person is present. The DV screening form should be referenced, but not addressed further if parties are not interested. It can never be assumed that the batterer or another person who could influence the applicant's willingness to disclose information is not present in this situation. Local districts may need to be creative in finding a way to mention the form again in a private setting. Local districts may also want to mention this requirement to every applicant/recipient in a general orientation/ recertification session to address the presence of other persons.

- (10) The screening form contains questions about possible DV situations:
- (a) If individual checks "yes" and/or indicates the desire to meet with the DVL the individual must be referred to the DVL following local procedures.
 - (b) If individual checks "yes" but indicates he/she does not want to meet with the DVL, the local district will continue with the rest of the TA process and the form must be sent to the DVL following local procedures.
 - (c) If individual checks "no", the local district will continue with the rest of the TA process and the form must be sent to the DVL following local procedures.
- (11) Local district staff should refer to the "Desk Reference for Domestic Violence Screening" ([LDSS-4813](#)) for guidance on using the DV Screening Form.

c. Domestic Violence Liaison:

- (1) Local districts must have a domestic violence liaison(s) either on staff or contracted out with an approved domestic violence provider.
- (2) The domestic violence liaison(s) will have responsibility to assess the credibility of assertions of DV, what referrals should be made and whether domestic violence interferes with an individual's ability to comply with program requirements.
- (2) The domestic violence liaison must make determinations about the need for a waiver(s) from program requirements. This will require an understanding of domestic violence, TA program requirements, and a working knowledge of the waiver process to adequately assist victims.
- (4) Responsibilities – Domestic violence liaisons will be responsible for the following tasks:
 - (a) Assessing the credibility of the assertion of domestic violence based upon information and corroborating evidence;
 - (b) Assessing the safety of the victim the victim's dependents and their need for services and other supports;
 - (c) Informing a referred victim about domestic violence and the options for protection, services and other supports;
 - (d) Informing a referred victim about his/her rights and responsibilities with respect to waivers of TA program requirements;
 - (e) Gathering facts regarding the extent to which domestic violence is a barrier to meeting TA requirements including employment requirements and the need for waiver(s) of such requirements;

- (f) Determining the need for and granting waivers where compliance with temporary assistance requirements would place the victim and/or the victim's children at greater risk of harm or make it more difficult to escape from the abuse;
 - (g) Periodically reassessing the individual's domestic violence circumstances and modifying, terminating or extending waiver(s);
 - (h) Establishing and maintaining a list of, at a minimum, available domestic violence services and establishing a relationship with the providers of the services including, but not limited to domestic violence service providers, key court personnel and local domestic violence coalition where applicable;
 - (i) Coordinating activities with other local staff within the local district;
 - (j) Facilitating emergency safety planning for victims in a crisis situation, as necessary;
 - (k) Collecting and maintaining data/record keeping;
 - (l) Make credibility determinations and notify eligibility workers of the determination for battered immigrants when appropriate per [06-INF 14 \(06-INF 14-attachment\)](#); and
 - (m) Meet with child care only applicants to make a recommendation regarding DV to child care workers when the client cannot provide the necessary documentation for good cause per [05-OCFS-ADM-03](#)
- (5) Qualifications:

Local districts must give a strong preference to relevant advocacy or counseling experience in designating someone as a domestic violence liaison. Domestic violence liaisons must meet the following minimum job qualifications:

- (a) Caseworker, or a bachelors degree, or
 - (b) 1 year of domestic violence advocacy or domestic violence counseling experience with an approved domestic violence program, or
 - (c) 2 years of relevant advocacy or counseling experience; and,
 - (d) Completion of Office of Temporary and Disability Assistance sponsored or approved training for domestic violence liaisons; and,
 - (e) Good communication, listening and assessment skills and the ability to work positively in a team setting.
- (6) Guidelines for Contracting Out:

If a local district chooses to contract for the domestic violence liaison position(s),

it must comply with the following additional requirements:

- (a) The agency employing the liaison(s) must be an approved residential program for victims of domestic violence pursuant to the Office of Children and Family Services regulations 18 NYCRR 452, 453, 454, or 455 and/or non-residential program for victims of domestic violence pursuant to the Office of Children and Family Services Regulation Part 462;
- (b) If it is not feasible for the assessment function to be carried out at the local district, the local district must make provision for how individuals will get to the alternative location, how their safety will be ensured and how confidentiality will be maintained. The local district must make this information available to the Office when requested;
- (c) The liaison must maintain regular contact with appropriate local district staff; including providing the local district with data pertaining to recommending and/or granting of waivers.
- (d) The agency employing the liaison and the local district must provide each other with necessary training so that each agency can optimally fulfill its obligations.

(7) Training:

Domestic violence liaisons, whether in-house or contracted out, are required to attend comprehensive training on their job functions and work responsibilities. Any person responsible for recommending or granting waivers must attend the Domestic Violence Liaison Training Institute. This state sponsored training will provide the information and skills required to perform their jobs effectively.

d. Assessment of Credibility:

- (1) The domestic violence liaison must, as soon as practicable, assess the credibility of a positively screened individual's assertion of domestic violence based upon all relevant information including, but not limited to: an order of protection; court, medical, criminal, child protective services, social services, psychological, or law enforcement records; presence in a residential program for victims of domestic violence; a signed statement by a domestic violence counselor or other counselor or other corroborating evidence. Copies of any relevant reports should be maintained in the DV liaison's case record.
- (2) Such assessment must be based upon the relevant information and corroborating evidence, but must in the absence of other sufficient evidence include, at a minimum, a sworn statement by the individual alleging the abuse.
- (3) A model assessment tool has been developed to guide liaisons in making determinations as to credibility and waivers ([98 ADM-3 Section D](#)). This assessment tool is a model that may be used as a guide by liaisons to ensure consistency in assessing credibility and making waiver decisions.

- (4) When making a credibility determination necessary for eligibility purposes for immigrant victims of domestic violence the DV liaison must use the same criteria for determining credibility, in these cases the DV liaison must inform the eligibility worker of the credibility determination.

e. Services Referral and Waiver Assessment:

If the domestic violence liaison determines that the allegation is credible, the domestic violence liaison must, as soon as practicable:

- (1) Inform the individual of services related to domestic violence, which are available to the individual on a voluntary basis;
- (2) Conduct an assessment to determine if and to what extent domestic violence is a barrier to compliance with TA program requirements;
- (3) Assess the need for temporary waivers of such program requirements;
- (4) Recommend or grant any necessary waivers in coordination with local district staff who are charged with the implementation of such waivers and/or the administration of temporary assistance program requirements;
- (5) Inform local district staff responsible for the administration of temporary assistance requirements of the final determination or recommendation with respect to waivers. Local districts must develop a plan to communicate waiver decisions to the appropriate local district staff involved and to ensure confidentiality; and,
- (6) Enter confidential waiver information into WMS for tracking and reporting purposes.

f. Waivers:

- (1) Waivers are a temporary suspension of TA program requirements.
- (2) Waivers shall not affect the amount of the grant or the budgeting of income.
- (3) Waivers must be for an initial period of not less than four months.
- (4) The waiver status must be re-determined at least every six months.
- (5) All waivers will be subject to on-going review (reassessment) of the individual's circumstances by the domestic violence liaison. Waivers extended at a reassessment interview may be extended for any period of time up to 6 months. Waivers may be modified or terminated based on such review or at the clients request at any time, including the time covered by the initial four-month waiver period. However, changes to the initial waiver can be made only when supported by new information. A waiver should never be terminated without discussing with the victim first.

- (6) An individual may decline a waiver or terminate an existing waiver at any time without penalty.
- (7) The victim and domestic violence liaison must develop an appropriate service plan whenever a waiver has been granted. A model services plan can be found in [99 ADM-08, Attachment B](#).
 - (a) The following guidelines must be used for developing a services plan:
 - (i) Inform client that acting on the recommendations and/or referrals are voluntary
 - (ii) Develop a plan in partnership with the victim and respect the victim's safety concerns and assessment of risk.
 - (iii) The plan must not be prescriptive. Victims must not be required to participate in any particular activity (e.g., requiring that an Order of Protection be obtained). In some instances, this could create more risk.
 - (iv) Assist individual in identifying internal and external resources and in accessing resources (e.g., housing, employment, transportation, child care and support services).
 - (b) Depending upon the victim's individualized circumstances the services plan must include, but not be limited to, the following components:
 - (i) The specific temporary assistance requirements that are being waved.
 - (ii) A list of services needed by the victim.
 - (iii) A list of recommended options, steps or activities that the victim, DV liaison and/or approved DV program could take to assist the victim and victim's children in remaining safe from immediate danger.
- (8) Clients who meet with the DV liaison and are found to be credible victims of domestic violence may obtain waivers from certain program requirements where compliance with such requirements would place the victim and/or victim's children a greater risk of harm or make it more difficult for them to escape from abuse. Waivers are limited to those requirements described below:
 - (a) Child Support Cooperation Requirement
 - (i) Child support activities include all the processes and events necessary to locate an absent parent or putative father, establish paternity and establish, modify and enforce an order of support.
 - (ii) With respect to the children of the alleged batterer, the local child support enforcement unit shall not undertake to locate the absent parent or putative father, establish paternity or establish, modify or enforce an order of support while the applicant or recipient is undergoing domestic

violence screening or assessment.

- (iii) When the DV Liaison has determined with the client that any child support activities place them at risk of further abuse or will make it more difficult for them to escape abuse, a waiver may be granted for all child support activities related to the batterer. In some cases the client may wish to pursue support if some safety measures can be initiated. If this is the case the DVL may provide a “partial” waiver. This decision is made by DVL in consultation with the client (See [03-ADM-5](#) and [attachment](#)). These decisions must be made in the context of the situation in each local district and DVLs and clients must be aware that the county of residence will not be hidden from the absent parent during any child support and paternity proceedings.
- (iv) If an applicant/recipient does not disclose DV or meet with a DVL prior to meeting with a child support enforcement worker but then indicates the presence of domestic violence, during the child support process the local child support enforcement worker must refer the individual to a domestic violence liaison for screening and assessment.

Note: Even in cases when a waiver has not been granted, good cause claims must be investigated. For more information on good cause and child support, please see [TASB Chapter 9, Section S](#).

(b) Work Activity Requirement:

- (i) A client who has been referred to the DVL must not be required to participate in any activity that is part of a local district’s work activity requirements pending the outcome of the DV assessment.
- (ii) Based on the individual client’s circumstances the DVL may grant a full employment waiver. The local district must not require the individual with a full waiver to participate in any of their work activities while the waiver is in effect.
- (iii) In some cases a client may be able to pursue specific programs safely while others present a risk. A partial employment waiver may be granted in these situations. The DVL must document and appropriately inform employment program staff which activities the client may participate in. The decision to grant partial waivers must be made in the context of the situation in each local district.
- (iv) If a client does not indicate DV prior to meeting with an employment worker but then discloses DV during the employment process the employment worker will complete the screening form with the client and refer him/her to the DVL.

(c) Drug and Alcohol Assessment and/or Treatment Requirements:

- (i) The eligibility of the individual and the other household members will not

be denied while the individual is undergoing domestic violence screening and assessment. After the DV assessment, the drug and alcohol assessment and/or treatment requirement(s) may be waived if it is determined that compliance with this requirement would place the individual at further risk or make it more difficult to escape an abusive situation.

- (ii) If a client does not indicate DV prior to meeting with a CASAC but then indicates DV during the assessment or treatment process the substance abuse counselor at the treatment program must refer the individual to the domestic violence liaison for screening and assessment.

(d) Teen Parent Education Participation Requirements:

- (i) An individual under the age of 18 who is not married and has a minor child but no children under 12 weeks of age and who has not completed or is not working towards a high school education or its equivalent or an alternative educational or training program directly related to employment is ineligible for assistance.
- (ii) If the minor parent will be placed at risk of further abuse or if it will be more difficult for them to escape an abusive situation he/she may be granted a waiver of this requirement.

(e) Pregnant Minor and Minor parents living arrangement requirement:

Pregnant minors and minor parents are required to live with an adult in order to be eligible for TA. In most cases any exception to this requirement would be determined during the TA eligibility interview. In some situations the DVL may grant a waiver to this requirement based on the information disclosed during the DV assessment the pregnant minor or minor parent will be placed at risk of further abuse or if it will be more difficult for them to escape an abusive situation they may be granted a waiver of this requirement.

(f) Liens:

- (i) TA Applicants or recipients who own real property may be required to sign a lien against their property as a condition of eligibility.
- (ii) If real property is owned jointly by the applicant/recipient and the batterer and signing a lien will place the victim at risk or make it difficult for him/her to escape abuse the DVL may give a waiver for this requirement.

(g) State 60 Month TANF Time Limit:

- (i) Waivers may be granted permitting the receipt of Family Assistance benefits by individuals who have already reached the State sixty month time limit and who would not be required to participate in work or training activities, pursuant to Office Regulations 18 NYCRR 385 because of an independently verified physical or mental impairment resulting from

domestic violence that is anticipated to last for three months or longer.

- (ii) This also applies if the individual is unable to work because of the need to care for a dependent child who is disabled as a result of domestic violence.
- (iii) There is no waiver from the 24-month cash Safety Net Assistance time limit.
- (iv) A client who is eligible for a time limit waiver is not employable, so an employment waiver should not be granted and if an employment waiver is in place at the time the time limit waiver is granted the employment waiver should be ended for that period of time that the client is eligible for the time limit waiver.
- (v) The time limit waiver cannot be granted until the client has actually reached their State 60 month time limit.

(h) Alien Deeming:

- (i) Non-Citizen applicants for TA who were sponsored by a citizen or Lawful Permanent Resident (LPR) must provide documentation of that sponsors income to be eligible for assistance.
- (ii) This requirement may be waived for immigrant victims of domestic violence who meet the criteria defined in Office Regulation 18 NYCRR 352.33(c).
- (iii) An alien deeming waiver is the only waiver that is subject to different minimum/maximum time periods. This waiver must be granted for 12 months only and reevaluated after 12 months-if the waiver is extended based on the reevaluation it is extended for an additional 12 months if need for assistance continues.

(i) Spousal Support:

- (i) Individuals who are living apart from their spouse may be required to pursue spousal support as a potential resource through the courts as a condition of eligibility for TA.
- (ii) When the DVL and the individual determine that pursuing spousal support will place them at risk or will make it more difficult to escape the abuse a spousal support waiver may be granted.

g. Confidentiality

(1) General:

Social Services Law (SSL) 136 governs the confidentiality of temporary assistance (TA) records in general. SSL 136(2) states that all communications

and information relating to a person receiving TA or care obtained by any local district official, service officer or employees in the course of their work shall be considered confidential. See [TASB Chapter 4 Section S](#).

(2) Domestic Violence:

- (a) Information with respect to victims of domestic violence collected as a result of the family violence option procedures must not be released to any outside party/parties or other government agencies unless the information is required to be disclosed by law, or unless authorized in writing by the temporary assistance applicant or recipient.
- (b) Employees of this Office, local districts or any agency providing domestic violence liaison services may have access to client identifiable information maintained by a domestic violence liaison or by the welfare management system (WMS) only when the employees' specific job responsibilities cannot be accomplished without access to client identifiable information.
- (c) Each local district and agency providing domestic violence liaison services must develop and implement policies and practices to ensure the maintenance of confidential individual information. This may require a different process depending on whether or not the provider has access to WMS.

(3) Case Records:

- (a) Domestic violence liaisons are to maintain their own files for confidentiality reasons.
- (b) Screening forms and specific documentation provided to assess credibility must be in this file (e.g., copy of order of protection, medical records, etc.).
- (c) Note taking on specific incidents should be limited to information needed to document credibility or the waiver determination, in order to protect the victim, ensure confidentiality and privacy.
- (d) The DV liaison is responsible for notifying the other units such as employment or child support of the waiver decision.
- (e) Screening forms indicating no presence of domestic violence must be retained for one (1) year after the form is completed.
- (f) Screening forms indicating the presence of domestic violence, and subsequent records assessing credibility of an individual's assertion of domestic violence, records of services referrals, assessment for waivers of public assistance program requirements, and related records must be retained for SIX (6) YEARS after completion of the DVL's services to an individual. "Completion of liaison's services to an individual" occurs when the individual no longer receives public assistance, when the liaison has completed all contact with the individual because the service referral is

complete and no further waiver assessments are needed, or when the DVL determines that the domestic violence claim asserted in the screening form is not credible, whichever occurs first.

h. Safety and Privacy Considerations:

(1) Intake Interviews/Assessments

- (a) Safety and privacy are two areas of major concern in relation to this initiative. The privacy of the individual must be maximized during the eligibility interview especially when the individual raises the issue of domestic violence or seeks clarification about the screening process.
- (b) Office Regulation 18 NYCRR 357.5 requires that "interviews with clients shall be conducted at a location and in a manner which maximizes privacy". For example, SSD's could maximize privacy by using private office space, enclosed space with privacy partitions, booths, using different floors, etc.

(2) Mailing Information

- (a) Another safety and privacy issue is the mailing of information to the victim's home. During the assessment interview the DV liaison must inform the client how information will be provided, and discuss whether mailing information home might endanger the client; i.e., due to access to the mail by the batterer.
- (b) Notices and other information may be mailed to an alternate mailing address, P.O. Box number or held for the client at the local district when mailing to a home address might place the client in danger. The client will have to decide the safest way to obtain this information.

i. Data Reporting:

Data will be collected through WMS via the Domestic Violence Subsystem to track and monitor this requirement and to meet the state reporting requirements.

j. Examples:

(1) Child Support Waiver Granted

Jane Allen applies for assistance when her unemployment has run out and she hasn't found a new job. Ms. Allen has 3 children. Ms. Allen indicates on the screening form that she has had a DV situation and she does want to meet with the DVL. The worker completes the interview but all referrals for requirements such as child support and employment are on hold until Ms. Allen meets with the DVL.

Ms. Allen tells the DVL that the father of her youngest child is violent and assaulted her several years ago when she went to court to establish paternity. She is afraid to pursue support because he has threatened her if she does so. She feels safe to comply with all other TA requirements and is willing to comply

with child support enforcement regarding the older 2 children. Ms. Allen signs a statement confirming she is a victim of DV.

The DVL provides Ms. Allen with a full child support waiver regarding support enforcement for her youngest child's father and notifies the appropriate staff of the waiver decision.

(2) Employment Waiver Granted

During her eligibility interview Anne Johnson indicated DV on her screening form but did not wish to meet with the DVL. Ms. Johnson has been at her work assignment for several weeks when she tells her employment worker she is being stalked and followed home after work and wants to see the DVL. Ms. Johnson explains to the DVL that she believed she was safe because her abuser (who is her husband) had gotten a lengthy prison sentence for a crime he had committed. However his family members have harassed her for some time believing she is the person who "turned him in" but now someone has told his family they saw her at the job site and they now know where she lives and are threatening her and following her. She plans to move in with a friend but is afraid that her new residence will be discovered if she is followed from her job site again. Ms. Johnson has filed a police report regarding the incidents of stalking by her husband's family.

The DVL provides Ms. Johnson with an employment waiver and informs the appropriate staff of the waiver decision.

(3) Waiver not granted

Jennifer Lang indicates DV on her screening form and wants to meet with a DVL. Ms. Lang tells the DVL about her situation and says she does not want to leave her child in childcare in order to comply with employment. During the assessment the client says she has a child support order that her son's father is paying on and has not threatened her about. She says he has visitation and that she drops off and picks up her son without incident. The client is not comfortable leaving her child in childcare. She documents the DV that was present while she lived with her ex boyfriend but says he has not harmed her since they separated and he has not made any threats regarding the child going to daycare. Ms. Lang wants an employment waiver because she does not want her son in daycare.

The DVL explains to Ms. Lang that since complying with employment programs will not place her or the child at risk she does not meet the criteria for a waiver. She tells Ms. Lang that she can discuss what child care she is comfortable with when those arrangements are necessary for her to comply with employment. The client agrees that she is safe to comply with TA program requirements and understands she will have to discuss the child care situation with the appropriate staff.

The DVL notifies the eligibility staff that no waiver was granted.

(4) Child Only – Support Waiver granted

Andrew Thomas is caring for his 3 grandchildren; he has come to apply for assistance because he is finding it difficult to make ends meet with the 3 kids

now that he is no longer working full-time. The children's pediatrician has told Mr. Thomas he can get help from social services, initially Mr. Thomas did not complete the application process because he did not want to pursue child support and he did not consider himself a victim of DV so he did not indicate DV on the DV screening form.

When Mr. Thomas returns to social services to reapply, he asks the worker if the DVL can help if the problem is with his son-in-law and daughter and he says they have been violent and have harassed him since he has gotten custody of the children. The worker refers him to the DVL.

Mr. Thomas explains that when the children were removed from his daughter's TA case after they moved in with him his son-in-law responded by slashing his tires and breaking windows in the house. He says anytime there is an action related to the children, these things happen and he has since gotten a stay away order. He is concerned about child support requirements. The DVL provides a child support waiver and notifies the appropriate staff.

k. Resources:

The following references provide information on resources available to victims of domestic violence:

(1) **STATEWIDE DOMESTIC VIOLENCE HOTLINE**

The toll free number is 1-800-942-6906 (operated 24 hours a day, 7 days a week)

(2) **STATEWIDE DIRECTORY OF SERVICES TO VICTIMS OF DOMESTIC VIOLENCE**

This is a comprehensive directory of services available, arranged by county for easy reference. Types of services listed include shelter services, counseling services, support groups, community education/outreach, and information and referral. The directory may be obtained going to the OCFS Approved Domestic Violence Service providers website at <http://ocfs.ny.gov/main/dv/dvList.asp>, by calling this Department's Domestic Violence Program staff at: 1-800-342-3715, extension 4-3167 or by writing to:

Children and Family Services
Domestic Violence Program
Riverview
40 North Pearl Street
Albany, New York 12243

B. RESIDENTIAL PROGRAMS FOR VICTIMS OF DOMESTIC VIOLENCE

Local districts are required to offer and provide to victims of domestic violence, emergency shelter and services at a licensed residential program for victims of domestic violence, when such residential program is necessary and available.

1. Definitions:

a. A Victim of Domestic Violence

A victim of domestic violence is any person 16 years of age or older, any married person or any parent accompanied by his or her minor child or children in situations in which such person or person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to, acts constituting disorderly conduct, harassment, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; **and** such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; **and** such act or acts are, or are alleged to have been, committed by a family or household member.

b. A family or household member means:

- (1) Persons related by blood or marriage;
- (2) Persons legally married to one another;
- (3) Persons formerly married to one another regardless of whether they still reside in the same household;
- (4) Persons who have a child in common regardless of whether such persons are married or have lived together at any time;
- (5) Unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or
- (6) Unrelated persons who have had intimate or continuous social contact with one another and have access to one another's household.

c. Residential Programs for Victims of Domestic Violence

There are four types of residential programs for victims of domestic violence that are licensed by the Office of Children and Family Services (OCFS) for purposes of local district referral to, and payment for, domestic violence victims who are in need of emergency shelter and services:

- (1) Domestic Violence Shelters – Congregate residential facilities with a capacity of

10 or more persons, including adults and children, organized for the exclusive purpose of providing temporary shelter and emergency services and care to victims of domestic violence and their minor children.

- (2) Domestic Violence Programs – Facilities which would meet the definition of domestic violence shelters, except that victims and their minor children constitute at least 70 percent of the clientele of such programs. The remaining 30 percent of the clientele may only consist of person who will not be disruptive of the provision of services and will not jeopardize the safety and well-being of the residents.
- (3) Safe Home Networks – Organized networks of private homes offering temporary shelter and emergency services to victims of domestic violence and their minor children. They are coordinated by a not-for-profit organization.
 - (i) A Safe Home – A self-contained private residence which is owned, leased, rented or otherwise under the direct control of a single person or family or two or more unrelated persons. It has been approved by a safe home network for the purpose of providing temporary shelter to victims of domestic violence and their minor children.
- (4) Domestic Violence Sponsoring Agencies – Not-for-profit organizations offering temporary shelter at a domestic violence safe dwelling and emergency services to victims of domestic violence and their minor children.
- (5) Domestic Violence Safe Dwelling – A self-contained residence which is owned, leased, rented or otherwise under the direct control and supervision of a domestic violence sponsoring agency and meets the daily living needs of the residents; has the capacity of nine or fewer persons including adults and children; is secured; has been designated by the domestic violence sponsoring agency to provide temporary shelter exclusively to victims of domestic violence sponsoring agency.

2. Admission to a Residential Program:

a. Programatic Eligibility

- (1) When a person meets the definition of a victim and is seeking temporary shelter, the person is "programmatically" eligible for admission to a residential program for victims of domestic violence, provided the person meets any additional criteria established by the residential program. Any minor child(ren) of the person are also eligible for admission.

A former resident of a residential program is eligible for readmission into a residential program if they meet the definition of a victim and there is a new incident of domestic violence occurring subsequent to the resident's leaving the previous residential program. The day of readmission is day one.

- (2) When a victim comes directly to a local district seeking emergency shelter, the district must determine if the person is programmatically eligible, as defined in

the above paragraph, for admission to a residential program **or** refer the person to a domestic violence residential program for a program eligibility determination.

- (3) When a person goes directly to a residential program seeking emergency shelter and services, the residential program will have responsibility for determining the person's programmatic eligibility.
- (4) A local district or a residential program must deem a person to be programmatically eligible for admission to the program when a person provides sufficient information that he or she meets the definition of a victim of domestic violence. A person may provide either verbal or documentary information to establish eligibility. When a person provides sufficient information that he or she meets the definition of a victim, a local district or residential program must not require a person to provide any additional information to substantiate eligibility.

b. Arranging for Admission

- (1) When a person comes directly to a local district seeking emergency shelter and it is determined that the person is programmatically eligible for admission to a residential program for victims of domestic violence, the local district must arrange for the victim's admission to the residential program provided there is a residential program in the district which has bed(s) available or there is a residential program located in a contiguous local district which has bed(s) available.
- (2) When there is no residential program in a contiguous local district, the residential program located closest to the local district will be considered available if there is a bed(s) available.
- (3) A local district must ask the victim if he or she prefers to enter a residential program located in another district. If a victim chooses to seek shelter in another local district, the local district must contact at least one residential program located in a contiguous local district to see if there is a bed(s) available.
- (4) If there is no bed(s) available in the local district or in a contiguous local district, the local district must then arrange for another form of emergency shelter and assistance such as hotel/motels and homeless shelters until a domestic violence residential program becomes available. When a bed becomes available in a residential program within the local district or in a contiguous local district, the local district must advise the victim and arrange for the victim's admission to the program if the victim wants to enter the program.

Note: A local district must determine that there is not a bed(s) available at a residential program for victims of domestic violence in that local district or in a contiguous district prior to arranging for emergency shelter at a hotel/motel or homeless shelter. Such other forms or emergency shelter must only be used for victims as a last resort when a residential program is not available.

3. General Financial Responsibilities:

The local district in which the victim of domestic violence was residing at the time of the domestic violence incident is fiscally responsible for the cost of emergency shelter and services provided to a victim and her minor children by a domestic violence residential program, whether or not the person is eligible for temporary assistance if:

- a. The victim is programmatically eligible for admission to the residential program; and,
- b. If the victim is not already in receipt of temporary assistance, the local district receives a completed [LDSS-2921](#): “Statewide Application for Certain Benefits and Services”; and,
- c. As long as the victim remains in the residential program, complies with the application process for temporary assistance; and,
- d. In order for the residential program to receive reimbursement, it must ensure that:
 - (1) The victim completes, signs, dates and submits to the local district the Statewide Application form as soon as possible after admission to the program; and
 - (2) To the extent the person remains in the program, the person complies with the face-to-face interview, and any other temporary assistance requirements.
- e. If the application is completed at the residential program, the residential program must forward the application as soon as possible to the local district that is financially responsible for the reimbursement of the residential stay.
- f. The local district that is financially responsible is responsible for determining the victim's financial eligibility for temporary assistance or if Title XX can be accessed for reimbursement if the victim is ineligible for temporary assistance.

Note: If the resident is already in receipt of TA at the time of entry into the residential program, the program must notify the designated social services agency staff person on or before the first working day following admission, that the victim is in the program.

In addition, the victim must also notify their worker of the change in circumstances as soon as possible, but no later than ten (10) days from entering the residential program. This is in accordance with the general TA requirement that recipients must notify their workers of any changes in their circumstances within ten (10) days of the change.

- g. This fiscal responsibility continues for as long as the victim remains in the residential program. Fiscal responsibility for those persons whose per diem is paid by TA for the time after they leave the residential program will be detailed later in this section.

Note: When a victim enters a New York State domestic violence residential program from another state, responsibility for determining eligibility for

temporary assistance and for providing temporary assistance rests with the local district where the victim is found in need. Generally this is the district where the residential program is located.

- h. If there are any safety concerns about a victim coming into the local district office, the social services agency should make arrangements for the face-to-face interview to be conducted at an alternative site.

- i. Title XX

When the above procedures are followed and the victim is determined ineligible for temporary assistance the reimbursement for the victim's residential stay must be assessed under the Title XX reimbursement process. This includes the following persons:

- (1) Persons who complete the Statewide common application but are in the residential program for only a short time and leave the program prior to having the required TA face-to-face interview or before being able to submit the required documentation.
 - (2) Persons who have been determined ineligible for TA because they have sufficient available resources to meet the full cost of the per diem. Because Title XX does not include resources in determining whether Title XX can provide reimbursement for a residential per diem, it may pay all of the per diem (or some of the per diem, depending upon the amount of the victim's available income).
- j. The amount of the reimbursement under Title XX will depend upon the victim's available income. The temporary assistance budgeting methodology is used to determine the fee under Title XX.
 - k. When the victim is ineligible for temporary assistance due to excess available income, using the higher standard of need for the residential program, there will also be no reimbursement under Title XX either.
 - l. It is important that local districts establish a mechanism for referring cases, in a timely way, that are ineligible for a temporary assistance payment to the division or unit within their agency responsible for determining Title XX payments.

4. Designated Local District Domestic Violence Contact Person for Payment:

- a. Each local district must designate a person to be available during regular business hours to receive notification of admissions to residential programs for victims of domestic violence and to serve as a contact for residential programs on any program or payment issues relating to the admission of victims.
- b. When a victim is admitted into a residential program, the residential program must notify by telephone the district financially responsible for the cost of emergency shelter, services and care. If the residential program is located in a different district, the district where the victim is planning to apply must also be notified by the

residential program. Such notification must be provided within the first working day following the admission.

- c. When the contact person receives notification that a victim for whom they are financially responsible was admitted to a residential program located in another district, that financially responsible local district must inform the victim if there is an available residential program located in the victim's home district. In some instances a victim will choose to return to their home local district and in other instances a victim will choose to remain in the residential program outside of their local district.

5. Length-of-Stay at a Residential Program for Victims of Domestic Violence:

- a. Each residential program determines its policy on length-of-stay. However, the maximum continuous length of time that a domestic violence victim may stay in one or more residential programs is 90 consecutive days.
- b. There is an exception to this 90 days. The maximum length of stay may be extended for up to two additional 45 day periods (beyond the initial 90 consecutive days) when the victim, the local district and/or the residential program are not able to secure alternative housing for the victim.

Note: Alternative housing means permanent housing that reasonably assures the victim's safety or a Domestic Violence Transitional Services Program.

- c. In no case may a local district pay for stays in a residential program for more than a maximum of 180 consecutive days.
- d. A transitional services program is temporary housing for victims of domestic violence that provides an independent living arrangement in a congregate facility or self-contained unit with a length of stay requirement of more than 90 consecutive days. It offers housing assistance and other support services designed to prepare residents for permanent housing. Transitional services programs are **not** licensed residential programs for victims of domestic violence.

6. Per Diem Rates:

- a. OCFS is given the authority under Social Services Law to establish an approved per diem rate for each licensed residential program for victims of domestic violence. This rate applies to any local district that is financially eligible for a victim and her family who are residing in that program.
- b. A food add-on is available for programs that provide 3 meals a day to all residents. Programs that have an approved food add-on to their per diem will continue to receive the food add-on until there is a change in the provision of meals. Programs that want a food add-on must obtain approval from the local district in which their program is located.

7. General Requirements for Temporary Assistance:

- a. Any victim of domestic violence who does not have income/resources that are sufficient to meet the full cost of the per diem in the residential program is potentially eligible for assistance under one of the temporary assistance programs if the financial, categorical and other eligibility requirements are met.
- b. Persons who are sanctioned (and cannot cure their sanction upon entry into the residential program) from temporary assistance programs are ineligible for per diem reimbursement under any temporary assistance program, including emergency programs. However, the children may be eligible for temporary assistance. The cost of the residential services for a sanctioned person may be assessed for reimbursement under Title XX.
- c. The following TA programs are available to eligible individuals and families in residential programs for victims of domestic violence. The funding hierarchy that local districts should use is Family Assistance first, Safety Net Assistance FP, Emergency Assistance for Families, then Safety Net Assistance FNP. In other words, local districts should first assess an individual or family's eligibility for Family Assistance (using the higher standard of need), then Safety Net Assistance FP, Emergency Assistance for Families and, if the individual or family is not eligible for either of these programs, then eligibility for Safety Net Assistance FNP must be explored.

(1) Temporary Assistance Programs

- (a) **Family Assistance** – A federal/State/locally funded program for families with children under age 18 or 18 and attending secondary school who are residing with a relative; pregnant women are also eligible for Family Assistance.
- (b) **Safety Net Assistance FP** – federal/State/locally funded program for families who would otherwise be eligible for Family Assistance but where the head of household or other adult member of the household has been determined to be unable to work because of substance abuse.
- (c) **Emergency Assistance for Families** – A federal/State/locally funded program for families, financially ineligible for Family Assistance, with children under 18 or 18 and attending secondary school who are residing with a relative; pregnant women are also eligible for EAF. Use of EAF in residential programs should be rare as most families in such a residential program will be financially eligible for FA (due to the higher standard of need). EAF would be used for families who have reached the State 60 month time limit or who are resource ineligible for FA but the resource cannot be easily converted to cash to pay for the program.
- (d) **Safety Net Assistance FNP** – A State/locally funded program for families and individuals who do not meet the requirements for a federal program.

(2) Application of Income and Resources

Income and resources which belong to the victim's spouse (who is also the batterer) or which are jointly owned with the batterer are not available to the victim while he or she is in the residential program, unless the victim has access to them without putting him/herself or their children in danger. This is true even if the victim returns to the spouse after leaving the program. Such income and resources must not be considered when determining eligibility of the victim for the time the victim was in the domestic violence residential program.

Note: The circumstances under which victims leave their homes often mean that they may not have income and/or resources with them, such as cash, bank books, credit cards, etc. Furthermore, they usually do not have safe access to this income and/or resources while they are in the residential program.

(3) Budgeting of Income

(a) Unearned Income

In determining eligibility for any temporary assistance program, all available unearned income, such as SSI or Social Security benefits, must be applied against the person's needs while in the residential program, provided this income is actually available to the victim. **See Budget examples (4) below.**

(b) Earned Income

Available earned income also must be budgeted against the victim's needs in the residential program, using normal budgeting procedures and all applicable earned income disregards. The Poverty Level Income Test does not apply to persons in residential programs for victims of domestic violence. **See Budget examples in this section.**

(c) Budgeting

Regardless of what temporary assistance program is used to pay for the residential program, the budgeting is done on a monthly basis, even if the person is in the program for less than a full month. When the victim is in the residential program for less than a full month, the daily temporary assistance deficit is computed by dividing the monthly deficit by the **actual** number of days in that month. This amount is then multiplied by the number of days the victim was in the residential program to determine the local district's payment responsibility.

Note: The remainder of the per-diem not paid by the local district, using this budgeting methodology, is the victim's "fee". It is up to the program to collect this fee.

If a victim has been in the program less than a full month and returns to or establishes their own residence in the community and still requires temporary assistance, a "community budget" must be done for the month they leave the

shelter. This community budget is then prorated for the number of days of the month (using 30 days) to see if he or she is eligible for any additional TA for that month.

(4) Examples

(a) **Budget Example-Earned Income**

A family of three, a mother and two children enter a residential program for victims of domestic violence on July 3 and leave the morning of July 23 (20 bednights). The woman receives \$600 gross a month from earnings and she continues to work while she is in the shelter. The per diem rate is \$100 per day per person and three meals are provided in the shelter.

Family's Monthly Needs

\$ 100 X 3 = \$300 per day - X 31 days in the month = \$ 9,300 per month **PLUS**
\$ 45 per person per month personal needs allowance = \$ 135
Total monthly needs = \$9,435

Family's Monthly Countable Income

\$ 600 monthly gross earned income
- 90 earned income disregard
= \$ 510
- 255 (50% earned income disregard)*
= \$ 255 countable earned income to be applied to monthly needs

Family's Temporary Assistance Deficit

\$ 9,435 monthly needs
- 255 monthly countable income
= \$ 9,180 temporary assistance monthly deficit

*this percentage amount is subject to an annual change

\$9,180 divided by 31 days in the month = \$296 daily temporary assistance deficit. If the family is in the residential program for 20 days, the local district is responsible for paying \$5,922.40 (\$296 X 20 days rounded down).

The Woman's Fee

Residential Program Bill \$300 per day X 20 days	\$6,000
Minus DSS Payment (rounded down)	-5,922
Woman's Fee	\$78

(b) **Budget Example-Unearned Income**

The same scenario as above, but the family has no earnings. The mother receives \$600 a month in Unemployment Insurance Benefit (UIB).

\$ 9,435 monthly needs
- 600 UIB
= \$ 8,835 temporary assistance monthly deficit

\$8,835 divided by 31 days in the month = \$285 daily temporary assistance deficit. If the family is in the residential program for 20 days, the local district is responsible for paying \$285 X 20 days = \$5,700

The Woman's Fee

Residential Program Bill \$300 per day X 20 days	\$6,000
Minus DSS Payment	<u>-5,700</u>
The Woman's Fee is	\$300

(c) **Community Budget**

The same scenario as in (a) above, with the family leaving the residential program on July 23 and moving into their own apartment.

Family's Monthly Needs

Monthly Basic Allowance	\$ 238
Home Energy Allowance	\$ 30
Supplemental Home Energy Allowance	\$ 23
Shelter Allowance with heat	<u>\$ 245</u>
Total Monthly Needs	\$ 536

Family's Monthly Countable Income - \$ 255

Monthly TA deficit **\$ 281**

Shelter Allowance	\$ 245
(full month for initial case openings)	
Monthly remaining deficit	\$ 36
Divided by 30 days	\$ 9.60
and multiplied by 8 days	
(30 day standard used for non-DV residential budget)	

TA cash grant for remainder of July	\$ 245
	+ 9.60
	<u>\$ 254.60</u>

d. Application of Resources:

- (1) For temporary assistance purposes (but not for Title XX) any resources such as a bank account, certificates of deposit, etc. that can be accessed by the victim while in the residential program must be used to pay for the residential program. If the resources are not sufficient to cover the full cost of care, the victim may still be eligible for a partial temporary assistance payment for the residential program, depending upon whether there is income and the amount of that income.
- (2) When a victim has income and resources, the resources are applied to the temporary assistance deficit after the income has been budgeted. For example,

the temporary assistance monthly budget deficit is \$500 after the income has been applied. However, the victim has \$300 in the bank. This \$300 must be applied to reduce the \$500 deficit, leaving \$200 that the local district must pay to the residential program.

- (3) Title XX funds cannot be used to reduce the victim's "fee" under a temporary assistance program.
- (4) Liens can be placed on real property used as a home as a condition of eligibility for all temporary assistance programs. However, the requirement to sign a lien can be waived under the Family Violence Option if the conditions for granting a waiver are present (see [99 INF-10](#)).

e. Documentation for Temporary Assistance/Collateral Contacts:

- (1) Victims of domestic violence may be unable to access all or any documentation necessary to verify eligibility for temporary assistance due to the circumstances surrounding the need to enter the residential program. Nevertheless, local districts must attempt to make as complete an eligibility determination as possible, using whatever information is available, including collateral contacts.
- (2) Collateral contacts include such persons as clergy, friends or relatives who are familiar with the victim's circumstances and whose names **the victim provides** as collateral contacts.
- (3) Local districts must assist the victim in obtaining any necessary documentation that the victim is unable to obtain, while ensuring their safety. When making collateral contacts, the local district must maintain the confidentiality of the victim's location.

Note: Under no circumstances should the local district contact the batterer.

f. Scope of Assistance:

All temporary assistance programs will cover the cost of per diems under Office Regulations 18 NYCRR 352.8 and 408. They will also cover the additional personal needs allowance (PNA) when three meals a day are provided. The PNA should be provided to the family as soon as possible. When fewer than three meals a day are provided by the residential program, temporary assistance will also cover the basic, home energy assistance allowance, the supplemental home energy assistance allowance, as well as a restaurant allowance when appropriate.

In addition, all temporary assistance programs will cover the following items when the local district determines that they are appropriate under the provisions outlined in Office regulations:

- (1) Security
- (2) Moving Expenses

(3) Furniture

(4) Storage of furniture and personal belongings

(5) Transportation for children to remain in school or for parents to search for permanent housing can be provided under EAF if appropriate

(6) Broker's/finder's fee

g. Fiscal Responsibility After Leaving the Residential Program:

When a victim and their family leaves the residential program which was located in a local district other than their local district of former residence, the local district that was fiscally responsible for them during their stay at the residential program continues to be fiscally responsible for the month they leave the program and the month after as long as they continue to be eligible for temporary assistance..

If the victim needs security, furniture, moving expenses, these needs are the responsibility of the former local district of residence and should be dealt with prior to the victim leaving the residential program. This is true even if the victim will not be eligible for recurring assistance after she leaves the residential program. As with all other situations where a recipient moves from one local district to another, the local district "where found" is responsible for meeting emergency needs.

h. Recovery from Legally Responsible Batterer:

Pursuit of recovery from a legally responsible batterer for the cost of the TA per diem paid on behalf of the victim to a residential program for victims of domestic violence is strongly discouraged. Seeking reimbursement is likely to jeopardize the safety of the victim as the batterer may retaliate and cause further harm to the victim. Furthermore, to the extent that seeking reimbursement would require disclosure of the fact that the victim has sought residential services, a breach of confidentiality could result. Refer to [99 INF-10](#).

8. Fair Hearings:

- a. Any applicant/recipient of temporary assistance who is not satisfied with a local district's decision on his or her application or case has the right to request a State fair hearing. Generally the victim must request and appear at the fair hearing. However, if the victim is unable to request or appear at a fair hearing, the victim may designate someone to appear and act on her behalf at the fair hearing. This person must be pursuing her eligibility for temporary assistance as related to the payment for the residential program.
- b. For District of Fiscal responsibility issues if the districts disagree as to which district is responsible, the where-found district must accept and process the application, and if the applicant is found eligible, provide assistance during the pendency of the dispute. A DFR Mediation Process for Temporary Assistance – may be requested or an interjurisdictional dispute fair hearing may be requested in accordance with

Office Regulation 18 NYCRR 311.3(c). Districts are reminded that the district requesting the IDD must send a written notice to OTDA's Office of Administrative Hearings and to the other SSD including a brief statement of fact and law upon which the determination of fiscal responsibility is based.

REFERENCES

310
311.4
350
351
352
369
370
372
408
452
453
454
455

[03-ADM-5](#)
[Attachment](#)
[03-ADM-2](#)
[Attachment](#)
[02 ADM-4](#)
[02 ADM-2](#)
[99 ADM-8](#)
[98 ADM-3](#)
[Errata](#)
[97 ADM-23](#)
[Attach 1-11](#)
[Attach 12](#)
[Errata](#)
[94 ADM-11](#)
[93 ADM-24](#)

[12-INF 16](#)
[12-INF-16 Attachment 1](#)
[08 INF-05](#)
[attachment](#)
[08-INF-02](#)
[attachment](#)
[07-INF-09](#)
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[Attachment 5](#)
[06-INF-34](#)
[Attachment 1](#)
[Attachment 2](#)
[06 INF-11](#)
[Attachment 1](#)

CHAPTER 27: HOMELESS

A. GENERAL

LOCAL DISTRICT RESPONSIBILITIES – Local districts have certain responsibilities to provide services and assistance in an effort to prevent homelessness, to meet the temporary housing and other immediate needs of eligible homeless persons, and to assist homeless persons to secure permanent housing. Eligible homeless persons are those persons who are both homeless and eligible for TA. Local district responsibilities include the following:

1. Each local district must have procedures to ensure that the emergency needs of homeless persons are evaluated and that homeless persons are advised of their rights to emergency and on-going assistance.
2. Each local district must have procedures to permit persons who are in danger of becoming homeless to notify the local district of such danger and to seek the assistance of the local district in avoiding homelessness.
 - a. For those persons eligible for such assistance, such procedures must provide for prompt preventive efforts and intercession at the earliest reasonable indication of possible homelessness.
 - b. Each local district should make special efforts to ensure that an employed applicant receives such assistance in a way that helps the applicant maintain his/her employment.
3. Each local district must have procedures to ensure that homeless persons or persons in danger of becoming homeless can apply for temporary housing whenever such housing is needed. These procedures must be made known to the public.
4. Each local district must provide temporary housing assistance as soon as possible to eligible homeless persons who have no other available temporary or permanent housing.
5. The local district must make reasonable efforts to determine the applicant's eligibility prior to providing temporary housing assistance. It is expected that assistance will be provided promptly when application for THA assistance is made.

In local districts that operate emergency assistance units (EAUs), application for temporary housing assistance commences at the time at which the applicant appears, and is logged in at the EAU.

6. Any person who is determined to be eligible or ineligible for such housing must be given a written immediate needs notice ([LDSS-4002](#): “*Action Taken on Your Request for Assistance to Meet an Immediate Need or a Special Allowance*”) and be advised of the right to request an expedited State fair hearing.

7. Each local district must have procedures to identify and, where appropriate, meet the immediate food and other immediate health and safety needs of eligible homeless persons.

DEFINITION OF HOMELESS – A homeless person is an individual or family that is un-domiciled, has no fixed address, lacks a fixed regular night-time residence, resides in a place not designed for or ordinarily used as a regular sleeping accommodation for human beings (such as a hallway, bus station, lobby or similar place), resides in a homeless shelter, resides in a residential program for victims of domestic violence, or resides in a hotel/motel on a temporary basis.

1. A person living in the home of a legally responsible relative (i.e., the parent of a child under the age of 21 years and a spouse) is not considered homeless, even if the residency is temporary.
2. In the case of a spouse, or child under 21 years of age who alleges physical, sexual or emotional abuse, the district must investigate the suitability of the home before denying temporary housing.

PREVENTING HOMELESSNESS

1. When an applicant for or recipient (A/R) of Temporary Assistance (TA) is faced with possible eviction or foreclosure for non-payment of rent, mortgage or taxes, a local district must act promptly to assist in preventing the eviction or foreclosure, if appropriate. The local district must intercede as early as is possible and appropriate. A local district must not wait until a notice of eviction or foreclosure is issued. If a landlord or mortgage holder expresses, either orally or in writing, the intention to pursue legal eviction or foreclosure proceedings if rent arrears, mortgage or taxes are not paid, the local district must initiate action to prevent an eviction or foreclosure, if the person or family is otherwise eligible.
2. A local district also should determine an A/R's eligibility for rent subsidies (i.e., subsidy to avoid need to place a child in foster care and subsidy to help an A/R with AIDS or HIV-related illness retain housing).
3. **RENT/MORTGAGE ARREARS** – If no other action, including relocation of the person or family or agreement with the landlord or mortgagor can prevent homelessness, the district must consider the payment of reasonable arrears limited to one arrears payment that may not total more than six months in a five-year period, unless the district has established guidelines for exception to this policy, if such payment will prevent eviction or foreclosure and the A/R can meet future rental, mortgage or tax obligations (see [06 INF-25](#) and [TASB Chapter 21, Section C](#)). Such payments of arrears must be made:
 - a. For applicants in accordance with Office Regulations 352.7(g)(3) and 370.3 and [TASB Chapter 10, Section F](#) and [TASB Chapter 21, Section E](#).
 - b. For recipients as an advance allowance in accordance with Office Regulations 352.7(g)(4) and 352.11 and [TASB Chapter 18, Section C](#).

- c. Under EAA, in accordance with Office Regulation 397.5 and [TASB Chapter 12, Section A](#), for persons and couples determined to be eligible for or in receipt of SSI and/or additional state payments.
- d. Under Emergency Safety Net Assistance in accordance with Office Regulation 370.3 and [TASB Chapter 10, Section F](#).
- e. Under EAF in accordance with Office Regulation 372 and [TASB Chapter 11](#).

Note: The investigation of the advisability of making restricted shelter payments when a recipient fails to fully apply his or her shelter allowance to his or her rent is permitted, as specified in Office Regulation 381.3(d) and [TASB Chapter 20, Section C](#) and [TASB Chapter 20, Section D](#).

- 4. **FUTURE RENT/MORTGAGE** – For all categories of assistance, the reasonableness of the request to pay rent, mortgage and tax arrears must be evaluated when determining whether to pay the arrears. A local district must use discretion when determining reasonableness. For example, if it is unlikely that the A/R can meet the continuing rental, mortgage or tax obligation, a payment of the arrears may not solve the problem. If arrears accrued because the housing is too costly for the A/R, there is no third party to assist with the housing costs, and the A/R's income is not likely to increase in the near future, an alternative solution, such as re-housing in permanent or temporary accommodations, may have to be pursued.

In evaluating an A/R's ability to meet future housing expenses, individual circumstances should be considered. Some factors that may be considered in evaluating whether future housing costs can be met include, but are not limited to:

- a. The continuation of the A/R's employment, the guarantee of future employment, or enhanced employment through efforts to assist A/Rs;
- b. The presence of non-temporary assistance (NTA) household members who assist with housing payments;
- c. The receipt of exempt or disregarded income that can be applied to housing payments;
- d. Access to in-kind sources of food and/or clothing, or evidence of management and homemaking skills that could make available part of the non-shelter portions of the grant for housing payments;
- e. The possibility of shared housing with another TA recipient and the provision of a non-prorated shelter allowance in accordance with Office Regulation 352.32 and [TASB Chapter 13, Section D](#); and
- f. The contribution toward housing costs of non-legally responsible relatives, friends, organizations, or other sources (such as housing vouchers). The ability of these persons and/or organizations to provide such contribution must be verified.

5. CLOTHING AND FURNITURE REPLACEMENT

- a. Clothing or furniture lost in a fire, flood or other catastrophe can be partially or totally replaced, as specified in Office Regulation 352.7(d) and [TASB Chapter 16, Section B](#).
- b. For SSI recipients the replacement or repair of clothing, furniture, food, fuel, shelter and equipment can be provided, as specified in Office Regulations 397.5(a) and 397.5(h) and [TASB Chapter 12, Section A](#).

6. RESTAURANT ALLOWANCE – When persons cannot prepare meals at home on a permanent or temporary basis or when meals are not provided in the living arrangement, a restaurant allowance must be provided, as specified by Office Regulation 352.7(c) and [TASB Chapter 16, Section H](#). The presence of a microwave alone is not considered sufficient cooking facilities.

7. MAINTENANCE OF HOUSING – The payment of household expenses, including but not limited to rent payments, for a period of 180 days when a recipient is temporarily receiving care in a medical facility, can be provided for:

- a. TA recipients, as specified in Office Regulation 352.3(c) and [TASB Chapter 14, Section D](#).
- b. SSI recipients, as specified in Office Regulation 397.5(g) and [TASB Chapter 12, Section A](#).

8. WATER ALLOWANCE – A separate allowance for water must be provided when the recipient is required to pay for water as a separate charge to a vendor, as specified in Office Regulation 352.3(b) and [TASB Chapter 14, Section D](#).

9. PROPERTY REPAIRS – The cost of essential property repairs can be covered, as specified in Office Regulation 352.4(d) and [TASB Chapter 17, Section B](#).

10. EQUIPMENT REPLACEMENT OR REPAIR – The essential repair of heating equipment, cooking stoves and refrigerators can be provided if provision cannot otherwise be made, as specified in Office Regulation 352.7(b) and [TASB Chapter 16, Section C](#).

11. WITHHOLDING OF RENT

- a. A recipient is permitted to withhold rental payments as part of a reasonable exercise of consumer rights, as specified by Office Regulation 381.3(d)(iii).
- b. Rent that is restricted can be withheld when there are violations of law which are dangerous, hazardous or detrimental to life and health, as specified in the Spiegel Act (Section 143-b of the New York State Social Services Law).

FINDING NEW HOUSING

1. **MOVING EXPENSES** – Household moving expenses and rent security deposits and/or broker's or finder's fees can be provided under certain conditions for:
 - a. TA applicants/recipients, as specified in Office Regulation 352.6(a)(1) and [TASB Chapter 16, Section O](#).
 - b. SSI recipients, under the EAA program, as specified in Office Regulations 397.5(e), (i) and (j) and [TASB Chapter 12, Section A](#).
2. **FURNITURE** – Necessary and essential furniture, furnishings, equipment and supplies required for the establishment of a home can be provided, as specified in Office Regulation 352.7(a) and [TASB Chapter 16, Section B](#).
3. **SHARED HOUSING** – When necessary to prevent homelessness, a local district can encourage the individual or family to move in with friends or non-legally responsible relatives, as specified in [TASB Chapter 17, Section B](#).
 - a. If housing with friends or non-legally responsible relatives is not available, without cost, the TA individual can contribute an amount for the shelter expenses or the local district can negotiate a room and board rate with the prime tenant/homeowner, as specified in Office Regulation 352.8(b) and [TASB Chapter 17, Section E](#).
 - b. When two individuals/families on TA share housing, but there are no legal lines of responsibility between them, each case is eligible to receive a shelter allowance based on rent as paid up to the appropriate agency maximum for the number of persons in each case, as specified by Office Regulation 352.32(e) and [03 ADM-07](#).
4. **HOUSING DEEDED TO LOCAL DISTRICT** – Housing in property deeded to a local district can be provided, as specified in Office Regulation 352.4(e) and [TASB Chapter 17, Section B](#).
5. **COOPERATIVE UNITS** – A \$2,500 grant towards the purchase of interest in a cooperative unit or low-cost housing development can be provided, as specified in Office Regulation 352.4(a)(1) and [TASB Chapter 17, Section B](#).
6. **TRANSPORTATION AND CHILD CARE** – Transportation and child care for homeless families can be met under the Emergency Assistance to Families (EAF) program in order to enable children to continue in school and to allow families to search for permanent housing.
7. **STORAGE** – An allowance for storage of furniture and personal belongings when it is essential in circumstances such as relocation, eviction or a move to temporary shelter can be provided as specified in Office Regulation 352.6(f) and 397.5(k) and [TASB Chapter 16, Section F](#) and [TASB Chapter 12, Section A](#).

B. TEMPORARY HOUSING ASSISTANCE (THA)

1. DEFINITIONS

- a. **ASSESSMENT** – Assessment is the evaluation of an individual's or family's housing and housing-related TA and care needs including, but not limited to, the availability of housing, the need for THA, employment and educational needs, the need for preventive or protective services, the ability to live independently, and the need for treatment of physical and mental health problems, including substance abuse.
- b. **INDEPENDENT LIVING PLAN (ILP)** – This is a tailored, **individualized** plan developed and/or revised by the local district and/or its designee, with the cooperation of an individual or family, which sets forth a strategy for meeting such individual's or family's housing-related TA and care needs as identified in an assessment, and for obtaining housing other than temporary housing. Additionally, it establishes such individual's or family's responsibilities during their receipt of THA and it specifies the conditions upon which THA will be provided. An independent living plan also must specify the temporary housing facility, if any, to which the individual or family has been or will be referred, any requirements of such facility, and the expected duration of the individual's or family's receipt of THA.
- c. **TEMPORARY HOUSING** – Temporary housing includes family shelters and shelters for homeless pregnant women authorized by 18 NYCRR 900 and 1000, room and board authorized by 18 NYCRR 352.8(b) which is provided to a homeless person on a temporary basis, hotel/motel facilities authorized by 18 NYCRR 352.3(e) and shelters for adults authorized by 18 NYCRR 491.
- d. **TEMPORARY HOUSING ASSISTANCE (THA)** – This is a TA benefit provided temporarily for an eligible homeless individual or family to meet the costs of temporary housing. TA eligibility and financial requirements must be applied to determine both eligibility and grant amount. The Social Services District (SSD) must determine the correct standard of need and apply income in accordance with TA eligibility and budgeting requirements.
- e. **AVAILABLE HOUSING RESOURCE** – A housing resource is defined as available when it is within the control or ability of the applicant/re-applicant to live at the residence or the applicant has permission from the owner, tenant, landlord or other party responsible for the resident to live there. Applicants for temporary housing assistance claiming they do not have control or permission must support those claims with clear, convincing and credible evidence.

A housing resource may not be considered available if it requires a primary tenant or leaseholder to seek permission from a lessor for the residency of the applicant, and such permission has been rejected, or would not be granted. However, if there is a possibility or procedure to procure permission from a lessor to reside at the housing resource, the fact that the primary tenant has not yet requested such permission does not mean that the housing resource is unavailable. Refusal by a primary tenant or leaseholder to seek permission where clear, convincing and credible evidence exists that such permission would be granted does not make the housing resource

unavailable. Finally, a housing resource should not be considered available if the residency of the applicant would violate lease provisions or otherwise be considered illegal, even if the applicant had previously resided in the resource.

2. **IMMEDIATE NEEDS** – When eligible persons or families present themselves to a local district as being homeless and they are eligible for assistance to meet immediate needs, their immediate needs must be met promptly, in accordance with [02 ADM-2](#) and [TASB Chapter 5, Section G](#).
 - a. Persons who resided in housing immediately prior to requesting temporary housing assistance and who were not made homeless as a result of a legal eviction or an emergency such as a fire, flood or other condition which rendered the premises uninhabitable are not presumed to be in immediate need of assistance. In these cases, the local district must make every reasonable effort to verify the applicant's eligibility for assistance (see [02 ADM-2](#)), and shall be obligated to provide temporary housing assistance only upon verification that other temporary or permanent housing is not available.
 - b. Persons claiming to be victims of domestic abuse or violence should be distinguished from those claiming to be homeless for other reasons and the local district must make every effort to ensure that appropriate services are provided in a timely fashion.
3. **PLACEMENT** – When placing persons in temporary housing or when transferring persons between temporary housing accommodations, a local district must attempt, but is not required, to make placements within these persons' community, giving consideration to the children's educational needs, employment needs, medical needs and child care needs.
4. **UNDOCUMENTED ALIENS** – A person who is a United States resident and who is either a citizen, lawful permanent resident, or a person permanently residing in the United States under color of law (PRUCOL) (see [TASB Chapter 24](#)) is eligible for TA, provided he/she meets the TA eligibility requirements, including the requirement to furnish evidence of lawful residence in the United States. Undocumented persons are not eligible for TA or emergency TA. When a local district cannot provide TA to such a person, it must attempt to aid him/her in locating temporary or permanent housing in public, private, non-profit or charitable institutions, if such housing is available.
5. **SANCTIONED PERSONS** – A sanctioned person is a person whose TA grant has been eliminated or reduced because he/she has failed to comply with certain TA eligibility requirements as outlined in [01 INF-12](#). A person may be sanctioned for such things as failure to comply with work requirements, failure to comply with child support enforcement requirements and refusal to execute a lien or mortgage on real property. Even though TA may not be provided for the sanctioned person, the needs of the remainder of eligible family members must be met. Special attention should be paid to the needs of the children. See [TASB Chapter 13, Section N](#).
6. **DEALING WITH HOMELESS PERSONS DURING NON-BUSINESS HOURS** – Each local district must have procedures in place to ensure that homeless persons or those in imminent danger of becoming homeless can apply for and obtain temporary housing

assistance and other emergency assistance during non-business hours.

- a. Obtaining proper documentation and making complete eligibility determinations may be difficult after business hours. Nevertheless, a local district must attempt to verify eligibility to the extent possible, given the limitations of the after-hours procedures (e.g., a worker on call who performs telephone interviews). The conditions which resulted in the person or family becoming homeless may prevent a person from being able to present documentation necessary for determining eligibility. For example, a fire or an illegal lockout by a landlord may make documents unavailable, at least temporarily. Sometimes, collateral contacts can be made by telephone to verify the homeless persons' statements. Other times, the homeless persons may indicate that they can stay with relatives or friends until the next business day. In such cases, the local district must be assured that the relatives or friends are able to provide temporary housing for the homeless persons.
- b. Where eligibility has not yet been clearly documented, a local district may provide temporary housing assistance until the next business day, and require the homeless person to come into the local district the next business day to continue the eligibility determination process.
- c. If a person repeatedly uses the after-hours emergency telephone numbers and fails to come into the local district during normal business hours, the person must be referred to Adult Protective Services (APS) or to Preventive Services for Children and their Families, respectively. After a determination has been made that services are not necessary, the person may be denied temporary housing assistance based upon failure to cooperate with the local district in determining eligibility as long as there is no indication that their failure to cooperate is a result of a mental or physical impairment. If impairment is indicated or suspected as the reason for noncompliance, assistance must be provided until an evaluation can be performed by a qualified health professional.

7. **TYPES OF TEMPORARY HOUSING ASSISTANCE** – A local district must meet emergency needs of eligible persons and determine, based upon the particular circumstances, the most appropriate temporary housing assistance for such persons. Homeless persons do not have the right to choose their own temporary placements. The overriding concern is the local district's efforts to locate secure and pay for housing which meets basic standards of health and safety, as set forth in applicable Office regulations. When the local district determines that a particular temporary housing placement is appropriate, the homeless person must accept the placement unless, in the local district's judgment, he or she has good cause for refusing to do so. It may be good cause if the homeless person would be unable to participate in medical, alcohol or drug treatment or in employment or training because of a transportation hardship created by the location of the temporary housing placement. The following are several types of temporary housing that local districts may use ([this Chapter, Section C](#) and [this Chapter, Section D](#)):

- a. Tier I Family Shelter
- b. Tier II Family Shelter
- c. Shelters for Pregnant Women
- d. Shelter for Adults

- e. Hotels/Motels
- f. Other Temporary Housing, which the local district and the facility would negotiate a rate for room or Room and Board as outlined in [05 ADM-03](#)

8. ASSESSMENT

a. Responsibility of the Local District

- (1) The local district must conduct an assessment whenever an individual or family applies for or is receiving THA. The local district should conduct the assessment at the time that the THA is requested or as soon as possible thereafter. Local districts must conduct an assessment for individuals and families already receiving THA, if an assessment has not already been done. If an assessment has not been done, it must be completed at the time of the recipient's next recertification.
- (2) Assessment is an evaluation by the local district of the individual's or family's housing and housing-related TA and care needs:
 - (a) This evaluation should include, but not be limited to, the exploration of such things as the availability of alternate temporary or permanent housing in the community;
 - (b) The need for and amount of THA;
 - (c) Employment and educational needs;
 - (d) The need for preventive or protective services;
 - (e) The ability to live independently, and;
 - (f) The need for treatment of physical and mental health problems, including substance abuse. Assessment and planning activities should be coordinated with child welfare in instances where a family has an existing child welfare services case.
- (3) Once the local district has identified an individual's or family's housing-related needs, it must evaluate if the needs are a contributing factor to the homelessness, and whether addressing the needs will assist the individual or family to alleviate the homeless situation. For example, the local district would evaluate whether an educational deficit or substance abuse problem directly contributes to the individual's or family's need for THA.

The local district must record the results of the assessment in the applicant's or recipient's case record and must be particularly attentive to identifying mental and physical impairments and documenting actions taken, when appropriate, to addressing mental and physical impairments that impede the individual's or family's ability to attain or retain permanent housing.

b. Responsibility of Individual or Family

- (1) When an individual or family applies for or receives THA, they must cooperate in the completion of an assessment conducted by the local district. This means that they must cooperate in securing requested documentation for such things as income, resources, unavailability of alternate housing, physical or mental incapacity, collateral sources of documentation if necessary, etc. to enable the local district to determine eligibility for THA.

Where physical or mental incapacity is claimed, or suspected by the local district, it may require the applicant to participate in an evaluation conducted by an appropriate qualified professional to determine if a physical or mental impairment is present.

- (2) If the individual or family is unable to produce required documentation, they must be able to explain the reason. Where the applicant needs assistance in obtaining information or documentation relevant to the verification of eligibility, the local district will assist the applicant to obtain such information or documentation.
- (3) When an individual or family fails to cooperate in completing the assessment, and the failure is not due to a verified or suspected mental or physical incapacity of the individual or family member, the local district must deny THA. SSD staff must be mindful that an applicant/recipient's claim that noncompliance is due to a mental or physical impairment must never be dismissed outright but rather must be given serious consideration and investigated further, referring the client to a qualified professional if appropriate.
- (4) Examples of failure to cooperate in the assessment include:
 - (a) Failure to comply with child support enforcement activities,
 - (b) Failure to comply with job search requirements,
 - (c) Failure to apply for SSI, and:
 - (d) Failure to provide information regarding prior housing arrangements.

9. INDEPENDENT LIVING PLAN

a. Responsibility of the local district

- (1) For individuals and families not residing in 18 NYCRR Part 900 regulated family shelters, local districts or their designees may develop Independent Living Plans (ILPs) for eligible individuals and families, only if the local district has determined that such a plan will assist the individual or family to obtain and maintain housing other than temporary housing.
- (2) Residents and staff of all Part 900 family shelters must develop ILPs, sometimes referred to as a written services plan, within 10 days of admission to the facility.

- (3) Although local districts remain responsible for appropriateness and content of ILPs, they may delegate the responsibility for the development of the ILP to a designee; i.e., a THA provider or other agent. When local districts are determining whether an ILP would assist the individual or family to move out of temporary housing, local districts must consider such factors as the specific circumstances of the individual or family. The types of circumstances which must be considered in determining whether an individual or family should have an ILP include, but are not limited to:

- a) a determination that substance abuse is occurring;
- b) a history of eviction for destruction of housing;
- c) a requirement to participate in court mandated activities relating to child neglect or reunification of the family;
- d) a history of treatment for mental illness;
- e) a current issue relating to domestic violence; or
- f) the individual or family has never managed their own permanent housing.

In addition, the local district must consider the number of times the individual or family has been homeless in the past, the length of time an individual or family has been homeless, and the average length- of-stay in temporary housing in the local district.

- (4) In developing ILPs, local districts must consider the differing characteristics and service needs of families and of single adults. For example, homeless single adults tend to exhibit a higher incidence of social dysfunction, mental illness, chronic drug and alcohol use, and prior incarceration or institutionalization than is found among homeless families.

Taking into consideration the distinct characteristics and service needs of individuals and families, local districts must be consistent in requiring ILPs, so that individuals and families in similar circumstances are treated similarly. In addition, to the extent that resources are available to address identified housing-related needs, local district must be consistent in requiring components in ILPs, so that individuals and families in similar circumstances are subject to similar requirements.

- (5) Where the local district has determined that an ILP is appropriate, and in all cases for families residing in 18 NYCRR Part 900 regulated family shelters, the local district or its designee must develop the ILP based upon the assessment that has been conducted by the local district.
- (6) The ILP represents the strategy for obtaining housing other than temporary housing. The ILP sets forth the individual's or family's responsibilities while receiving THA and specify the conditions upon which THA will be provided. The

ILP also must identify the facility, if any, to which the individual or family has been or will be referred by the local district or its designee, any requirements of such facility, and the time frame the local district or its designee estimates the individual or family will receive THA.

District employees or designees charged with the development of ILPs should coordinate with the employment unit, when appropriate, to ensure that provisions found in the ILP and the employability plan are consistent.

- (7) The ILP must be individualized and tailored to the specific circumstances of the individual or family. The ILP must describe the efforts the individual or family will make to leave temporary housing and enter permanent or other appropriate housing.

Other appropriate housing includes, but is not limited to, adult homes, unsupervised and supervised Single Room Occupancy Hotels (SROs), residential drug treatment programs, community residences, family-type homes for adults and Job Corp programs.

- (8) The ILP should contain only those activities that directly relate to the individual or family ending their dependence on THA. Some examples of provisions that might be included in an ILP are:

- (a) Participating in budget counseling for those with a history of non-payment of rent;
- (b) Participating in drug and alcohol rehabilitation programs for those whose substance abuse interferes with their securing and retaining permanent housing;
- (c) Making a certain number of housing search contacts per week;
- (d) Participating in mental health evaluations or programs for those whose mental health problems interfere with their securing and retaining permanent housing; and
- (e) Paying income to the THA provider.

- (9) If the local district has an agreement or contract with a temporary housing provider, individuals and families who are referred to such a provider also may be assessed by facility staff. This second assessment may result in the ILP being revised.

However, the temporary housing assistance provider cannot make or change eligibility determinations. Revisions to an ILP may occur at any time due to the availability or lack of supportive services necessary to address a housing-related need, or due to changing circumstances of the individual or family.

- (10) Some examples of situations where an ILP may need to be revised include:

- (a) An individual or family member has a substance abuse problem and an appropriate program becomes available;
- (b) An individual or family member has just been identified as having a substance abuse problem;
- (c) Domestic violence is occurring;
- (d) An individual or family member exhibits mental health problems;
- (e) A service program is no longer available; and,
- (f) Adults or children join the family in temporary housing.

The local district or its designee must consult with the individual or family in the initial development of the ILP, and any subsequent revisions to it. This process will assist in informing an individual or family of the expectations that the local district and/or THA provider has for the individual or family while they are in receipt of THA.

- (11) An individual or family does not have a right to unilaterally change the ILP or to refuse to accept the ILP or a portion of it but the district should work with the individual or family to address concerns with respect to the ILP. The local district or its designee must provide an individual or family with a copy of their ILP, including any subsequent revisions to it. In Part 900 regulated shelters, the provider must meet with the family at least every two weeks to assess and document the family's progress in meeting the self-sufficiency goals contained in the ILP.
- (12) An individual or family does not have the right to a fair hearing concerning the contents of the ILP. However, an individual or family may challenge the discontinuance of THA in a fair hearing for failure to comply with ILP requirements.

In addition, an individual or family may maintain at a fair hearing that the elements of their ILP which they did not comply with are not directly related to their need for THA and, therefore, failure to comply with these elements should not subject them to discontinuance of THA.

- (13) When an individual or family unreasonably fails to cooperate in developing, carrying out or completing an ILP and the failure is not due to a verified or suspected mental or physical impairment of the individual or family member, the local district must discontinue THA. The household may still be eligible for ongoing TA.

An individual or family who fails to comply in developing, carrying out or completing an ILP, and claims good cause for this failure, must be able to demonstrate that the reason for failure was legitimate. The legitimacy of a particular reason will depend upon the individual circumstances. Examples of good cause include, but are not limited to:

- (a) Failure to attend a budgeting class due to the verified illness of a child;
- (b) Failure to go to a counseling session due to lack of transportation or funds for transportation;
- (c) Failure to attend an appointment with a caseworker due to a lack of notification of the appointment time and place; and,
- (d) Failure to conduct a housing search due to verified illness.

If the SSD suspects that mental and physical impairments are the basis of the failure to comply, they must refer the recipient for an evaluation by an appropriate qualified professional.

SSD staff must be mindful that an applicant/recipient's claim that non-compliance is due to a mental or physical impairment must be given serious consideration and investigated further, referring the client to a qualified professional if appropriate.

- (14) An example of an unacceptable reason for non-compliance is where the individual states that he/she does not want to attend classes or meet with counselors until the individual or family is in permanent housing.

The first time the individual's or family's THA is discontinued for unreasonably failing to cooperate in developing, carrying out or completing an ILP, the individual or family may reapply for THA.

Subsequent unreasonable failures to comply with the ILP will disqualify the individual or family from receiving THA until the failure ceases, or for 30 days, whichever period is longer.

b. Responsibility of Individual or Family

- (1) When an individual or family receives THA and the local district determines that an ILP is appropriate, the individual or family must cooperate in developing, carrying out and completing an ILP. This means that they must meet with the local district and other appropriate staff to participate in the process of establishing and/or revising their ILP.
- (2) An individual or family must comply with the requirements of the ILP. Generally, all ILPs will include such requirements as meeting periodically with caseworkers or examiners, looking for permanent housing, addressing issues which are barriers to attaining and/or retaining housing, refraining from violent and/or disruptive behavior and complying with the rules of the THA provider.
- (3) Individuals and families may have additional requirements that apply, such as attending budgeting or parenting classes, if it has been determined that such activities will assist the individual or family to end their dependence upon THA.

10. HOUSING

a. Responsibility of the Local District

An EAF allowance must be provided to eligible persons in danger of becoming homeless for transportation and child care necessary to permit parents to search for permanent housing.

When an individual or family fails to comply with the THA requirements and appears unable to comply, the local district must determine if a physical or mental impairment exists which causes noncompliance. If the local district determines that a physical or mental impairment is not the cause of noncompliance, the local district must discontinue THA until the failure ceases or for 30 days, whichever period is longer.

It is important that the SSD be mindful of mental and physical impairments that could have been or contributed to the basis of the failure to comply and, if appropriate, refer the recipient for an evaluation by the appropriate qualified professional.

b. Responsibility of Individual or Family

(1) An individual or family must actively seek housing other than temporary housing, as required by the local district. In addition, an individual or family must not unreasonably refuse or fail to accept any appropriate housing offered by the local district including, but not limited to, permanent housing, reunification with family or relocation to other appropriate residential facilities (e.g., a substance abuse residential treatment program).

(2) Examples of reasonable refusals include:

- (a) A verified medical condition which would be adversely affected by the housing, or
- (b) Remoteness of the housing in relation to necessary medical services or employment when not accessible by public transportation or other means of transportation.

c. Availability of Housing Resource

In determining eligibility for THA, the SSD must determine if the applicant has an available housing resource. This resource must be actually available. The fact that an A/R has resided in a location/with a friend, family, etc. in the past does not necessarily mean that it is currently an available housing resource. When the SSD determines that the client may have an available housing resource, and the client indicates the resource is not actually available, the resource must be fully investigated to determine its availability. A full investigation may include a field investigation with interviews of the primary tenant/home owner and the availability/unavailability of the housing should be documented in the case record.

An available resource in one instance, for example returning to live with a family member, may not be available in seemingly similar circumstances. Each case must be investigated separately. For example, an applicant for THA who leaves a friend or relative's residence may be determined to have an available housing resource, if after an investigation the SSD determines the applicant has permission of the friend or relative to return to the residence. However, the housing resource should not be considered available if after an investigation it is found that the applicant was a victim of domestic violence in that residence.

A housing resource may not be considered available if it requires a tenant to seek permission from a landlord for the residency of the client, and such permission has been rejected, or would not be granted. However, if there is a possibility or procedure to procure permission from a lessor to reside at the housing resource, the fact that the primary tenant has not yet requested such permission does not mean that the housing resource is unavailable. Refusal by a primary tenant or leaseholder to seek permission where clear, convincing and credible evidence exists that such permission would be granted does not make the housing resource unavailable. Additionally, a housing resource cannot be considered available if the residency of the client would violate lease provisions or otherwise be considered illegal, even if the client had previously resided in such circumstances.

11. BEHAVIOR

a. Responsibility of the Local District

When an individual or family engages in acts which endanger a person's health or safety, or which substantially and repeatedly interfere with the orderly operation of the temporary housing facility, the local district must determine if a physical or mental impairment exists which causes this noncompliance. If the local district determines that a physical or mental impairment is not the cause of noncompliance, the local district must discontinue THA until the failure ceases, or for 30 days, whichever period is longer. If the SSD determines that a physical or mental impairment *is* the cause of non-compliance, the SSD must continue THA and consider appropriate action, such as relocation to an alternative placement, referral to services, etc.

In a family with two or more adults, the local district must only discontinue the THA of the adult member of the family who committed a violent act or who failed to comply with other requirements for receiving THA, unless this would result in the separation of the child(ren) from the caretaker relative.

b. Responsibility of Individual or Family

- (1) An individual or family must not commit acts which endanger the health or safety of themselves or others. Acts of violence, including the use or display of weapons, or selling drugs are examples of this. An act that endangers health or safety does not have to be repeated to result in the discontinuance of THA.
- (2) An individual or family must not interfere with the orderly operation of the temporary housing facility. Repeated violation of the rules of the facility may constitute substantial interference in the orderly operation of the facility.

For example, if a person repeatedly fails to return by curfew and a staff member must leave an assigned security post to provide entry, the behavior may substantially interfere with the orderly operation of the facility. Similarly, stealing or destroying property also will be a basis for termination of THA, if such behavior is repeated and substantially interferes with the orderly operation of the facility. In addition, the facility staff may pursue criminal prosecution.

12. PHYSICAL OR MENTAL IMPAIRMENT

a. Responsibility of the Local District

As a part of the THA process, SSDs are tasked with evaluating each of the following related to an individual's physical or mental impairment:

- Whether or not a physical or mental impairment is present that may factor in to an individual's or family's ability to comply with THA program requirements
- Whether or not a physical or mental impairment is present that requires treatment
- Whether or not a physical or mental impairment is present that interferes with an individual's or family's ability to access or maintain housing other than temporary housing and
- Whether or not a physical or mental impairment is present that requires special housing accommodations.

Local districts are responsible for evaluating whether an individual or family has a mental or physical impairment when an individual or family fails to comply with the requirements for receiving THA and this failure will result in a discontinuance of THA.

An SSD may refer an individual to an appropriate medical professional to obtain information to assist the SSD in determining if a physical or mental impairment is a factor in an individual's non-compliance of THA program requirements. Not every individual that is non-compliant with THA program requirements needs a health referral. A referral to an appropriate medical professional is only needed if any of the following circumstances apply:

- The physical or mental impairment was previously identified by the SSD during the THA Assessment process
- The SSD suspects that the individual has a physical/mental impairment that is a factor in an individual's non-compliance with THA requirements
- The individual states that he/she has a physical or mental impairment but cannot produce his/her own medical verification of this impairment

If the qualified medical professional identifies, outlines, and communicates to SSD staff any medical issues or variables that may factor into an individual's ability to comply with THA program requirements, the SSD will use that information, along with any other information gathered during the process, to make a decision on an individual's ability to comply with THA program requirements.

If the SSD staff determines that a physical or mental impairment *is* the cause for non-compliance of THA program requirements, then the following applies:

- The individual remains eligible for THA and the SSD must pursue services to assist her/him in meeting her/his needs, such as but not limited to, a referral and acceptance of adult protective services.
- If the individual fails to accept adult protective services then the Services staff must evaluate the need for an Article 81 of the Mental Hygiene Law.

If the SSD staff determines that a physical or mental impairment is *not* the cause for non-compliance of THA program requirements, then the SSD must apply the appropriate THA sanction.

- (1) Some examples of behavior or conditions which may indicate mental impairment include: severe anxiety/nervousness; acting out/hallucinations; disorientation/confusion; inappropriate responses/reactions; non-responsiveness; bizarre appearance/inappropriate dress; unusual or inappropriate mood/depression; agitated, disruptive or hostile behavior; and poor concentration or attention span.

Additional indicators of mental impairment may include: multiple/extended hospitalizations; periodic confinement in a mental institution; history of treatment in mental health clinic or by a private therapist; high medication usage; and uncontrolled or semi-controlled epilepsy or history of seizures.

- (2) Some examples of conditions which may indicate physical impairment include: when the individual has restricted mobility/inability to walk without aid; amputation/ paralysis of limbs; uncoordinated body movements/palsy; memory loss/ blackout; poor vision/blindness/inability to read print; and poor hearing/deafness.

13. OTHER REQUIREMENTS

In addition to meeting the above requirements, individuals and families applying for or receiving THA must comply with all other TA requirements applicable to them. Failure to comply with these other TA requirements will result in a financial penalty against the individual's TA grant, including THA and, depending upon the type of sanction, may render the entire case ineligible for TA, including THA. **The sanction for violation of one of these requirements is the appropriate TA penalty established in law or regulation for failure to comply with that particular requirement.** These requirements include, but are not limited to, the following:

- a. Requirements for participating in employment and training programs, in accordance with Part 385 of Office regulations. This includes looking for work, engaging in training, accepting jobs and work assignments, and participating in rehabilitative services;
- b. Requirements for participating in rehabilitative services as required in Parts 370 and 385 of Office regulations;

- c. Requirements for participation in the child support enforcement program as required in sections 351.2(e)(2)(iv), 369.2(b) and 370.2(c)(9) of Office regulations;
- d. Requirements to apply for SSI as required in sections 369.2(h) and 370.2(b)(5);
- e. Requirements to locate and utilize resources as required in section 351.2(e) of Office regulations. These resources include, but are not limited to, individual or family financial assets, income from employment, pensions, work-related benefits, health insurance, small business, real and personal property, securities, cash on hand, bank accounts, insurance, trust funds, estate settlements, servicemen's benefits, in-kind income, contributions from relatives and friends, support orders, eligibility for or receipt of benefits, services and social resources available through family relationships and community programs; and
- f. Requirements to accept the offer of a home for Family Assistance and Safety Net Assistance applicants and recipients as required in section 352.35(c)(3) of Office regulations.

If any of these requirements are included in an individual's or family's ILP, the sanction for failure to comply will be the one authorized in the regulation that establishes the requirement, not the sanction contained in 352.35(c)(2).

Note that when non-compliance with TA rules results in an individual sanction rather than case ineligibility, THA may not be discontinued solely because of the sanction. The sanction may result in a reduction of TA available to meet the THA expense. Failure to meet the full cost of the THA accommodation can result in the loss of temporary housing.

14. APPLICATION OF INCOME AND RESOURCES

a. Income

When an individual or family has available income, either earned or unearned, the local district must budget the income to reduce the need for TA, including the need for THA. The budgeting methodology is the normal TA monthly budgeting methodology. **As a result of budgeting income, some of the individual's or family's income may have to be used to pay for some or all of the cost of temporary housing.**

- (1) In some cases, this income would be sufficient to make the individual or family ineligible for temporary assistance if they were residing in the community. However, when determining the standard of need for a homeless individual or family with income, the local district must use the actual cost of the temporary housing and either:
 - (a) The appropriate personal needs allowance (if 3 meals a day are provided) and any appropriate special needs allowance, or;
 - (b) The basic allowance, home energy allowance, supplemental home energy

allowance, any applicable restaurant allowance (if less than 3 meals a day are provided), and any appropriate special needs allowance.

- (2) When a homeless individual or family has income and is in temporary housing less than a full calendar month, a per diem temporary assistance deficit must be calculated. This is done by dividing the monthly temporary assistance deficit by the number of days in the particular month.

For example, a homeless person is in a motel for 15 days in June and the monthly temporary assistance deficit is \$600. The deficit to be met by the SSD is \$20 per day or \$300 for those 15 days. The remainder of the cost of the temporary housing for those 15 days must be met by the homeless person.

b. Resources

A homeless individual or family may have resources which are available to meet the costs of temporary housing. These resources must be used to reduce the need for THA. For example, the individual may have \$500 in a bank account. This must be applied toward the cost of the temporary housing.

c. Responsibilities of the Local District

When a person has income that must be applied to the cost of care, the SSD must inform the person in writing how much their household must pay per month, as well as when, how and where to make the payments. This information must be provided as soon as the SSD determines the amount of income that must be applied to the cost of the temporary housing.

The local district must deny or discontinue an individual's or family's THA, if it determines that the individual or family is required, but is not applying available income and/or resources to their share of the cost of THA unless good cause (as defined in 351.26) or a physical or mental impairment exists.

d. Responsibilities of the Homeless Individual or Family

The homeless individual or family must cooperate with the SSD's efforts to determine available income and resources, and must apply for and use any benefits and resources that will reduce or eliminate the need for THA.

The homeless individual or family also must provide their available income and resources to providers of THA for the client share of the cost of such care, as determined by the SSD.

15. DOCUMENTATION

Local districts are responsible for documenting the assessment, the ILP, including revisions, and any instances of unreasonable failure to comply with the ILP and other requirements governing the provision of THA. In addition, SSDs must document any referrals for evaluation of physical or mental impairments, as well as the results of the evaluations.

Where local districts have designated an agent to develop and revise ILPs, the local districts must require the agent to maintain appropriate documentation of the ILP, referrals, results of evaluations and any instances of failure to comply with the ILP or other requirements for receiving THA.

Documentation must be maintained in the individual's or family's case record.

16. PROCEDURES FOR DENYING OR DISCONTINUING TEMPORARY HOUSING ASSISTANCE

a. Referrals

- (1) If the individual or family appears to be unable to comply with the requirements of the assessment, the ILP or other TA eligibility requirements because of a physical or mental impairment, or alleges that this is the reason for non-compliance, THA may not be denied or discontinued until a determination is made that a mental or physical impairment is *not* the cause for non-compliance. THA may not be denied or discontinued while this determination is being made.
- (2) An individual or family whose THA is denied or discontinued may still be eligible for other TA. For example, when an individual fail to accept the offer of appropriate alternative housing but otherwise complies with temporary assistance requirements, the local district would only discontinue the THA.

The individual or family still may be eligible for the basic allowance, the Home Energy Allowance, the Supplemental Home Energy Allowance, a restaurant allowance and any other special needs allowance. In addition, if the individual or family begins to incur a permanent shelter cost after having THA denied or discontinued, they may be eligible for a regular shelter allowance.

- (3) In accordance with 18 NYCRR 352.35(d) a SSD must evaluate the need for adult or child protective/preventive services before THA is denied or discontinued. Although every case that is denied or discontinued THA must be evaluated for the need of adult or child protective services not every individual or family will be referred to adult or child protective services before THA is denied or discontinued.
- (4) If after conducting an evaluation as prescribed in 18 NYCRR 352.35(d) for the need of protective/preventive services the TA staff determines a referral to Adult or Child Services is needed, it must make a formal referral to the appropriate protective services for adults, preventive services for children, and/or protective services for children entity within the SSD. Temporary housing assistance cannot be denied or discontinued until the determination of the need for such services has been made by the Adult or Child Services staff.
- (5) If Adult or Child Services determines that an individual or family referred to services was:

(a) *Not in need of protective/preventive services;* Then the Services staff must

notify the TA staff of the determination. THA cannot be denied or discontinued until a determination from the Services staff that protective/preventive services are not needed is received by TA. THA staff should document in the case record that, TA completed an evaluation of the need for protective/preventive services, determined a referral to Adult or Child Services was needed and made the appropriate referral but services were not needed. This information should be included in any fair hearing packet and stated verbally at the hearing.

- (b) *In need of protective/preventive services and the individual or family accepts services;* Adult or Child Services staff must notify TA staff of the determination. THA cannot be denied or discontinued if it is determined that the services are necessary to protect the health and safety of the individual or family. THA may be denied or discontinued once TA receives a determination from the Adult or Child Services staff that services are not needed or it is determined that the services are no longer needed to protect the health and safety of the individual or family. THA staff should document in the case record that TA completed an evaluation of the need for protective/preventive services, determined a referral to Services was needed and made the appropriate referral. This information should be included in any fair hearing packet and stated verbally at the hearing.
- (c) *In need of protective/preventive services but the individual or family refused to accept services;* A SSD's responsibility does not end when an individual refuse to accept protective/preventive services. In accordance with [94 ADM-20](#), Section V.F.2, although a person in need of protective/preventive services has the right to refuse services, the district has a responsibility, nevertheless, to provide services in certain situations. The SSD Adult and Child Services staff must pursue all means available to them to assist the individual including pursuing an Article 81 of the Mental Hygiene law (For more information see 94 ADM-20). The Adult and Child Services staff must notify the TA staff of their determination. TA staff must not deny or discontinue THA until a determination is received from the Adult or Child Services staff that protective/preventive services are not needed to protect the health and safety of the individual or family. THA staff should document in the case record that TA completed an evaluation of the need for protective/preventive services, determined a referral to Services was needed and made the appropriate referral. This information should be included in any fair hearing packet and stated verbally at the hearing.

b. Protective Services for Adults (PSA)

- (1) Local districts must assess each homeless individual to determine if a referral should be made to PSA. A referral **must** be made to PSA **if all of the following three factors** are present but *may* be made anytime SSD staff feels it is appropriate:
 - (a) The individual lacks the means to meet essential needs for food, clothing, shelter or medical care, to secure entitlements to which he/she is entitled or to protect himself/herself from harm because of a physical and/or mental

impairment; and,

- (b) The individual will be at an identifiable risk of harm due to abuse, neglect or financial exploitation by another person or persons, or by other hazardous conditions caused by the action or inaction of himself/herself or others; and
- (c) No other service provider, relative or other interested person is available to provide the necessary assistance.

Because the service delivery responsibilities of the various types of shelter programs administered and/or supervised by local districts differ, the situations in which it is appropriate to make a PSA referral on behalf of a homeless individual also differ, as discussed below.

- (2) Shelters operated by local districts, regardless of size, are required to provide case management and other supportive and rehabilitative services to their residents, which include securing and arranging for necessary medical and mental health evaluations and placements into more appropriate levels of care.
 - (a) Other shelters which serve 20 or more residents also may provide these services to their residents, although they are not required to do so. Therefore, for all shelters operated by a local district and other shelters which provide case management, social and rehabilitative services to their residents pursuant to Part 491 of the Office's regulations, PSA referrals only should be made if the following criteria are met:

A PSA referral should be made when a resident is being involuntarily discharged or transferred from a shelter, appears to meet the aforementioned eligibility criteria, and efforts by shelter staff to secure necessary evaluation(s) and/or placement in a more appropriate level of care, including involuntary admission to a psychiatric facility pursuant to Article 9 of the Mental Hygiene Law, have been unsuccessful.

- (3) For residents of shelter programs which do not provide case management services to their clients and for individuals housed in room and board situations or hotels/motels, a referral to PSA should be made any time all of the criteria set forth above in subparagraphs 1(a), 1(b), and 1(c) appear to be present.
- (4) When shelter staff makes a referral to PSA, PSA intake staff will review the information provided by shelter staff to determine if a PSA assessment is warranted. If the adult appears to be eligible for PSA, or if PSA eligibility cannot be ruled out based on information which the intake worker is able to obtain, a PSA investigation/assessment must be initiated and a home visit must be conducted.
 - (a) If a life threatening situation exists, PSA is required to take action to address the emergency as soon as possible, but no later than 24 hours after the receipt of the referral.
 - (b) For other referrals, a home visit must be made to the client within three

working days and an assessment completed within 60 days of the referral. PSA also is required to notify referral sources whether or not the client is eligible for services.

(5) The services available under PSA can include:

- (a) Investigation and assessment; counseling for clients and their families;
 - (b) Advocacy and case management which includes arranging for the provision of necessary services and benefits for the client and assuring the coordinated delivery of such services;
 - (c) Arranging for alternative housing arrangements and residential care placements when needed;
 - (d) Financial management including acting as a client's representative payee;
 - (e) Providing homemaker and housekeeper/chore services within specified limits; and,
 - (f) Pursuing legal interventions on behalf of clients who do not have the capacity to act on their own behalf, including but not limited to securing orders of protection, petitioning the court for guardianship and acting as guardian when no one else is willing and capable of acting in this capacity.
- (6) Although a person in need of PSA has the right to refuse services, a local district, as part of its PSA responsibilities, must initiate the appropriate legal interventions to authorize the provision of involuntary services when it believes that there is a serious threat to an adult's well-being and the adult is incapable of making decisions on his or her behalf because of mental impairments.

c. Protective Services for Children (CPS)

- (1) Local districts will need to ask families, whose THA is being discontinued, how the children will be cared for. This inquiry must consider whether the parent has a plan for meeting the shelter needs of the child(ren), whether the plan is adequate, whether the parent has the capacity to carry out the plan and whether the child(ren) have special needs related to shelter. Local districts should apply the statutory standards relating to the reporting of suspected child abuse or maltreatment which is, that the person has reasonable cause to suspect abuse or maltreatment. The elements for maltreatment in this situation are:
- (a) A child's condition has been impaired or is in imminent danger of impairment; and,
 - (b) Such impairment or imminent risk of impairment is the result of the failure of the parent or other legally responsible person to exercise a minimum degree of care in providing adequate shelter though financially able to do so or offered financial or other reasonable means to do so.

The local district must apply the facts to the above definition in each case. If the local district concludes that there is reasonable cause to suspect maltreatment, a call is to be made to the Statewide Central Register (SCR).

- (2) The local district should not call the SCR where the parent informs the local district that the parent has a plan for the shelter of his or her child(ren) and such plan does not otherwise identify a risk to the child(ren).

In such a case, the element of imminent of risk is not met because the child(ren) will not be homeless. The element of failure to exercise a minimum degree of care is not present because the parent has made what appears to be a viable plan for shelter.

- (3) However, the local district should call the SCR where the parent informs the local district that the parent has no plan for shelter or the district deems the plan inadequate to meet the shelter needs of the child(ren). In such a case, there is imminent risk of harm because the parent and child(ren) will be leaving the shelter program without an adequate plan for shelter. The absence of an adequate plan relates to the parent's failure to exercise a minimum degree of care. Care should be taken to assess these issues to allow sufficient time for the local CPS unit to intervene prior to discharge from the shelter.
- (4) If the parent refuses to inform the local district of the parent's shelter plans, the local district should assess the parent's past history, particularly the parent's capacity to provide shelter to the children in the past and, if appropriate, make a referral to services.
- (5) In all cases, the assessment noted above regarding impairment or risk of impairment and minimum degree of care must be carried out. When calling the SCR, the local district should be prepared to state the facts of the case in regard to these standards for maltreatment.
- (6) Questions or concerns regarding the care of children in families with housing-related issues should be directed to the NYS Child Abuse and Maltreatment Register at: 1-800-635-1522 (mandated reporters only) or: 1-800-342-3720 (general). The NYS Child Abuse and Maltreatment Register operate 24 hours a day, 7 days a week. Child Protective Specialists are continually available for consultation, information and/or referrals, and to determine the acceptance or denial of reports of suspected child abuse or maltreatment.

C. HOTEL/MOTEL FACILITIES

RENT ALLOWANCES IN HOTEL/MOTEL FACILITIES – An allowance for shelter shall be made for recipients temporarily housed in hotel/motel facilities under the following circumstances:

1. No other suitable public or private housing is available.
2. Hotel/motel accommodations without cooking facilities shall be utilized only when accommodations with such facilities are not available.
3. An allowance for the actual cost of the rental of a refrigerator, not to exceed \$10 per week per room, shall be made when a homeless family is temporarily placed in a hotel/motel which does not have cooking facilities and which provides a refrigerator on a rental basis.
4. The continued need for hotel/motel accommodations shall be reviewed, evaluated and authorized monthly by the local district. This evaluation should include, but not be limited to, efforts by the recipient to actively seek permanent housing, efforts made by the local district to assist the recipient with permanent relocation, and the availability of alternative resources.
5. Reimbursement of expenditures for hotel and motel accommodations, restaurant allowances, and rental fees for refrigerator costs beyond a six-month period is available if the local commissioner of social services determines that housing other than a hotel or motel or facilities described in [this Chapter, Section D](#) are not readily available in that district. This determination is to be made on an annual basis.
6. In conjunction with the submission of the annual determination, described in paragraph 5, local districts will be required to submit an annual report with the following information:
 - a. A monthly breakdown of the total number of families in hotels and motels, regulated facilities, family shelters and other facilities.
 - b. A monthly breakdown of the number of families in each hotel and motel where the length of temporary housing for a family exceeded six months.
7. The maximum reimbursable amount for shelter costs is \$16 per day for the first person in each hotel room, and \$11 per day per person for the remaining occupants in each room. Restaurant allowances, if necessary, must be provided in accordance with Office Regulations.

Note: For a recipient permanently residing in a hotel, a shelter allowance must be issued. The amount of this shelter allowance cannot exceed the local district's established shelter maximum.

WMS INSTRUCTIONS

An Other TA Allowance Code "06 – Refrigerator Rental" is available for use with TA budgets. This code will be allowable for use only with budgets coded as Shelter Type "06 – Hotel/Motel Temporary". When the Refrigerator Rental Allowance is input, ABEL will calculate eligibility without including the allowance in the needs calculation. If the case is found eligible, the Refrigerator Rental Allowance will automatically be added to Needs.

The Refrigerator Rental Allowance will not be used in the Gross Income Test or calculation of recoupments.

D. SPECIAL NEEDS ALLOWANCE (SNA) FOR PUBLIC & PRIVATE TIER II SHELTERS

1. Local districts shall provide a monthly special needs allowance to families and to pregnant women residing in public or private Tier II shelters providing three meals per day as set forth in the following schedule:

Number of Persons in Household

One	Two	Three	Four	Five	Six	Each Additional person
\$63	\$126	\$189	\$252	\$315	\$378	\$63

For facilities providing fewer than three meals per day, the needs allowance shall be equal to the sum of the Basic, HEA and SHEA allowances for a family of the same number of persons as listed in [TASB Chapter 30](#), plus an allowance for restaurant meals as listed in [TASB Chapter 30](#).

2. Local districts shall provide a monthly special needs allowance to families residing in public or private Tier I shelters equal to the sum of the Basic, HEA and SHEA allowances for a family of the same number of persons as listed in [TASB Chapter 30](#). If fewer than three meals are provided, an additional allowance shall be made for restaurant meals as listed in [TASB Chapter 30](#). Where a family has been involuntarily transferred from a Tier II facility to a Tier I facility, the family shall still receive only the special needs allowance provided to residents of Tier I facilities.
3. A monthly allowance of \$50 shall be added to the appropriate monthly special needs allowance of any pregnant woman beginning with the month in which medical verification of the pregnancy is presented to the local district.
4. Allowances shall not be provided where they would duplicate grants or allowances already received, unless the general requirements governing replacement grants are satisfied.

Facility Charges

1. To the extent that a resident family has income, the family must pay for the actual costs of its care, pursuant to the budgeting requirements set forth in Office Regulation 352. For recipients of FA, EAF or SNA budgeting rules set forth in Office Regulation 352 must be used in determining the amount of available income to be applied toward the costs of care.
2. Any amounts which are not permitted to be counted as income under the assistance program applicable to the family shall not be counted as income for purposes of the Section.

E. EDUCATION FOR HOMELESS CHILDREN

1. DEFINITION OF TERMS – Following is the definitions of terms used in this Chapter.

- a. Temporary Housing - Temporary housing includes motels, hotels, city missions, shelters for homeless families authorized by 18 NYCRR Part 900, room or room and board arrangements provided to a homeless individual or family on a temporary basis and operated by a not-for-profit organization where payment is authorized pursuant to 18 NYCRR 352.8 (b), State-certified shelters for single adults and other accommodations that a district may use, whether there is a fee or not, that will temporarily house the individual/family.
- b. Temporary Housing Placement - For the purpose of this chapter, a placement has been made whenever a social services district employee or any other entity acting on behalf of the district places, arranges for, provides a voucher or other payment for, or refers homeless individuals/families to temporary housing within or outside of the social services district. This is true whether or not the district provides transportation to temporary housing and whether or not there is a cost for the temporary housing.
- c. Homeless Child (McKinney-Vento summary) - The McKinney-Vento Act (42 USC §11431 et seq.) definition of homeless child includes children who may not be eligible for temporary housing assistance (THA). It defines a homeless child as a child who does not have a fixed, regular, and adequate nighttime residence or whose primary nighttime location is in a public or private shelter designated to provide temporary living accommodations, or a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. Children who are sharing housing with other persons due to loss of housing or economic hardship or similar reason are also considered homeless. Children who are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations and living in a car, park, public space, abandoned building, substandard housing, bus or train stations or other similar settings are considered homeless, as well as children who are abandoned in hospitals. Children in foster care are not considered homeless. Migratory children who are living in one of the circumstances described above would be considered homeless. Children who are living in one of the circumstances described above and for whom no parent or person in parental relation is available, are considered homeless unaccompanied youths and have the same definition of a homeless child as the McKinney-Vento Act.

The term "homeless child" shall not include a child awaiting foster care placement or in a foster care placement.

- d. Designator - The term "designator" shall mean:
 - (1) the parent or the person in parental relation to a homeless child; or
 - (2) the homeless child, if no parent or person in parental relation is available; or
 - (3) the director of a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, in consultation with the homeless child, where such homeless child is living in such program.

- e. School District of Origin - The school district within the State of New York in which the homeless child was attending a public school or preschool on a tuition-free basis, or was entitled to attend, when circumstances arose which caused the child to become homeless, which is different from the school district of current location.

School district of origin shall also mean the school district in the state of New York in which the child was residing when circumstances arose which caused such child to become homeless if such child was eligible to apply, register, or enroll in public preschool or kindergarten at the time such child became homeless, or the homeless child has a sibling who attends a school in the school district in which the child was residing when circumstances arose which caused such child to become homeless

- f. School District of Current Location - The public school district within the State of New York in which the hotel, motel, shelter or other temporary housing arrangement of a homeless child is located, or the residential program for a runaway and homeless youth is located, which is different from the school district of origin.

- g. Feeder School - The term "feeder school" shall mean:

- (1) a preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;
- (2) a school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or
- (3) a school that sends its students to a receiving school in a neighboring school district.

- h. Preschool - The term "preschool" shall mean a publicly funded pre-kindergarten program administered by the department or a local educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act administered by a local educational agency.

- i. Receiving School - The term "receiving school" shall mean:

- (1) a school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or
- (2) a school that enrolls students from a feeder school in a neighboring local educational agency.

- j. School of Origin - The term "school of origin" shall mean a public school that a child or youth attended when permanently housed, or the school in which the child or youth was last enrolled, including a preschool or a charter school. Provided that, for a homeless child or youth who completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools.

Where the child is eligible to attend school in the school district of origin because the child becomes homeless after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin shall include any public school or preschool in which such child would have been entitled or eligible to attend based on such child's last residence before the circumstances arose which caused such child to become homeless.

2. CHOICE OF DISTRICT AND SCHOOL BY DESIGNATOR

Under State law, when children become homeless, the designator has the right to designate the school district or the school that the homeless child may attend.

- a. The school district which the homeless child may be entitled to attend includes:
 1. the school district of current location (where he or she is temporarily housed); or
 2. the school district of origin (where he or she was attending when he or she first became homeless); or
 3. a school district participating in a regional placement plan.
- b. The school where a homeless child may be entitled to attend includes:
 1. the school of origin; or
 2. any school that non-homeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool.
- c. When children who already are homeless move to or are placed in a new temporary housing arrangement in a new school district, they may attend:
 1. the school district of current location,
 2. the school district of origin, or
 3. the school district of last attendance (where he or she last attended while living in temporary housing).

NOTE: See [06-ADM-15: "School Attendance of Homeless Children"](#) for examples on school designation.

3. LOCAL DISTRICT RESPONSIBILITY

Due to the potential harm caused by school disruption and the costs associated with school transportation, social services districts must attempt to place families applying for THA in the school district that has been or will be designated, when feasible and desired by the designator. Social services districts should make every reasonable effort to preserve the homeless child's connection to the school he or she is attending provided

that this arrangement continues to be in the best interest of the child.

a. Notification

Social services districts must make families aware of school attendance options. This information may be provided by shelter providers, during visits to the temporary housing site or at appointments at social services district offices.

The methods chosen to inform and assist clients must allow designations to be made during the temporary housing placement process or immediately after the placement is made.

b. School District Designation

In New York State, a school district is designated by completing the New York State Education Department (SED) [STAC-202 Homeless Designation form](#).

Whenever a family applying for or receiving THA is placed in a new school district, a new school district designation must be made using the STAC-202 form.

Local procedures regarding STAC-202 designations must operate in a way that avoids unnecessary interruptions in school attendance.

Social services districts must:

1. provide assistance in making school district designations;
2. provide parents, caretakers and unaccompanied youth, within two business days of their application for THA or transfer to a new facility, with the STAC-202 or arrange for the STAC-202 to be provided to them;
3. if needed, provide or arrange for assistance in filling out the STAC-202 and enrolling in the designated school districts within two business days.

The SSD must send the completed STAC-202 form to the McKinney-Vento liaison at the new school district designation. A copy of the STAC-202 form must be retained in the SSD case record.

A list of local school district McKinney-Vento liaisons can be found at: <http://www.nysteachs.org/liaisons/>

c. Placement Outside School District of Origin

The responsibility for providing transportation, including for those in preschool and students with disabilities whose Individualized Education Program (IEP) includes special transportation services, may reside with a school district, certain shelters for runaway youth or the social services district. The social services district is responsible for arranging and paying for transportation if all of the following three conditions exist:

1. the child or family is eligible for Emergency Assistance for Families (EAF) as defined in SSL §350-j; and
2. the child was placed by the social services district in temporary housing; and
3. the designated school district is not the school district in which the temporary housing is located. In other words, transportation must be provided to EAF-eligible homeless children if the designated school district is outside the school district where the temporary housing is located. If the temporary housing is located in the designated district, the designated school district is responsible for transportation.

Where the social services district requests that the designated school district of attendance provide or arrange for transportation for a homeless child eligible for transportation, the designated school district of attendance shall provide or arrange for the transportation and the social services district shall fully and promptly reimburse the designated school district of attendance for the cost as determined by the designated school district. This shall apply to placements made by a social services district without regard to whether a payment is made by the district to the operator of the temporary housing facility.

d. Timeframes for Arranging Transportation

Transportation must be arranged as expeditiously as possible to minimize the number of missed school days. Standards for the maximum time before transportation is made available are as follows:

Standards for Maximum Allowable Time Before Transportation is Available	
Situation	Standard
<u>Initial THA Placement</u> : Family has been found eligible for THA, was not in temporary housing at the time of application and has provided an accurate STAC-202.	3 school days
<u>New Designation</u> : Designator makes a new designation while in temporary housing and has provided an accurate STAC-202.	3 school days
<u>Planned Transfer</u> : Social Services District has initiated a transfer of the family from one temporary housing location to another	1 school day
<u>Unplanned or Emergency Transfer</u> : Family has been transferred to a new temporary housing location as a result of non-compliance with house rules, facility closure, or other circumstances that were unforeseen or were not disclosed to the social services district. An accurate STAC-202 has been received.	3 school days

e. Methods of Transportation

In general, the mode of transportation (e.g., yellow school bus, van) used for homeless children should be the same or comparable to the mode that would be used for non-homeless children attending the same school.

In addition, social services districts may meet the requirement to provide

transportation using the following methods:

1. entering into a contract with a local school district Board of Education (BOE) or a Board of Cooperative Educational Services (BOCES) for the provision of such transportation.
2. reimburse parents or caretakers who agree to transport their homeless children to school. The reimbursement rate would be the rate that the SSD uses for other transportation reimbursement, i.e. medical transportation.

For short periods, SSDs may use alternative modes of transportation to minimize the amount of time that homeless children are absent from school. If taxis or public transportation are used as an alternative for children, the parents or caretakers must accompany children to and from school and school activities whenever such accompaniment is necessary to ensure the safety of the child, regardless of the age of the child.

SSDs should minimize the use of alternative forms of transportation to avoid conflicts with the work schedules of accompanying adults and to afford these adults with opportunities to participate in housing search, job search and other activities that will help them find and retain permanent housing.

Special circumstances, such as age or disability of the child, may dictate that a parent or caretaker accompany the child to and from school on a long-term basis. This arrangement is allowable whenever parental assistance is instrumental to the education and/or security of the child.

If a social services district is responsible for transportation of a homeless student, the social services district shall provide or arrange for transportation to extracurricular or academic activities, including summer school, where:

- (1) the homeless child participates in or would like to participate in an extracurricular or academic activity, including an after-school activity, at the school;
- (2) the designated school district of attendance has recommended that the homeless child attend a summer educational program;
- (3) the homeless child meets the relevant eligibility criteria for the activity; and
- (4) the lack of transportation poses a barrier to such child's participation in the activity or summer educational program.

The social services districts must also pay for the transportation of those accompanying homeless children to and from extracurricular or academic activities. If necessary, the social services district must also provide childcare for other children in the family while that parent accompanies the child to and from school.

SSDs may not sanction or penalize accompanying adults for non-compliance with employment or other rules if the non-compliance results from such accompaniment and accompaniment is warranted by the homeless child's educational or security needs. Adjustments to the adult's work assignment schedule may be needed in those instances where the adult's accompaniment is necessary.

f. Dispute Resolution

If the school district declines to either enroll and/or transport the child or youth to the school requested by the designator, the school district must provide a written explanation for this determination and advise the designator of his/her right to appeal this final determination to the Commissioner of Education. The school district must also delay, for 30 days, the implementation of a final determination to decline either enrollment and/or transportation for the child or youth to the requested school.

If the parent or guardian or the unaccompanied youth commences an appeal to the Commissioner of Education with a stay application within 30 days of the final determination, the homeless child or unaccompanied youth must be permitted to continue attending the school he or she was enrolled in at the time of the appeal until the Commissioner of Education renders a decision on the stay application.

In addition, the child or unaccompanied youth would also be entitled to continued transportation to and from school during this time period. If the stay request is denied, the child or unaccompanied youth can be asked to leave the school immediately. If the Commissioner of Education grants the stay request and issues a stay order, the child or unaccompanied youth can continue attending the school and/or receiving transportation until an appeal decision is issued.

However, if the Commissioner of Education dismisses the appeal, the child or unaccompanied youth will no longer be entitled to attend the school or to receive transportation. Additionally, if the parent or guardian or the unaccompanied youth fails to commence an appeal to the Commissioner of Education with a stay application within 30 days of the final determination, on the 31st day after the final determination, the child or unaccompanied youth will no longer be entitled to attend the school or to receive transportation.

NYSTEACHS is under contract with SED to provide information and training on homeless school attendance issues and to resolve disputes. Parents, caretakers, unaccompanied youth and social services districts may contact the NYS Technical and Education Assistance Center for Homeless Students (NYS-TEACHS) at (212) 822-9546. Social services districts also may contact the Employment and Income Support Programs Temporary Assistance (TA) Bureau at (518) 474-9344.

4. **ELIGIBILITY DETERMINATION PROCEDURES**

Social services districts are required to meet immediate needs and provide temporary housing assistance (THA) as described in 94-ADM-20, 02-ADM-02 and 16-ADM-11. The local procedures used to perform these functions must not needlessly cause homeless children to be absent from school. Districts are encouraged to carefully review their procedures to ensure that adequate provisions have been made for school attendance.

5. **COOPERATION WITH SCHOOL DISTRICTS**

The McKinney-Vento Act requires that all school districts establish homeless liaisons to handle issues that arise with respect to homeless students. Social services districts are

strongly encouraged to contact and establish procedures for working with school district liaisons.

On a case-by-case basis, school district liaisons should be contacted in the following situations:

a. Designator or parent does not complete STAC-202

School district liaisons have the primary responsibility for ensuring that a designation is made. If the parent, caretaker or unaccompanied youth fails or refuses to complete the STAC-202 form after a temporary housing placement and/or does not make a good faith effort to notify the social services district about this designation, the social services district should inform the liaison for the school district of residence unless the parent, caretaker or unaccompanied youth has specifically asked that the school district not be informed of his/her homeless status.

If parents or caretakers of unaccompanied youths do not want to file STAC-202 forms or disclose their homeless status, social services districts must still arrange transportation to the school district designated by the parent or caretaker, if otherwise required. If the homeless student has not enrolled or is not attending school, the social service district must notify the school district's homeless liaison.

b. Family will attend school in a new district

The school that a homeless child attends may change for a number of reasons including the following:

1. A new district may be designated when the child is transferred from one shelter placement to another.
2. The family or child may change designations during the 60-day/end-of-semester re-designation period.
3. The designation was made prior to the time that the designator was informed of various placements options.
4. A new designation may be made due to the special educational needs of the child.
5. The family or child may find permanent housing.
6. The family or child may leave the county.
7. Circumstances may arise that would normally require a child to change school districts.

Although the school district previously attended by the child would receive a copy of the STAC-202 in some of these circumstances, notification via the STAC-202 may take several days. Because school districts closely monitor the attendance of homeless children, their sudden disappearance without notice will result in

investigation or outreach efforts. To avoid unnecessary concern and effort, social services districts should inform the liaison in the school district of last attendance when a homeless child will no longer be attending their school.

c. Loss of transportation privileges

Like non-homeless students, homeless children may lose transportation privileges if they are unruly during transport or threaten the health and safety of other children. Social services districts or transportation providers may take appropriate action, including the discontinuance of transportation privileges. When such action is taken by a social services district, the school district attended by the affected child must be notified.

Discontinuance of transportation may not have the effect of depriving a homeless child of education. Social services districts must ensure that alternative public or private transportation is sufficiently available to allow school attendance. Social services districts must notify the school district liaison if a homeless child is missing school because he or she is not using the alternative transportation that has been arranged.

6. SPECIAL CIRCUMSTANCES

The following special circumstances may apply in certain cases:

- a. Last school of attendance was outside the State or U.S. – If the public school or school district the child or youth was attending when the circumstances arose which caused the child or youth to become homeless is located outside the State or U.S., the homeless child or youth is considered to be a resident of the school district in which he or she is temporarily located and will be entitled to attend the schools of this district (8 NYCRR §100.2[x][2][iv]).
- b. Child lives a short distance from school – In some cases, temporary housing is only a short distance from the school that a homeless child will be attending even though the temporary housing and school are in different school districts. Even in situations in which the child could walk to school, federal law requires that transportation be provided if requested by the family. This requirement only applies to situations in which temporary housing is in a different district from the school. If temporary housing is located in the same school district, the school district is responsible for transporting the child.
- c. Child resides in shelter for runaway youth – As noted above, the responsibility for transporting homeless children must be assumed by certain shelters for runaway youth. More specifically, Education Law §3209 provides that transportation must be provided by the Office of Children and Family Services when a child is in a residential program for runaway and homeless youth “established pursuant to article 19-H of the executive law.”

This definition does not include all shelters in which young people may reside. For this reason, there may be times when the social services district should provide transportation for a child who has been placed in a youth shelter. To avoid delays

when homeless children need transportation, social services districts are encouraged to work with youth facilities and school districts to clarify transportation responsibilities in advance of need. If a situation arises in which the agency responsible for transportation cannot be identified, contact the Employment and Income Support Programs Temporary Assistance (TA) Bureau at (518) 474-9344 for assistance.

- d. “Doubled up” family situations - As noted above, the federal definition of homelessness includes families that lose their housing and move in with friends or relatives. Social services districts are not responsible for transporting children in this living arrangement because they have not been placed in temporary housing.

However, periods of time when children live with family or friends may affect the district considered to be the school district of origin or last school district attended. The McKinney-Vento definition of homeless child must be applied when making these determinations.

- e. Moves to permanent housing - When a child moves from a temporary housing arrangement into permanent housing, he or she may continue to attend the last school attended while homeless for the remainder of the school year, and one additional year if the additional year constitutes the child's terminal year in that building. Any social services district responsibility to transport the child ends when a child becomes permanently housed.

7. PAYMENT OF SERVICES

Expenditures for childcare and transportation (both to continue the child's schooling and allow the parent to search for permanent housing) in relation to school attendance are considered to be covered by EAF under 18 NYCRR 372.4(d). EAF may be authorized for families who meet the eligibility criteria set forth in 18 NYCRR 372.2(a).

Any such payments made to provide transportation or childcare (related to transporting homeless children to and from school) do not count as income for determining Supplemental Nutrition Assistance Program (SNAP) eligibility and benefit amounts.

The "Determination of Eligibility for Emergency Assistance to Families (EAF)" (DSS-4403) form must be completed and placed in the case record. More generally, case records must contain sufficient documentation to support EAF claims.

In addition, case records must contain the STAC-202 and other case notes related to the school district designation and the time required for the district to make transportation requirements.

REFERENCES

SSL §143-b

351.2

351.26

352.11

352.3

352.32(e)

352.35

352.4

352.6

352.7

352.8

369.2

370.2

370.3

372

381.3

385

385.12

397.5

423

432

457

[16 ADM-11](#)

[06 ADM-15](#)

[06 INF-25](#)

[05 ADM-03](#)

[03 ADM-07](#)

[02 ADM-02](#)

[01 INF-12](#)

[94 ADM-20](#)

[91 LCM-45](#)

Related Items

Homeless Persons (TASB) GIS Message (94 ES/DC035)
18 NYCRR Part 900

NYS Education Law § 3209

CHAPTER 28: CHILD CARE SERVICES

A. CHILD CARE “IN LIEU OF TA”

1. TA applicants who would otherwise be eligible for, or are recipients of, recurring TA benefits and who are employed can choose child care “in lieu of TA” and be afforded a guarantee of child care benefits.
2. SSDs must guarantee child care subsidies to eligible working families that choose to receive child care subsidies “in lieu of TA” regardless of the availability of federal or state funds.
3. In order to be eligible for child care “in lieu of TA” the family must:
 - a. Have income at or below the amount that would allow them to become or remain eligible for TA.
 - b. Have resources within TA limits.
 - c. Be engaged in work as required by the SSD.
 - d. Apply for and be otherwise eligible for TA by completing the DSS 2921- **Statewide Common Application**, but choose to receive child care “in lieu of TA” or voluntarily close his or her TA case *while still eligible for TA*; **and**,
 - e. Need child care for a child under 13 years of age in order to enable the parent or caretaker relative to engage in work; **and**,
 - f. In households with an absent parent, the parent or caretaker relative must be in receipt of, or actively pursuing court-ordered child support, or be determined to have good cause not to actively pursue child support. A parent or caretaker relative will be considered to meet the good cause exception if he or she has a Domestic Violence (DV) waiver dated within the previous 12 months. If the parent or caretaker relative makes a claim of domestic violence but does not have a recent DV waiver, he or she must document that he or she meets the good cause requirements as described in [99 ADM-05](#), Cooperation with Child Support Enforcement.

NOTE: Recipients who voluntarily reduce their income or work hours in order to maintain eligibility for the guarantee will lose the guarantee.

4. The child care services unit for child care “in lieu of TA” consists of those members of the household who would be included in the TA filing unit [18 NYCRR Section 352.30(a)], and those legally responsible non-filing unit members in the household if TA rules [18 NYCRR Section 352.30(e)] require such individuals’ income and/or resources to be considered when determining the eligibility of the TA applicants.
5. Families who choose child care “in lieu of TA” do not have to sign a property lien and are not required to submit to a drug/alcohol screening as a condition of eligibility.

6. The SSD is not required to conduct DV screening on an applicant who has chosen child care “in lieu of TA”.
7. A family’s eligibility must be re-determined at least every 12 months and more frequently when case circumstances have changed.
8. Eligible families will continue to be eligible for the guarantee as long as they:
 - a. Need child care in order to engage in work meeting the following guidelines:

For a single parent:

 - With a child under the age of six years: 20 hours per week, **or**
 - With children who are all six years or older: 30 hours per week.

For two-parent families:

 - The parents must be working a combined total of 55 hours per week with at least one parent working 30 or more hours per week.
 - b. Have income is at or below the amount that would allow them to become or remain eligible for TA.
 - c. Have resources within the TA limits.
 - d. They otherwise meet TA eligibility requirements pertaining to child support and employment.
9. Each family eligible for the “in lieu of TA” child care guarantee must pay a family share. Due to the fact that their income will fall below the poverty standards, the family share is set at the minimum of \$1 per week.
10. If a recipient moves from one SSD to another while in receipt of “in lieu of TA” child care, the SSD from which the recipient moved is responsible for the child care benefits during the month in which the recipient moved and the first full month after the move.

B. TRANSITIONAL CHILD CARE

1. Once a family becomes ineligible for TA because of increased hours of employment, excess earned income, increases in child support, or once they voluntarily close their “in lieu of TA” child care case while still eligible for TA, these families will be covered under the transitional guarantee, assuming they meet all other eligibility criteria.

NOTE: Please note that families who become ineligible for TA due to an increase in resources do not meet the eligibility criteria for the transitional child care guarantee.

2. SSDs must make sure that the families who are transitioning from TA and meet the criteria set forth below suffer no break in child care services and do not have to apply for transitional child care.
3. A face-to-face interview cannot be required to determine transitional child care benefits unless the SSD cannot resolve questions concerning eligibility for transitional child care in any other manner.
4. SSDs must determine the parent’s or care taker relative’s need for child care and eligibility for the transitional guarantee before closing the TA case.
5. SSDs must make information from the TA case record readily available to the person or unit that the SSD designates as responsible for determining eligibility for transitional child care. In order to continue child care as a transitional case, the worker will need to verify the following information from the case record or from the parent or caretaker relative:
 - Household composition
 - Current income
 - Work schedule
 - Child care provider information
 - Length-of-time, the parent or caretaker relative was in receipt of (or eligible for) TA, and the reason for the case closing.

NOTE: The parent or caretaker relative should be asked to verify that information contained in the TA record (such as household composition, address, etc.) is accurate and up to date. This may be accomplished by asking the parent or caretaker relative to initial and date any information being used from the TA record, or by asking the parent or caretaker relative to sign the model form, Applicant Certification of Information in TA Case Record, which has been provided as Attachment D of 04-OCFS-ADM-01. If this certification will be done through the mail, the worker must send copies of the application/recertification, child care provider enrollment forms and any other documents for which the parent or caretaker relative is being asked to certify thereof. These copies should be attached to the Applicant Certification of Information in the TA case record.

6. Transitional child care assistance must be guaranteed to the parent or care taker relative for a period of 12 months after TA has been closed if the parent or caretaker relative:

- a. Needs child care for an eligible child under 13 years of age in order to enable a parent or caretaker relative to engage in work. “Engaged in work” for low income families means that the individual is earning wages at a level equal to or greater than the minimum amount required under federal and state labor laws for the type of employment; or the individual is self-employed and is able to demonstrate that the self-employment produces personal income equal to or greater than the minimum wage or has the potential for growth in earnings to produce such an income in a reasonable period of time; **and**,
 - b. Has income of no more than 200 percent of the state income standard; **and**,
 - c. Has been in receipt of TA in three of the six months prior to the TA case being closed; **and**,
 - d. Had his or her TA closed as a result of:
 - (1) Increased income from employment (former CAP recipients who are ineligible for Safety Net Assistance due to the income limits are deemed to meet this criteria at the time their five-year limit for TA expires regardless of whether their income increased), **or**
 - (2) Increased income from child support, **or**
 - (3) The parent voluntarily ended assistance and is no longer financially eligible for TA. Additionally, a parent or caretaker relative who fails to recertify, but otherwise meets the eligibility criteria for the transitional guarantee, shall be considered to have voluntarily ended assistance.
7. Potential eligibility for the transitional child care guarantee when the family becomes ineligible for TA and continues for a period of 12 consecutive months. Families may begin to receive child care in any month during the 12 month period. If an applicant establishes eligibility retroactively at any time during the twelve month period, payment should be made for the prior months.
8. If the caretaker relative loses a job with good cause, and then finds another job without returning to TA, the family can qualify for the remaining portion of the 12 month eligibility period.
9. If a family returns to TA during the 12 month transitional child care period, they may be eligible for another 12 months of transitional child care in the future, if all requirements are met including the requirement that they received TA in 3 of the 6 months prior to case closing.
10. If the family can document that they had been employed at the time of closing and would have been ineligible for TA due to an increase in the hours of or income from employment or increased income from child support payments or because the family voluntarily ended assistance; the family would be eligible for transitional child care benefits provided they meet the other eligibility requirements.

11. If a family receiving transitional child day care moves from one district to another local district within the state, the new local district of residence is responsible for payments for transitional child day care beginning with the second full month that the family is living in the new district, provided the recipient continues to be eligible for such child day care. The former SSD is obligated to continue payment for transitional child day care during the month the family moves to a different SSD, and the first full month following the move.
12. If one parent is working and the second parent is involved in approved training or education, this family may be eligible for transitional child care benefits assuming all other eligibility criteria are met.
13. A family is eligible for transitional child care benefits if a TA family member other than the caretaker relative becomes employed and the earnings cause the family to become ineligible for TA. However, the child care need must be based on the child's parent(s) or caretaker relative's employment.
14. The SSD must require each family receiving transitional child care to contribute toward the payment for such care based on the family's ability to pay.

The SSD must apply the following formula for computing the family share:

The sliding fee scale must be calculated by subtracting the state income standard for the specific family size of the eligible family from the annual gross income of the eligible family; multiplying the remaining income by a factor of 10 to 35 percent, as selected by the SSD in their Consolidated Services Plan or Integrated County Plan; and, dividing the product by 52 to determine a weekly family share. There is only one family share for each family regardless of the number of children in care.

- a. If the family share calculation yields a share of less than \$1.00 per week, SSD must assess the family a minimum family share of \$1.00 per week. SSDs may elect to collect the family share directly from the family or have the provider collect the family share. SSDs must document in the case record the amount of the family share and ensure that family share has been paid by the family.
 - b. In cases where an overpayment has been determined, a family share may also include a separate amount that the parent must pay in order for the SSD to recover an overpayment.
 - c. Individuals who fail to cooperate in paying required family share will, subject to appropriate notice and hearings requirements, lose eligibility for benefits for so long as back family shares are owed, unless satisfactory arrangements are made to make full payment.
15. The family is no longer eligible for the transitional child care guarantee if the parent or caretaker relative:
- a. Terminates employment without good cause, **or**
 - b. Fails to cooperate in establishing paternity and enforcing child support obligations,
or

- c. Is not using an eligible child day care provider, or, if the provider is an informal or legally-exempt group provider, they are not enrolled with the SSD, **or**
- d. Refuses to cooperate in paying the required family share/fee, **or**
- e. Fails to make satisfactory arrangements for payment of delinquent family share/fees, **or**
- f. Fails to provide information or documentation necessary to determine continued eligibility, **or**
- g. Is longer in need of such child day care, **or**
- h. Is no longer financially eligible for such child day care, **or**
- i. Is no longer programmatically eligible for such child day care, **or**
- j. Is no longer eligible for transitional child care because the 12 month period of eligibility has passed, **or**
- k. Does not have any children in the family who are eligible for child day care benefits.

NOTE: If a Fair Hearing is requested within 10 days of the issuance of a client notice on the foregoing issues, Transitional Child Day Care cannot be suspended, reduced, discontinued or terminated until a hearing decision is rendered. The parent or caretaker can, however, request that aid continuing not be provided. Timely notice (10 days) must be provided when the 12-month eligibility period expires and benefits cease, when the family loses eligibility for any of the above reasons, or when the amount of benefits or family share has changed.

16. Families who are not found eligible for the transitional child care guarantee may still be eligible for child care under the New York State Child Care Block Grant (NYSCCBG).

C. APPLICANT/RECIPIENT RIGHTS

1. The SSD must advise the applicant/recipient (A/R) of their rights regarding child care verbally and in written form.
 - a. At the time of application and re-certification, the SSD must provide the applicant/recipient with both LDSS-4647, "Important Information about Child Care" and [LDSS-4148A, "What You Should Know about Your Rights and Responsibilities"](#). The worker should obtain a signed copy of the LDSS-4647 for the case file.
 - b. Cash assistance cannot be reduced or ended because the A/R is not participating in work activities, if the reason is because the A/R does not have appropriate, accessible, affordable and suitable child care.
 - c. The A/R has the right to be excused from work activity if they have a child under 13 years of age and are unable to find a child care provider that is appropriate, accessible, affordable and suitable. However, the time excused from work will still count toward the 60 month limit of federally funded and cash temporary assistance.
 - (1) **Appropriate** means the provider is open for the days and hours needed by the A/R, and the provider is willing to care for the children and any special needs the children have.
 - (2) **Accessible** means that the A/R is able to get to the provider by public transportation or by personal vehicle, and the provider is located within a reasonable distance from their home and/or work. Reasonable distance is defined in each county's Consolidated Services Plan or Integrated County Plan.
 - (a) The worker must inform the A/R of how the SSD defines "reasonable distance".
 - i. **Unsuitable** means the physical or mental condition of the informal provider or the physical condition of the home, in which informal care would be provided, would be detrimental to the health or safety of the A/R's children.
 - ii. **Affordable** means the A/R would have enough money to pay their share of the child care cost if they are required or to pay the cost of care above market rate.
 - d. The A/R has the right to receive information about how to locate a provider.
 - e. The A/R has the right to choose the child care provider for the child. The SSD must advise the caretaker relative of his or her option to choose from among any eligible child care provider as set forth in 18 NYCRR 415.1 and provide information to assist the caretaker relative to make an informed choice regarding the provider.
 - f. If the A/R is unable to find a provider on their own, the SSD must provide the A/R with two choices of child care providers, at least one of which must be licensed or registered.

- g. The A/R has the right to request a fair hearing to appeal the decision to reduce or end their temporary assistance, if they feel the worker made the wrong decision regarding the A/R's refusal to comply with work activities due to a lack of child care.

D. ADVISE THE CARETAKER RELATIVE OF HIS/HER RESPONSIBILITIES

1. The SSD must advise the A/R of their responsibilities regarding child care. Provide a copy of the [LDSS-4148A, "What You Should Know about Your Rights and Responsibilities"](#) to the A/R and explain that it provides a detailed list of the A/R's responsibilities.
 - a. It is the A/R's responsibility to look for and choose a child care provider.
 - b. If the A/R is unable to find a child care provider, they must do the following:
 - (1) Inform their worker of what they have done to find a provider, and ask for help in finding a provider.
 - (2) Follow-up on all referrals given to the A/R by their worker or by other programs that are helping the A/R find a provider.
 - (3) Advise their worker, in writing, when they have contacted all providers, and have not been able to choose a provider. The A/R must include which providers were contacted, when the providers were contacted, and why the providers were not chosen. Reasons which are appropriate to excuse the A/R for not making a provider selection include:
 - (a) The provider was not open for the days or hours needed or could not care for the child's special needs.
 - (b) The applicant/recipient was unable to get to the provider by car or by public transportation.
 - (c) The provider was not located within a reasonable distance from the A/R's home and/or work activity.
 - (d) The friends, relative or neighbors that the applicant/recipient considered were unsuitable.
 - c. If the A/R is unable to locate a provider, the worker must offer the A/R a choice of two providers. At least one of these providers must be a child care provider who is licensed or registered. The A/R must choose one of these providers or show why they are not appropriate, accessible, affordable or suitable.
 - d. The A/R must continue to look for a child care provider and follow up on all referrals during the time the applicant/recipient is excused from his/her work activity.
 - e. If the A/R cannot show that he/she was unable to locate a provider, and that the two choices of provider offered to the applicant/recipient were not appropriate, accessible, affordable, or suitable, then the temporary assistance cash grant will be reduced if the A/R fails to participate in their work activity.
 - f. Inform the A/R that their ongoing responsibilities include:

- (1) Cooperation with the SSD by providing information on the actual cost and the hours of the care provided in any given month.
- (2) Using the child care money provided only for the payment of child care services from an eligible provider of child care for eligible children.
- (3) Reporting immediately changes in child care arrangements, the number of hours of child care needed, and the cost of child care.

E. ELIGIBLE PROVIDERS

1. **ELIGIBLE PROVIDERS:** The SSD must make sure that the parent/caretaker is informed that child care benefits are only available for care that is provided by eligible providers and, in the case of informal or legally-exempt group providers, the provider must be enrolled with the SSD in accordance with Part 415.4(f) of OCFS regulations before payment can be made.

Eligible provider means one of the following:

- a. A validly licensed or properly registered day care center or a properly registered school-age child care program, **or**
- b. A public school district which meets State and Federal requirements pursuant to a contract with a SSD, **or**
- c. A family day care home properly registered with the department to provide child care services to children, **or**
- d. A group family day care home issued a valid license by the department to provide child care services to children, **or**
- e. A caregiver of informal child care as defined in Part 415.1 of OCFS regulations who is enrolled with the SSD.
- f. A caregiver of legally-exempt group child care as defined Part 415.1 who is enrolled with the SSD.

F. CLIENT NOTIFICATION

SSDs must provide recipients of child care services with adequate and timely notice in accordance with Title 18 of the NYCRR §358-2.2 and §358-2.23, respectively. Adequate notice is defined in Title 18 of the NYCRR §358-2.2 and specifies the information that must be included in the notice to a recipient. Timely notice is defined in Title 18 of the NYCRR §358-2.23 as a notice that is mailed at least ten days before the date upon which the proposed action is to be taken.

Adequate and timely notice must be sent by an SSD when it proposes to:

1. Take any action to discontinue, suspend or reduce child care services, **or**
2. Make a change in the manner of payment for public assistance recipients or parents/ caretakers who are guaranteed child care and such change results in the discontinuance, suspension, reduction or termination of child care services or forces the recipient to make changes in child care arrangements.

Adequate notice must be sent by an SSD when it proposes to:

1. Approve or deny an application for child care services;
2. Increase the amount of child care benefits, **or**
3. Make a change in the manner of payment for public assistance recipients or parents/ caretakers who are guaranteed child care and such change does not result in the discontinuance, suspension, reduction or termination of child care services or force the recipient to make changes in child care arrangements.
4. SSDs must, at the time of TA application or redetermination, inform all applicants and recipients, in writing and orally as appropriate, of the availability of child care in lieu of TA and the transitional child care guarantee.

The following notices should be utilized:

1. [OCFS LDSS-4779](#) – **Approval of Your Application for Child Care Benefits** must be used by the SSD when an application for child care benefits has been approved at initial application, at recertification, or when transitional child care has been approved.
2. [OCFS LDSS-4780](#) – **Denial of Your Application for Child Care Benefits** must be used by LDSS when an application for child care benefits has been denied at initial application.
 - a. The family's income for their family size exceeds 200% of the State Income Standard (SIS).
 - b. The family did not provide all of the required documentation.
 - c. The family is not programmatically eligible.

- d. Due to insufficient funding, the SSD is not opening cases.
 - e. Due to insufficient funding, the SSD can only open cases up to a percentage (determined by the SSD) of the State Income Standard.
3. **OCFS LDSS-4781 – Notice of Intent to Change Child Care Benefits and Family Share Payments** must be used by the SSD when there is a change in family share, child care provider, and/or authorization of benefits. The SSD must also send this notice at recertification when there has been a change in benefits.
4. **OCFS LDSS-4782 – Notice of Intent to Discontinue Child Care Benefits** must be used by the SSD when it intends to end child care benefits.
- a. The family's income for their family size exceeds 200% of the State Income Standard (SIS).
 - b. The family did not provide all of the required documentation.
 - c. The family is not programmatically eligible.
 - d. Due to insufficient funding, the SSD is not able to serve all eligible families.
5. **OCFS LDSS-4783 – Delinquent Family Share** must be used by an SSD when a family has been delinquent in paying its family share.
6. **OCFS-4773 – Child Care Eligibility Re-Determination Coming Due** may be used by the SSD to notify the family that the re-determination of their programmatic and financial eligibility is coming due.

The client notices are available in English and Spanish on the OCFS intranet site at: <http://ocfs.state.nyenet/admin/Forms/>. The client notices are also available through the Child Care Time and Attendance System (CCTA).

G. PAYMENT

1. Child Care can be paid as follows:

- a. By a purchase of services contract, by letter of intent, by advance cash payments, by cash reimbursements or by vouchers; provided, however, that a caregiver of informal child care or of legally-exempt group child care must be enrolled with the SSD before payment may be made for such services, **or**
- b. By advance cash payments, by cash reimbursements or by vouchers to the child's caretaker for care provided by a licensed or registered day care center, registered family day care home, licensed group family day care home, registered school-age child care program or caregiver of informal child care or of legally-exempt group child care; provided, however, that a caregiver of informal child care or of legally-exempt group child care must be enrolled with the SSD before payment may be made for such services.
- c. Payment will be made for child day care that is related to the hours of employment of the parent or caretaker relative and time for the delivery and pick up of the child. The SSD must establish at least one method by which self-arranged care can be paid.
- d. One-time child care application or registration fees or deposits required by the child care provider may be paid as a subsidy payment so long as this same fee or deposit is required of all other families using this child care provider.

H. CHILD CARE DURING BREAKS IN ACTIVITIES

If a TA recipient has a break in an approved/required activity, SSDs must determine whether the TA recipient will be returning to an approved/required activity within a two-week period or within a one-month period. They must also determine if the child's placement with the child care provider would be lost if child care benefits were not continued during the break in activity; and whether the reason for the break in activity is approved or allowed by the SSD.

If the TA recipient is going to return to an approved/required activity within two weeks, child care benefits shall continue for the two-week period. If the TA recipient will not be returning to an approved/required activity within two weeks, but is scheduled to return within a month of the break in activities, the SSD must continue child care benefits if the child care placement would be lost if benefits were not continued. An example of an approved break would be a teen that is on a break from high school for the school's holiday break. ***There is no maximum number of breaks per year.***

I. FAMILIES THAT ARE ELIGIBLE WHEN FUNDS ARE AVAILABLE

Families in this category may receive subsidized child care to the extent that the SSD continues to have funds available under either its allocation from the NYSCCBG or any local funds appropriated for this program, subject to any service priorities and set-asides established by the SSD. SSDs may establish priorities, in addition to the federal priorities of very low income families and special needs children, by identification of such categories in the Consolidated Service Plan (CSP)/Integrated County Plan (ICP), subject to approval from the Office of Children and Family Services (OCFS). Funds may be set aside for such priority families when described in the CSP/ICP and approved by OCFS.

A SSD must provide child care assistance to the following families when funds are available:

1. Families that have applied for or are receiving TA, when child care is needed for an eligible child 13 years of age or older who has special needs or is under court supervision, to enable the child's parent or caretaker relative to engage in work or participate in activities required by the SSD including orientation, assessment or work activities defined in 12 NYCRR Part 1300.
2. Families that are receiving TA, when child care is needed for an eligible child 13 years of age or older who has special needs or is under court supervision, to enable the child's parent or caretaker relative to engage in work as defined by the SSD.
3. Families that are receiving TA when child care is needed to enable a teenage parent to attend high school or an equivalency program; or for the child to be protected because the child's parent or caretaker relative is unable to care for their children due to a physical or mental incapacity or has family duties away from home necessitating his or her absence.
4. Families with income at or below 200% of the State Income Standard when the family is at risk of becoming dependent on TA and child care services are needed to permit the child's parent/caretaker to be engaged in work; or to enable a teenage parent to attend high school or an equivalency program.

J. FAMILIES THAT ARE ELIGIBLE WHEN FUNDS ARE AVAILABLE AND THE CATEGORY OF FAMILY IS IDENTIFIED IN THE SSD'S CSP/ICP

Families in this category may receive subsidized child care to the extent that the SSD continues to have funds available under either its allocation from the NYSCCBG or any local funds appropriated for this program, **and** the category of family is designated as an eligible family by the SSD in its CSP/ICP. Availability of funds is subject to the service priorities and set-asides established by each SSD in its CSP/ICP and approved by OCFS.

The SSD may select categories from the following list or the SSD may opt to refine any of the optional categories, by specifying any limitations to the programmatic eligibility criteria, so that a more specific population is selected. The identified families must be listed as eligible in the SSD's CSP/ICP and approved by OCFS.

1. Families receiving TA when child care services are necessary for the parent or caretaker relative to participate in an approved activity in addition to being engaged in work as required by the SSD or in a required work activity (e.g., A parent or caretaker relative with a minimum wage position requesting additional child care during the hours he or she is not at work to enable him or her to seek a better job).
2. Families receiving TA when child care services are necessary for a sanctioned parent or caretaker relative to participate in unsubsidized employment when the parent or caretaker relative receives earned wages greater than or equal to the minimum amount required under federal and State labor law.
3. Families receiving TA or families with incomes up to 200% of the State Income Standard when child care services are needed for the child to be protected because the parent/caretaker is:
 - a. Participating in an approved substance abuse treatment program, screening or assessment (If the applicant is classified as exempt from work activities because of his or her substance abuse, child care can be offered under this category. However, if the SSD *requires* that the applicant receive substance abuse treatment and he or she is working or participating in a required work activity, child care is *guaranteed*.);
 - b. Homeless, or receiving services for victims of domestic violence, and is in need of child care to participate in an approved activity, screening or assessment for domestic violence, **or**
 - c. In an emergency situation of short duration including, but not limited to, cases where the parent/caretaker must be away from the home for a substantial period of the day due to extenuating circumstances such as a fire, being dispossessed from the home, seeking living quarters or providing chore/housekeeping services for an elderly or disabled relative.
4. Families receiving TA or with incomes up to 200% of the State Income Standard when child care services are needed for the child's parent/caretaker to attend a two year program other than one with a specific vocational sequence leading to an associate's

degree or a certificate of completion, or at a four year college or university program leading to a bachelor's degree provided:

- a. That it is reasonably expected to improve the earning capacity of the parent/caretaker;
 - b. The parent/caretaker is participating in and continues to participate in non-subsidized employment whereby the parent/caretaker works at least 17 1/2 hours per week and earns wages at a level equal or greater than the minimum amount required under federal and State labor law while pursuing the course of study; **and**
 - c. The parent/caretaker is and remains engaged in work while pursuing the course of study and can demonstrate his or her ability to successfully complete the course of study.
5. Families with an open child protective case, irrespective of income, only when it is determined that such child care is needed to protect the child.
 6. Families with income up to 200% of the State Income Standard when child care services are needed for the child to be protected because the parent/caretaker is physically or mentally incapacitated or has family duties away from the home.
 7. Families with incomes up to 200% of the State Income Standard when child care services are needed for the child's parent/caretaker to participate in one of the following approved activities provided the activity is identified in the SSDs CSP/ICP as an allowable activity, the SSD determines it is a necessary part of a plan for the family's self-support, and provided that the parent/caretaker can demonstrate that he or she is participating in the approved activity:
 - a. Actively seeking employment for a period no greater than six months, and if the parent/caretaker is registered with the NYS Department of Labor, Division of Employment; **or**
 - b. Educational or vocational activities, including attendance in one of the following secondary or post-secondary programs:
 - (1) A public or private educational facility providing standard high school curriculum offered by, or approved by, the local school district;
 - (2) An education program that prepares the parent/caretaker to obtain a NYS high school equivalency diploma;
 - (3) A program providing basic remedial education in the areas of reading, writing, mathematics and oral communications for individuals functioning below the ninth month of the eighth grade level in those areas;
 - (4) A program providing literacy training designed to help individuals improve their ability to read and write;

- An English as second language instructional program designed to develop skills in listening, speaking, reading and writing the English language for individuals whose native or primary language is other than English;
- A two year full-time degree granting program at a community college, a two year college, or an undergraduate college with a specific vocational goal leading to an associate degree or certificate of completion within a determined time frame which must not exceed 30 consecutive months;
- A training program which has a specific occupational goal and is conducted by an institution licensed or approved by the State Education Department other than a college or university;
- A pre-vocational skills training program such as a basic education and literacy training program; **or**
- A demonstration project designed for vocational training or other project approved by the Department of Labor. Notwithstanding the potential for some of these educational or vocational training programs to allow for the eventual attainment of a bachelor's degree or like certificate of completion for a four-year college program, Office regulations do not permit the renewal of such educational or vocational training program enrollment for any additional period in excess of 30 consecutive calendar months, except for families as authorized under paragraph (4) in this section *(to attend a two year program other than one with a specific vocational sequence leading to an associate's degree or a certificate of completion, or at a four year college or university program leading to a bachelor's degree)*, nor does it permit enrollment in more than one such program.

K. TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT CATEGORIES OF ELIGIBLE FAMILIES UNDER TITLE XX

1. CATEGORIES OF ELIGIBLE FAMILIES UNDER TITLE XX

To the degree that the SSD has chosen to make Title XX funds available for low income child care services, a family is eligible for child care services funded under Title XX if the family meets any of the programmatic eligibility criteria for the NYSCCBG, or if the child is in need of child care as a preventive service, subject to any applicable priorities and set asides established in the SSD's most recently approved CSP/ICP. To exercise this option, the SSD must identify the programmatically eligible families it chooses to include as eligible families in the SSDs CSP/ICP and receive approval from OCFS. The SSD may opt to refine any of the optional categories so that a more specific population is selected by specifying any limitations to the programmatic eligibility criteria in its CSP/ICP.

2. UPPER INCOME LEVELS FOR TITLE XX

For Title XX funds, a SSD is permitted to establish within its CSP/ICP upper income levels that exceed 200% of the State Income Standard (SIS) for families receiving child care services, up to the maximum income levels shown below.

Family Size	Maximum Income Level Allowed
1 to 2	275% SIS
3	255% SIS
4 or more	225% SIS

REFERENCES

[13-OCFS-LCM-04](#)

[04-OCFS-ADM-01](#)

415.1

415.2

415.3

415.4

415.5

415.8

CHAPTER 29: RESIDENCE, STATE CHARGES, DFR

A. RESIDENCY

The place of residence of the applicant/recipient must be verified for administrative reasons relating to provision of a shelter allowance and responsibility for the costs of assistance. Verification of residence is a condition of eligibility when an applicant/recipient has a residence. However, having a residence itself is not a condition of eligibility. Therefore an applicant/recipient may be eligible for TA even though they do not possess a permanent residence.

Information shall be sufficient to establish one of the following:

1. The applicant/recipient is residing or found within the social services district on the date of application, except in cases of temporary absence or continuing responsibility under subdivision (5) of Section 62 of the Social Services Law.
2. Where applicable, another local district is responsible for the full costs of institutional care.
3. Where indicated, the state is responsible for the full cost of assistance and care (100% state reimbursement). Such verification will establish the applicant/recipient's entitlement to a shelter allowance and will establish which unit of government is responsible for costs of assistance. Responsibility will be one of the following according to the verification obtained:
 - a. Local district/state,
 - b. Another local district,
 - c. 100% State reimbursement:

100% state reimbursement is to be given only in cases containing needy Native Americans and members of their families residing on reservations in New York State for burials and foster care cases. Only those local districts with American Indian reservations will have these categories of 100% state reimbursement.

See [95 LCM-92](#) for more details regarding the fiscal and claiming aspects of this provision.

While TA benefits paid to mental hygiene releases are no longer reimbursed at 100% state reimbursement, Medical Assistance reimbursement for these cases continues at 100% state funding after applying applicable federal funding.

B. NYS RECIPIENTS WHO ARE TEMPORARILY ABSENT

1. **DEFINITION OF TEMPORARY ABSENCE** - For the purpose of administration of the TA programs, except the MA program, temporary absence shall mean any absence from the temporary assistance household providing that the recipient:

- a. Does not leave the United States; and,
- b. Does not evidence intent to establish residence elsewhere.

The district of permanent residence is responsible for establishing need for continuing assistance during such temporary absence and for documenting such need in the case record in accordance with instructions issued by the Office.

2. **CONTINUATION OF GRANT DURING TEMPORARY ABSENCE** - The social services district's decision to continue a grant during temporary absence shall be based upon consideration of the following factors:

- a. Evidence of intent to return to the district of administration when the purposes of the absence have been accomplished. If such temporary absence extends beyond a six-month period, the absent person shall submit affirmative evidence satisfactory to the district of administration that his/her continuing intention is to return to the TA household and that he/she is prevented from returning to the TA household because of illness or other good cause.

If a recipient fails to comply with this requirement, he/she shall be deemed ineligible for a continuation of his/her grant.

Note: A client can be considered temporarily absent from his/her local district of fiscal responsibility even if no apartment/home is being maintained for the client.

- b. Continuing financial need for a grant in the same or a different amount.
- c. Continuing contact with the recipient by the district through correspondence or through use of the services of another social services agency located within or outside of the State.
- d. When a recipient of TA dies during the period of temporary absence within the state, the district of permanent residence shall provide burial if the care falls within the provisions of SSL 62.5(c). If not, the district where death occurs is responsible.

3. ESTABLISHING THE FACTS

- a. Where does the applicant or recipient vote? (Keep in mind that, when he/she registers to vote, he/she is declaring he/she resides in that voting district. However, also keep in mind that he/she may have changed their residence since Election Day.)
- b. What is the residence address listed on the last completed income tax return?

- c. What is listed as the county of residence on the last completed state income tax return?
- d. What is the residence address listed on his/her operator's license or motor vehicle registration, or on an application for life, auto or health insurance?
- e. What do the school records list as his/her residence?
- f. Does he/she and their family live in the local district all year?

In most cases, answers to some combination of these questions will establish an applicant/recipient's residence.

4. INTERPRETATION

A TA recipient who is temporarily absent from a TA household, but is not outside of the United States, shall continue to receive a TA grant.

The continuation of the grant shall be based on certain requirements, and the need to review the continuation of the grant shall be investigated at least once every three months.

C. STATE CHARGE

State Charge status has been eliminated for TA purposes. However, there are still some instances where 100% state reimbursement is provided for assistance given. Since the definition of State Charge is eliminated, any 100% state reimbursements will not be called State Charge.

1. The 100% state reimbursement is to be given only in cases containing needy Native Americans and members of their families residing on reservations in New York State. Only those local districts with American Indian reservations will have these categories of 100% state reimbursement. The cost of care of a Native American residing off the reservation is not reimbursed at this enhanced rate. A tribal enrollment document is not required for claiming purposes. For claiming purposes, a Native American Indian and their family living on a reservation are considered eligible for State Charge claiming even if part of the family is not a Native American. All other state charges under TA are eliminated.
2. This provision is effective April 1, 1995 for all case categories. See [95 LCM-92](#) for more details regarding the fiscal and claiming aspects of this provision.
3. While TA benefits paid to mental hygiene releases are no longer reimbursed at 100% state shares, Medical Assistance reimbursement for these cases continues at 100% state funding after applying applicable federal funding.

D. NYS RECIPIENTS WHO MOVE TO ANOTHER DISTRICT

1. A recipient of TA or care may choose to move from one local district's territory to that of another. Ideally he/she should discuss this move with the local district in which he/she lives so that it may participate in the decision. However, for a variety of reasons, he/she may not do so.
2. Either the new local district or his/her former local district may learn of the move after the fact. Each local district must communicate with the other because, if the recipient is eligible for TA, the former local district is responsible for continuing his/her assistance for a limited time, and the new local district must plan to administer his/her assistance grant in the future. Each local district must communicate with the other to assure that:
 - a. Eligibility continues,
 - b. The responsibility for the grant is properly identified,
 - c. The new district assumes the responsibility for assistance payments as soon as the former local district's responsibility is terminated.
3. When a recipient of SNA or FA moves from one local district to another local district within the state, the local district administering such aid, including MA to such recipient, shall continue to provide such assistance for a period ending on the last day of the calendar month next succeeding the calendar month in which the recipient moved, provided the recipient continues to be eligible for such assistance.
4. When a TA household remains in the local district, but a single member moves to another local district within the state, the former local district must provide assistance to the individual according to the individual's circumstances and the standards of the new local district in the month of the move and the month thereafter, provided the recipient continues to be eligible for such assistance.
5. The former local district of residence shall not continue to grant assistance when the recipient takes up residence outside the state.
6. The new local district of residence during this period shall provide necessary service for the former local district of residence and emergency assistance to the recipient in accordance with Office regulations.
7. When an inter-district jurisdictional dispute exists relating to an otherwise eligible applicant for TA, either local district may request a fair hearing to determine the local district of responsibility, and the decision shall be binding upon both local districts.

The local district in which the applicant is found shall be responsible to arrange, provide and pay for TA and care during the period pending resolution of the inter-district jurisdictional dispute and shall be reimbursed for all expenditures authorized on behalf of the applicant by the local district subsequently determined responsible for the provision of assistance and care.

A fair hearing shall be initiated by sending written notice to the other local district and to the Office, including a brief statement of fact and law upon which the determination of responsibility was based.

POLICY (86 ADM-40)

1. **REQUIREMENTS** - As a result of the terms of settlement in the case of Rogers v. Kramer there are requirements that:
 - a. There is no break in assistance to an otherwise eligible recipient because of such recipient's move into a new district.
 - b. The former district informs the recipient how to obtain assistance from the new district.
 - c. The former district complies with the new district's requests for documentation from the recipient's case record in a timely manner.
 - d. The new district contact the former district as needed to obtain information about the recipient's eligibility as well as any necessary documentation of eligibility that is in the possession of the former district.
 - e. TA benefits not be prorated if the recipient files an application with the new district before benefits from the former district are scheduled to end.
2. **RESPONSIBILITIES OF FORMER DISTRICT OF RESIDENCE** - The former district must:
 - a. Inform the recipient of the need to apply for assistance in the new district if such recipient wishes to have his/her assistance continued after the effective closing date of assistance from the former district.

To do so, the former district must enclose the "Important Notice" from 86 ADM-40 with any closing notice to a recipient whose public assistance is being continued for the month after the month of the move in accordance with Office regulation 311.3.

The requirements of **a.** above can be met by using CNS case closing code M62 "Move Out-of-District".
 - b. Respond to any oral or written inquiries from the new district about the TA, MA or SNAP status of the case or about the effective closing date of assistance from the former district or about whether benefits have been issued.
 - c. Provide copies of documentation from the recipient's case record as requested either orally or in writing by the new district. The former district must comply with such requests as soon as possible, but in no event later than 10 days after receiving the request from the new district.

3. RESPONSIBILITIES OF THE NEW DISTRICT OF RESIDENCE

- a. Providing Application – At the time an individual contacts the new district and indicates that he/she wishes to apply for assistance in that district, the new district must provide such individual with an application and must schedule such individual for a face-to-face interview within 7 working days of receiving the completed application.

The new district must not refuse to give out, accept or process the application on the grounds that the recipient is, or should be, receiving assistance from the former district.

Note: Since TA programs are locally administered, the client who moves to a new district is considered an applicant in the new district of residence, and must reapply instead of being recertified for TA.

For DFR contacts in other districts, see the DFR Listing in the District Information Page. This is accessed through the County Profiles found in the Information Section of the EISP Intranet Page or the Directories section of CentraPort.

- b. Closing Notice – If the recipient is unable to produce a closing notice from the former district or claims that he/she is not actually receiving appropriate assistance from the former district, it is the responsibility of the new district to contact the former district to ascertain the current status of the recipient.

Note: Please refer to DFR Contacts in the County Profiles on our Intranet for a listing of local district contact persons.

- c. Documentation – If the recipient is, or claims to be, unable to provide necessary documentation which is likely to be in the possession of the former district (e.g., birth certificates, marriage certificates, etc.), it is the responsibility of the new district to obtain documentation needed to establish the recipient's continued eligibility from the case records maintained by the former district.

Documentation which is specifically relevant to the recipient's residence in the new district, such as rent costs, current household composition and income, if changed, must be obtained from the recipient or through regular documentation/verification procedures.

Note: A client release to get case information from a former local district is not required as Office regulations make provision for the release and exchange of such information by the local districts.

- d. Application Before Benefits From Former District Cease – When the recipient applies for assistance in the new district before benefits from the former district cease, every attempt must be made to process the application quickly and to assure that assistance to an otherwise eligible recipient is not delayed or interrupted solely because of that recipient's move into a new district.

If the new district determines that the recipient is eligible before assistance from the former district has ceased, the new district must open the case effective with the date that benefits from the former district are scheduled to end.

- e. **Determining Eligibility** - If eligibility for TA in the new district cannot be determined before the date benefits are scheduled to cease from the former district solely because of lack of documentation from the former district, eligibility shall be presumed, pending verification, and the person shall be given a pre- investigation grant, if otherwise eligible, in order to assure that current monthly needs are met pending the receipt of documents.
- f. **Initial Grant** - The initial TA grant shall not be prorated if the recipient files an application with the new district before benefits from the former district are scheduled to end, provided such recipient continues to be eligible for assistance.
- g. **Application After Benefits from Former District Cease** - If the recipient files a TA application with the new district after the date on which benefits from the former district have ceased, the application shall be treated as a new application and benefits shall be prorated from the date eligibility is established.
 - (1) If the recipient files an application with the new district within 30 days following the date on which benefits from the former district have ceased, the recipient shall be notified, in writing, that benefits are being prorated because he/she did not file an application with the new district prior to cessation of benefits from the former district and advised that he/she has a right to request a fair hearing if good cause exists for not filing an application with the new district before benefits were scheduled to cease.
 - (2) The "Notice of Proration of Initial Benefits" found in 86 ADM-40 must either be included as part of the acceptance notice sent to the recipient or be sent separately to the recipient. Districts wishing to alter the wording of the notice, found in 86 ADM-40, must obtain prior approval from the Office of the proposed alteration.
- h. **Emergency Assistance** - Although the former district is responsible for continuing TA and MA to an eligible recipient for the month following the month in which the recipient moved, the new district is responsible for providing any emergency assistance for which the recipient is eligible from the date the recipient moved into the new district.

The new district must not refuse to provide emergency assistance to an eligible applicant solely on the grounds that such applicant's TA and/or MA is being continued by the former district.

- 4. **WMS IMPLICATIONS** - The new district may use WMS inquiry to determine the case status and individual status of the recipients in the former district. However, if the recipient states that this information is incorrect, the new district must contact the former district to ascertain the current status.

If the new district finds the applicant(s) eligible while public TA is still being paid by the former district, the new district should open a TA case, starting the TA authorization periods whenever the actual TA starts in the new district.

If the authorization periods for the newly opened case overlap the authorization periods of the still active case in the former district, such former district will observe a warning message for case conflict via the W4139R Auto Closings/Case Conflicts inquiry screen.

The former district must do a new budget using the standards of assistance in the new district for the period ending on the last day of the calendar month following the month in which the recipient moved. ABEL can be used in these situations. Select ABEL function 9, cross-district calculation. Enter the case number (of the former district case) and the new district's four character abbreviation. (For example: Albany is ALBA) Complete the ABEL budget based on the circumstances in the new district of residence.

E. THE DISTRICT OF FISCAL RESPONSIBILITY (DFR)

There are several basic principles that will be employed to make the DFR determination:

1. DFR - WHERE-FOUND PRINCIPLE

A local district must provide assistance:

- a. To all eligible persons legally residing and found in such district; and,
- b. To all eligible persons without a legal residence and found in such district; except as provided in 2 below.

2. DFR - EXCEPTIONS TO WHERE-FOUND PRINCIPLE

A local district must provide assistance to eligible persons found outside of such local district in the following situations: (These rules should be applied in the order presented)

- a. The Medical Rule [SSL 62.5(d)]: The local district of legal residence (at the time that an individual enters a medical facility) continues to be, or becomes, responsible for providing assistance and care to an eligible person who has entered a medical facility located in another local district. (When an individual goes into a Title XIX OMH/ OMRDD facility that is located in his/ h er county of residence, that individual is considered to have gone into a medical facility outside the county of residence.)

Responsibility under the medical rule continues until there is a break in the need for TA and care for a continuous period of at least one calendar month.

It is important to make the distinction between a medical facility and a residential facility that is not a medical facility. [See TASB Chapter 29, E-3.](#)

- b. The Placement Rule [SSL 62.5(b)]: The local district in which an eligible person legally resides (at the time of placement) continues to be, or becomes, responsible for providing TA and care to an eligible person if:

- (1) A local district (either the local district of legal residence or any other district) was directly or indirectly involved in placing the eligible person; and,

- (2) The placement is into a formal residential care setting in the where-found district.

A formal residential care setting is a residential program providing room and/or board and other non-medical specialized services or care which has been licensed, certified or approved by an authorized New York State agency.

Both of these conditions must be met in order for the placement rule to apply. Consistent with the intent of SSL 62.5(b), we have interpreted local district involvement by any county agency or official governmental entity of the county including courts, mental health departments, probation departments, etc.

Like the medical rule, this responsibility continues indefinitely until there is a break in the need for TA or care of at least one calendar month.

- c. The Transition Rule: SSL 62.5(a): When a recipient of TA and care moves to another local district and continues to be eligible, the from-district continues to be responsible for providing non-emergency assistance and care during the month of move and the calendar month following the month of move. Thereafter, the new local district is fiscally responsible.

The purpose of this rule is to provide uninterrupted assistance to an eligible case when moving between districts. In no case should the new local district refuse to take an application or deny an application because the former district is, or should be providing assistance during the transition period. (Naturally, duplicate benefits will not be provided during the transition period.)

- d. Temporary Absence: In law, the concept of legal residence (also known as domicile) is based upon a person's expressed intent. Simply put: a person's declaration of his/ her county of legal residence determines county of legal residence as long as the facts (the person's actions and circumstances) are not inconsistent with this expressed intent.
 - (1) When an eligible person (legally capable of establishing intent) temporarily leaves his/her district of legal residence and enters another district for a specific purpose (such as rehabilitation for alcohol or substance abuse, training, or schooling) and intends to return when the purpose is accomplished and the facts are not inconsistent with this expressed intent, the person continues to be a legal resident of the from-district.

As such, the applicant or recipient is considered to be temporarily absent from his/her district of legal residence and the district of legal residence continues to be fiscally responsible for providing assistance and care to this recipient as long as the recipient continues to engage in the activity for which the recipient left his/her permanent home.

Note: The temporary absence rule is explored only if the placement rule (or the medical rule) has not established the continuing responsibility of a district.

- (2) Unlike the medical and placement rules noted above, this responsibility continues only until the temporary purpose ends. At that point, the recipient either:
 - (a) Returns to his/her local district of legal residence;
 - (b) Is considered to have established a new legal residence elsewhere and is transitioned from the from- district to the where-found district; or
 - (c) Becomes a transient (a homeless person without a legal residence) and immediately becomes the responsibility of the where-found district.

e. Special Situations:

- (1) Domestic Violence Rule: SSL 62.5(f): When a person enters a residential program for victims of domestic violence located in another local district following an incident of domestic violence, the local district in which the person legally resided at the time of the incident is fiscally responsible for that person while he or she resides in the approved shelter.

This rule applies to persons who had been receiving TA prior to the incident, as well as to persons who become eligible for either TA or Services funding while residing in the approved residential program.

This responsibility continues until the person leaves the approved residential program. At that time, if the client chooses to not return to the from-district, the transition rule is applied.

The from-district is responsible for the month the client leaves the approved shelter and the following month. The where-found district is responsible thereafter.

- (2) Emergency Temporary Housing: When a homeless person is placed by one local district into temporary housing in another district, the placing local district continues to be fiscally responsible for providing public TA and care to the recipient as long as the recipient continues in emergency housing.

This fiscal responsibility continues until the recipient leaves temporary housing. At that point, if the recipient remains out-of-district, the recipient is considered to have moved, and the transition rule applies.

3. IDENTIFYING WHAT IS AND WHAT IS NOT A MEDICAL FACILITY

Medical facilities are defined as hospitals, nursing homes, intermediate care facilities for the developmentally disabled, psychiatric centers, developmental centers, inpatient alcohol/substance abuse treatment facilities, and VA hospitals. In addition, some residential treatment facilities are medical facilities.

How can you distinguish between a residential treatment facility that IS a medical facility and one that is not? Look at who pays the bill. If Medicaid pays for some treatment while the individual is in the facility, but not the room and board, then that is NOT a medical facility. For example, a Congregate Care Level II substance abuse residential treatment facility is NOT a medical facility.

Social Services Law (SSL) Section 62.5(d) has been amended by Chapter 433 of the Laws of 2001 to provide that, when an individual enters an adult care facility (Congregate Care Level II- adult home, enriched housing program or residence for adults) in another district and is or becomes in need of Temporary Assistance and/or Medicaid, the DFR from which the individual was admitted to the adult care facility continues to be responsible for providing assistance and care. This responsibility continues until there is a "break in need". This change in DFR does not affect OMH, OMRDD or OASAS certified community residences, residential substance abuse treatment programs or residential care centers for adults. (GIS 02MA/006)

4. CASE DOCUMENTATION AND DOCUMENTATION OF THE DFR DECISION

In order to insure case integrity and to avoid inter-district disputes, it is important that a thorough interview and verification process is in place. Local districts that have good documentation of why an individual is the fiscal responsibility of another district stand the best chance of avoiding inter-district disputes. They also stand the best chance of winning those that may occur. Attachment A, of 97 INF-6, The DFR Worksheet ([LDSS 4732-B](#)) is intended to assist the worker in making the decision about which DFR rule will apply to the applicant.

- a. In addition to a good interview and case documentation, careful examination of the individual's movements prior to coming to the where-found district will make identification of the correct district of fiscal responsibility easier to identify. The Legal Residence Statement form ([LDSS- 4733](#)) was developed to help workers to focus on this aspect of the interview.
- b. For example, the individual may have listed a homeless shelter in County A as his/her residence prior to coming to the where-found district. However, if the individual was placed into the homeless shelter by County B, then County B would be the DFR. By getting as much information as possible about the individual's movements, districts can avoid the extra work and frustration of dealing with the wrong county.
- c. If temporary absence is the reason why an individual is the fiscal responsibility of another district, having the person state their intention and sign a written statement will help to document intent for the DFR. It will also help the DFR to determine if its responsibility continues or ends. The person who is in County A temporarily for a stated purpose and who remains after that purpose has been completed is no longer the responsibility of the former district (after the transition period).

5. COURTESY APPLICATIONS AND UNDER-CARE MAINTENANCE

When a local district determines that another local district is responsible for the applicant, the local district must follow two guidelines when taking a courtesy application:

- a. Prior to forwarding a courtesy application, the where-found district must secure verbal agreement from the alleged from-district that it will accept and process the courtesy application.

Without such agreement, the where-found district must accept and process the application and, if it chooses, take the other local district to an inter-jurisdictional dispute hearing.

- b. It is not unusual that an individual is found in a district that is distant from the DFR. In such circumstances, face-to-face interviews may be a problem unless the where-found district agrees to provide under-care maintenance.

If it will not, under-care maintenance may need to be handled by mail and telephone. However, the where- found district has an interest in assisting the DFR in establishing continuing eligibility for public temporary assistance and care.

6. IN THE EVENT OF A DISPUTE AND INTER-DISTRICT JURISDICTIONAL DISPUTE

Office policy with respect to disputes between the where-found and the from-district(s) is clear. In accordance with Office regulation 311.3(c), the local district in which the client is found is responsible for providing TA and care during the pendency of an inter-jurisdictional dispute. This means that, in the event of a dispute, the where-found district must accept and process the application, and if found eligible, provide assistance to the client during the pendency of the dispute.

- a. The responsibility ends only when the dispute is resolved. In no circumstance can a client be denied assistance because of an inter-jurisdictional dispute.

In the event the dispute is resolved in favor of the where-found local district, the local district ultimately determined fiscally responsible must reimburse the where-found district provided that the where-found district exercised reasonable care in determining the client's eligibility.

- b. Office regulation 311.3(c) sets forth the specific instructions as to when and how to initiate a request for a fair hearing against another local district. A fair hearing should be initiated only when the other district refuses to accept fiscal responsibility for the otherwise eligible client.
- c. The local district requesting the fair hearing must send a written notice to the Office and to the other district including a brief statement of fact and law upon which the determination of fiscal responsibility is based.
- c. On the date of the fair hearing each district will be expected to submit a written summary of the case with documentation to support its position in accordance with Office regulation 358-4.3(b).
- d. A local district may request a fair hearing against another local district by writing to:

New York State Office of Temporary and Disability Assistance
Office of Administrative Hearings
P.O. Box 1930
Albany, New York 12201-1930

7. DFR MEDIATION PROCESS

This process offers districts the alternative of non-binding state mediation when a DFR issue arises. This process will not replace the inter-district jurisdictional dispute (IDD) hearing process but offers districts the opportunity to have an OTDA representative review the facts involved in the DFR dispute and advise both districts of which district is responsible. It is hoped that this process will result in the need for fewer DFR fair hearing requests and thereby save districts the expense and administrative burden of preparing for and attending a fair hearing.

Procedures to request OTDA or DOH mediation of a DFR dispute are as follows:

- a. Districts must attempt to resolve the DFR issue first prior to requesting state mediation. Districts may also continue to contact DOH or OTDA staff to resolve DFR policy issues at any time regardless of whether mediation is involved.
- b. Both districts must agree to state mediation.
- c. Either district may contact the state to set-up a conference call between both districts and the state mediator to attempt to resolve the dispute.
- c. If the dispute can still not be resolved, a completed [LDSS-4732-A, DFR Cover Letter and Response Form](#) and [LDSS-4732-B, DFR Worksheet](#) must be faxed to the mediator along with documentation supporting each district's position.
- d. The mediator will review the information and supporting documentation to determine which district is responsible. The [LDSS-4734: "DFR Mediation Resolution Form"](#) will then be faxed to both districts indicating the mediator's non-binding decision. It is anticipated that the mediator's decision will be finalized within two business days.
- f. If the districts still disagree as to which district is responsible, the where-found districts must accept and process the application, and if the applicant is found eligible, provide assistance to the client during the pendency of the dispute. An inter-jurisdictional dispute fair hearing may then be requested in accordance with [TASB Section E-6](#) above.

The OTDA contact for DFR dispute mediation is:

Temporary Assistance Bureau

Phone: (518) 474-9344

Fax: (518) 473-0511

The DOH contact for DFR dispute mediation is: Your county Medicaid Liaison

8. Inter-jurisdictional and D/A Local District Contact Persons - The list of the contact persons for inter-jurisdictional and D/A matters in most of the local districts is found in: [02 INF-38](#). It is hoped that the listing will help improve the administration of these matters.

References

SSL 62
SSL 62.5(c) SSL 62.5(d) SSL 117
310.1
311.2
349.4
351.2(g)(l)
352.30
370.5(a)
[97 ADM-23](#)
[96 ADM-5 Attachment](#)
84 ADM-25
[95 LCM-92](#)
88 INF-59
"All Commissioner" Letter (12/3/84)

Related Item

369
State Charges (TASB)
NYS Recipients Who Are Temporarily Absent From The District of Administration (TASB)
Children Visiting TA Households Not Having Legal Custody (TASB)

CHAPTER 30: SCHEDULES

- A. SA-2a (Statewide Monthly Grants and Allowances)
- B. SA-2b (Statewide Monthly Home Energy Payments)
- C. SA-2c (Monthly Supplemental Home Energy Allowance)
- D. SA-4a (Initial or Replacement Cost of Essential House-Hold Furniture)
- E. SA-4b (Replacement of Cost of Clothing)
- F. SA-5 (Restaurant Allowance Schedule & Home Delivered Meals)
- G. SA-6a (Fuel for Heating: Other than Natural Gas)
- H. SA-6b (Fuel for Heating: Natural Gas, Coal, Wood, Municipal Electric, Other)
- I. SA-6c (Fuel for Heating: PSC Electric, Greenport Electric)

SCHEDULE SA-2a

Statewide Monthly Grants & Allowances Exclusive of Home Energy Payments						
Number of Persons in Household						
One	Two	Three	Four	Five	Six	Each Add'l Person
\$141	\$225	\$300	\$386	\$477	\$551	\$75

SCHEDULE SA-2b

Statewide Monthly Home Energy Allowance						
Number of Persons in Household						
One	Two	Three	Four	Five	Six	Each Add'l Person
\$14.10	\$22.50	\$30.00	\$38.70	\$47.70	\$55.20	\$7.50

SCHEDULE SA-2c

Monthly Supplemental Home Energy Allowance						
Number of Persons in Household						
One	Two	Three	Four	Five	Six	Each Add'l Person
\$11	\$17	\$23	\$30	\$37	\$42	\$5

REFERENCES

352.2(d)
[90ADM-13](#)
 89 ADM-49
 85 ADM-49
 81 ADM-26

SCHEDULE SA-4a

Initial or Replacement Cost of Essential Household Furniture, Furnishings, Equipment and Supplies		
Living Room	\$182	
Bedroom:		
with single bed	\$145	
with two single beds	\$205	
with double bed	\$184	
Kitchen:	(excluding appliances)	\$142
Range		\$182
Refrigerator		\$182
		(plus \$12 for each additional person)
		(or \$258 for four or more persons)
Bathroom:	\$ 6	(plus \$4 for each additional person)
Other Equipment:		
Cabinet for linens	\$ 22	
Stove for heating	\$ 72	(or \$82 for five or more persons)

SCHEDULE SA-4b

Replacement Cost of Clothing	
Birth through 5 years	\$48
6 through 11 years	\$73
12 through adult	\$89

REFERENCE

352.7

Schedule SA-5 (Restaurant Allowance Schedule and Home Delivered Meals)

SCHEDULE SA-5

Restaurant Allowance Schedule	
For persons unable to prepare meals at home or who do not otherwise receive meals in their residences: Monthly allowances to be added to appropriate monthly grants and allowances for combinations of restaurant meals and meals prepared at home, including sales tax.	
Dinner in a restaurant	\$29.00
Lunch and dinner in a restaurant	\$47.00
All meals in a restaurant	\$64.00
A special monthly allowance of an additional \$36 must be granted to any pregnant woman or person under 18 years of age, or any person under age 19 who is a full-time student regularly attending a secondary school or in the equivalent level of vocational or technical training.	

Home Delivered Meals	
Monthly allowance to be added to appropriate monthly grants and allowances.	
Extra allowance	\$36.00

REFERENCE

352.7

Schedule SA-6a (Fuel for Heating: Other than Natural Gas)

SCHEDULE SA-6a

Monthly Allowances for Fuel for Heating: Oil, Kerosene, Propane

Counties Of: Nassau, New York City, Suffolk, Westchester								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$70	\$70	\$70	\$73	\$77	\$82	\$88	\$93

Counties Of: Chautauqua, Dutchess, Orange, Putnam, Rockland, Ulster								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$68	\$68	\$68	\$71	\$74	\$80	\$85	\$91

Counties Of: Columbia, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Wayne								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$69	\$69	\$69	\$72	\$75	\$81	\$87	\$92

Counties Of: Albany, Cayuga, Chemung, Greene, Schenectady, Schuyler, Seneca, Tompkins, Yates								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$69	\$69	\$69	\$72	\$75	\$81	\$87	\$92

Counties Of: Allegany, Broome, Cattaraugus, Chenango, Cortland, Delaware, Fulton, Jefferson, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Steuben, Sullivan, Tioga, Warren, Washington, Wyoming								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$72	\$72	\$72	\$75	\$78	\$84	\$90	\$96

Counties Of: Clinton, Lewis, Oneida, St. Lawrence								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$71	\$71	\$71	\$74	\$78	\$83	\$89	\$95

Counties of: Essex, Franklin, Hamilton, Herkimer								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$77	\$77	\$77	\$80	\$84	\$90	\$96	\$102

REFERENCES

352.5
[00 ADM-02](#)

Schedule SA-6b (Fuel for Heating: Natural Gas, Coal, Wood, Municipal Electric, Other)

SCHEDULE SA-6b

Monthly Allowances for Fuel for Heating: Natural Gas, Coal, Wood, Municipal Electric, Other

Counties Of: Nassau, New York City, Suffolk, Westchester								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$56	\$56	\$56	\$58	\$61	\$65	\$69	\$74

Counties Of: Chautauqua, Dutchess, Orange, Putnam, Rockland, Ulster								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$55	\$55	\$55	\$57	\$60	\$64	\$68	\$73

Counties Of: Columbia, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Wayne								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$54	\$54	\$54	\$56	\$58	\$63	\$67	\$71

Counties Of: Albany, Cayuga, Chemung, Greene, Schenectady, Schuyler, Seneca, Tompkins, Yates								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$58	\$58	\$58	\$60	\$63	\$68	\$72	\$77

Counties Of: Allegany, Broome, Cattaraugus, Chenango, Cortland, Delaware, Fulton, Jefferson, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Steuben, Sullivan, Tioga, Warren, Washington, Wyoming								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$58	\$58	\$58	\$60	\$63	\$67	\$72	\$77

Counties Of: Clinton, Lewis, Oneida, St. Lawrence								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$55	\$55	\$55	\$57	\$60	\$64	\$69	\$73

Counties of: Essex, Franklin, Hamilton, Herkimer								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$66	\$66	\$66	\$68	\$71	\$77	\$82	\$87

REFERENCES

352.5
[00 ADM-02](#)

Schedule SA-6c (Fuel for Heating: PSC Electric, Greenport Electric)

SCHEDULE SA-6c

Monthly Allowances for Fuel for Heating: PSC Electric, Greenport Electric

Counties Of: Nassau, New York City, Suffolk, Westchester								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$90	\$90	\$90	\$94	\$99	\$106	\$113	\$120

Counties Of: Chautauqua, Dutchess, Orange, Putnam, Rockland, Ulster								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$105	\$105	\$105	\$109	\$114	\$123	\$131	\$139

Counties Of: Columbia, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Wayne								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$107	\$107	\$107	\$111	\$117	\$125	\$134	\$142

Counties Of: Albany, Cayuga, Chemung, Greene, Schenectady, Schuyler, Seneca, Tompkins, Yates								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$120	\$120	\$120	\$125	\$131	\$140	\$150	\$160

Counties Of: Allegany, Broome, Cattaraugus, Chenango, Cortland, Delaware, Fulton, Jefferson, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schoharie, Steuben, Sullivan, Tioga, Warren, Washington, Wyoming								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$122	\$122	\$122	\$127	\$133	\$142	\$152	\$162

Counties Of: Clinton, Lewis, Oneida, St. Lawrence								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$122	\$122	\$122	\$127	\$133	\$143	\$153	\$163

Counties of: Essex, Franklin, Hamilton, Herkimer								
Number of Persons	1	2	3	4	5	6	7	8+
12 Month	\$140	\$140	\$140	\$146	\$153	\$164	\$175	\$186

REFERENCES

352.5
[00 ADM-02](#)

CHAPTER 31: DIVERSION PAYMENTS

A. DIVERSION

Diversion is the actions that a SSD takes to assist an applicant in finding ways to meet their needs without receiving ongoing TA benefits. SSDs screen applicants to see if they can be diverted from receiving ongoing cash assistance by helping them identify other services and resources that might be available. Available services and resources include programs, such as, Supplemental Nutrition Assistance Program, Medicaid, Home Energy Assistance Program (HEAP), Women's, Infants and Children (WIC), Child Care Assistance and State and local employment services. In addition, SSDs can utilize community resources such as, food pantries, charitable organizations, family and friends. When community resources are used, the SSD must confirm that these resources are actually available to meet the applicant's need.

If necessary, non-recurring payments may be authorized to divert a household from needing ongoing TA if the applicant is eligible for Emergency Assistance to Needy Families (EAF) or Emergency Safety Net Assistance (ESNA), and the payment will resolve a crisis and enable the applicant to obtain or maintain self-sufficiency. SSDs are reminded that payments made to divert a household from needing ongoing TA must not be used to circumvent normal ongoing TA eligibility requirements such as work rules.

It is not mandatory that applicants for TA who are eligible to receive ongoing benefits accept a payment to divert the household. If the applicant agrees to accept a payment to divert a household from needing ongoing assistance, the applicant must withdraw in writing their application for ongoing assistance and the SSD must follow separate determination procedures. If the applicant refuses to accept the diversion payment instead of ongoing assistance, and the applicant is eligible for ongoing TA, the SSD must issue ongoing TA benefits.

B. UTILIZING EAF PAYMENTS TO DIVERT A FAMILY FROM NEEDING ONGOING TA

SSD staff must use their judgment to evaluate if there is a reasonable chance that the authorization of a non-recurring EAF payment will resolve a crisis and enable the applicant family to obtain or maintain self-sufficiency and avoid on-going TA. If it is believed that authorizing an EAF payment will divert a family from needing on-going assistance, the family must be categorically and financially eligible for EAF. Eligibility is based upon the same criteria and scope of assistance as specified in 18 NYCRR 372, except for the criteria that the emergency must be one that was sudden, could not have been foreseen, and was beyond the applicant's control.

EAF payments to divert a family from needing on-going TA are limited to the scope of assistance as specified in 18 NYCRR Parts 352 and 372. If a particular item of need is not found in 18 NYCRR 352 the need may be covered under 18 NYCRR 372.4(d) which provides payments for services necessary to cope with an emergency, such as, car insurance payments, car repairs, etc., SSDs retain the ability to pursue the recovery of or recoup assistance, per 18 NYCRR 352.7(g)(3).

Utility shut offs under 18 NYCRR 352.5 (e), brokers/finders fees and security deposits cannot be authorized to divert a household from needing on-going assistance.

C. EAF AND FREQUENT APPLICATIONS FOR PAYMENTS TO DIVERT FAMILIES FROM ONGOING TA

SSDs have flexibility to approve or deny an EAF applicant's frequent requests for payments to divert a family from needing ongoing TA. During the eligibility process the SSD should review the applicant's current situation and look to the future to evaluate if there are changes that will eventually allow the family to become totally self-sufficient. For example, an applicant applies more than once for a payment of car insurance. The SSD may determine that paying the car insurance more than once is reasonable because in the near future the applicant has potential to meet future car insurance payments by receiving an anticipated increase in wages, or a reduction in car insurance expense is expected. However, districts may also choose to make initial diversion payments only after agreement is reached with the applicant that specific steps such as, a second job, increased work hours or different transportation plans, will be taken to prevent a repetition of the same crisis.

D. WMS DIVERSION PAYMENT TYPES

The Department of Health and Human Services Federal Regulations 45 CFR Part 260.31, 263.2 and 265 establish mandated federal data reporting requirements. These include the mandate that states identify and report assistance payments separate from payments defined by federal regulation as non-assistance diversion payments made to TANF families. 45 CFR Part 260.31 identified and defined non-assistance diversion as payments that are:

- Made to families categorically eligible for Family Assistance (FA)
- Specified as non-assistance payments (payment is not considered countable assistance toward time limits)
- Short term, expected to last less than four months
- Made to meet a specific crisis or episode of need
- Not meant for recurring or ongoing needs

Any payments issued to applicant families that meet the federal definition of diversion must be properly identified as non-assistance payments for federal reporting requirements. If the state fails to fulfill its responsibility to accurately report these data elements to the federal government, the state and ultimately SSDs could be subject to significant fiscal penalties.

To distinguish non-assistance diversion payments issued to applicant families from assistance payments, four upstate WMS diversion payment types were created. The proper use of WMS diversion payment codes is the only way that a case is identified as a diversion case for federal reporting. If the WMS diversion payment type codes are not properly used when diverting applicant families from needing ongoing assistance, the WMS system will not be able to collect the required federal reporting data. This could result in significant fiscal penalties. In addition, the correct use of WMS coding will assure the reliability of reports produced from WMS data.

The purpose of the following WMS diversion payment types is to collect accurate data for federal reporting requirements. Therefore, these payment types must not be used under any other circumstance than defined below:

D9 - Diversion Transportation Payment (Upstate WMS): This payment type must be used to authorize a nonrecurring diversion payment for employment related transportation expenses such as the cost of public transportation, car insurance or car repairs. This diversion payment type can be issued to **employed** applicants who have a transportation need that must be met to maintain employment and, if not met, may result in the opening of an ongoing TA case. This payment type may also be used to provide transportation for applicant job search activities while TA eligibility is being determined or for applicants with a bona fide job offer. To receive this benefit, the household must be categorically eligible for EAF and meet all income and resource requirements of EAF.

Payment type "D9 - Diversion Transportation Payment" is allowed with TA case types 11, 12 and 19 with transaction type 09 - Open/Close. This payment type is also allowed with TA case types 11, 12, 16, and 17 with transaction type 03 - Denial, and on active case types 20, 22, 24 and 31, with a required special claiming code of F. Payment type D9 must be authorized as a single issue payment and can be authorized as either a restricted or unrestricted payment.

F5 - Diversion Payment (Upstate WMS): This payment type is used to authorize a nonrecurring short term diversion payment for expenses directly associated with resolving a housing related crisis or episode of immediate need for homeowners. These include mortgage or mortgage arrears, moving expenses, storage fees or household structural or equipment repairs. This diversion payment type can be issued only to **applicants** who have an emergency or immediate need that if resolved would enable the family to avoid the need for ongoing assistance. To receive this benefit the household must be categorically eligible for EAF and meet all income and resource requirements of EAF.

This payment type is allowed with TA case types 11, 12 and 19 with transaction type is 09 - Open/Close. This payment type is also allowed with TA case type 11, 12, 16 and 17 with transaction type 03- Denial, and on active case types 20, 22, 24 and 31, with a required special claiming code of F. This payment type must be authorized as a single issue payment and can be authorized as either a restricted or unrestricted payment.

This payment type must **not** be used to authorize payments for rent, transportation expenses, child care expenses, costs related to applicant job search or payments for work related items, utility shutoffs, or brokers'/finders' fees.

F6 - Diversion Rental Payment (Upstate WMS): This payment type is used to authorize a non-recurring short-term diversion payment for rent or rental arrears. This diversion payment type can be issued only to **applicants** who have an immediate shelter need (rent) that if resolved will enable the family to avoid the need for ongoing TA. To receive this benefit the household must be categorically eligible for EAF and meet all income and resource requirements of EAF.

This payment type is allowed with TA case types 11, 12 and 19 with transaction type is 09 - Open/Close. This payment type is also allowed with TA case type 11, 12, 16 and 17 with transaction type 03- Denial, and on active case types 20, 22, 24 and 31, with a required special claiming code of F. This payment type must be authorized as a single issue payment and can be authorized as either a restricted or unrestricted payment.

This payment type must **not** be used to authorize payments for mortgage expenses, property taxes, moving expenses, storage fees, household structural or equipment repairs, security deposits, utility shutoffs, or brokers'/finders' fees.

D7 - Transitional Services Payments (Upstate WMS): This payment type is used to authorize non-recurring employment related expenditure such as a uniforms allowance, tools, license fees, or other items needed to enable an individual to maintain employment. The households for which these payments are made are no longer in receipt of ongoing FA, or non-cash SNA/FP because of employment and they have an **employment-related expense** that if not met will result in the continuation of an ongoing TA case. This is the only WMS diversion payment code that will allow a payment to be issued at the time of a TA case closing. All other WMS diversion payment type codes are used exclusively for applicant families.

Payment type "D7 - Transitional Services Payments" is allowable with TA case types 11, 12, 16, 17 and 19. This pay type will only be allowed with Transaction Types 07 (Closing), 08 (Recert/Closing) and 09 (Open/ Close). For Case Types 16 and 17 a State/Federal Charge Code of 63 (TANF Individual Exceeding 5 Year Limit) or 64 (TANF Native American on NYS Reservation Exceeding 5 Year Limit) must be present on Screen 3 of the APTAD or LDSS-3209. This payment type is also allowed with TA case types 11, 12, 16, and 17 with transaction type

03 - Denial, and on active case types 20, 22, 24 and 31, with a required special claiming code of F.

Payment type D7 must be authorized as a single issue payment and can be authorized as either a restricted or unrestricted payment.

Transportation related expenses such as car insurance, auto repairs or similar transportation costs must not be authorized with this payment type (see payment type D9).

E. IDENTIFYING WHEN TO USE WMS DIVERSION PAYMENT TYPES

To facilitate the collection of data for federal reporting requirements it is important to appropriately identify when to use a WMS diversion payment type (D7, D9, F5 and F6) over another WMS payment type. In general, the following questions must be reviewed and answered affirmatively before a WMS diversion payment type is used.

1. Is the applicant family categorically eligible for EAF (this includes applying households who would be categorically eligible for FA except that they have exhausted the state 60 month time limit)?
2. Is the family financially eligible for EAF (does the family have gross available income on the date of application at or below 200% of federal poverty level for the household size, or is the household financially eligible to receive TA, see [GIS 02 TA/DC030](#))?
3. Is the item of need other than a utility shut-off, a security deposit, or brokers'/finders' fees?
4. Is there a reasonable chance that a nonrecurring short term diversion payment will enable the applicant to obtain or maintain self-sufficiency and avoid the need for ongoing assistance?
5. Does the applicant meet the federal diversion payment criteria for the specific item of need, for example, for a transportation related diversion payment, is the TA applicant employed as required?

When each of the above five questions can be answered "Yes", SSDs must authorize a diversion payment by using the appropriate WMS diversion payment type code. If the family has an emergency or immediate need situation that does not meet the criteria to utilize a WMS diversion payment type, the case is not considered a diversion case for federal reporting purposes and a WMS diversion payment type must not be used. The family may still be eligible for EAF, therefore, the availability of an EAF emergency payment, or if eligible, WTW supportive payments should be explored to ameliorate a TA applicant family's emergency or immediate need.

Accurate use of the WMS diversion payment types will assure that federal reporting requirements are met and avoid the penalty for failure to do so.

F. UTILIZING ESNA TO DIVERT HOUSEHOLDS FROM NEEDING ONGOING ASSISTANCE

ESNA is intended for individuals who are not eligible for on-going TA including on-going SNA and have a short-term emergency situation (expected to last 3 months or less) such as, expenses resulting from a fire or other emergency. If necessary, non-recurring ESNA payments may be authorized to divert a household from needing on-going TA if the applicant is eligible for ESNA, and the payment will resolve a crisis and enable the applicant to obtain or maintain self-sufficiency. ESNA may also be authorized to applicants who are eligible for on-going SNA but have agreed to accept a non-recurring payment to assist the applicant in obtaining or maintaining self-sufficiency and prevent the need for on-going TA.

SSDs may authorize ESNA to divert applicants of TA. To authorize ESNA to divert an applicant from needing on-going TA the household must be eligible to receive ESNA (Eligibility is based upon the same criteria and scope of assistance as specified in 18 NYCRR 370.3), there must be an immediate need or crisis that, if not met, will jeopardize an individual's ability to obtain or maintain self-sufficiency, and there is a reasonable chance that the payment will divert the applicant from needing on-going TA.

ESNA payments to divert applicants from needing on-going TA are limited to the scope of assistance as specified in 18 NYCRR 352. Services payments such as car insurance payments or car repairs cannot be paid for applicants, who are not eligible for EAF, therefore these services payments may not be authorized to household eligible for ESNA. WTW employment related supportive services payment should be explored if the identified need is employment - related.

G. ESNA AND FREQUENT APPLICATIONS FOR PAYMENTS TO DIVERT HOUSEHOLDS FROM ON-GOING TA

ESNA is not intended to help applicants meet their on-going normal everyday living expenses. If an individual who is eligible for ESNA submits frequent applications for diversion payments, the SSD must explore the reason for the frequent requests and determine if an ESNA payment will assist an applicant in obtaining or maintaining self-sufficiency, or if the applicant cannot meet their normal everyday expenses because they have insufficient income to meet their needs.

If a SSD worker using their best judgment determines that a non-recurring ESNA payment will assist an applicant in becoming self-sufficient and prevent the need for on-going TA, the SSD has flexibility in approving or denying the applicant's request for ESNA even though there are frequent applications for assistance. For example, a SNA individual who has been employed full-time for just two weeks has applied for assistance to meet a shelter need because he was evicted and needs temporary housing for only two nights since his new apartment is not ready for occupancy. The SSD worker determines that an ESNA payment for the temporary housing is appropriate because the applicant is financially eligible for SNA and is homeless.

Two months later the same individual who is still employed full-time submits another application, this time for ESNA because when he moved to permanent housing he had to pay for the cost of a security deposit and moving. This resulted in him getting behind in paying his rent and he now has a shelter emergency due to rental arrears. Even though this new application could be considered a frequent application for assistance under the SSD's policy, it may still be appropriate to provide an ESNA shelter arrears payment because the applicant will be able to pay future rent with his wages. Also, maintaining his apartment will provide the stability he needs to keep his job and prevent the need for on-going assistance payments.

If the SSD worker using their best judgment determines that a non-recurring ESNA payment will not promote self-sufficiency, the SSD can deny the applicant's request for assistance based on frequent applications for emergency assistance. For example, the district has a policy that more than one request for emergency assistance in a two month period is considered to be a frequent application. An individual who is employed part-time applied for recurring assistance on September 18th claiming a "no food" emergency. The SSD processed an emergency payment to meet the individual's need. The individual was not eligible for expedited food stamp processing. The applicant withdrew his application for recurring assistance after his food need was met. The same individual applies for emergency assistance on October 20th again claiming a "no food" emergency. After investigating, the SSD determines that the applicant is financially eligible for recurring SNA and that a non-recurring payment will not assist him in becoming self-sufficient because his part-time job does not provide enough income to meet his daily living expenses. Therefore, the SSD determines that recurring assistance is more appropriate. The SSD can deny the emergency request for help, including a cash grant to meet this "no food" emergency, and require the applicant to complete the eligibility process for recurring assistance to address his long-term need.

H. EAF AND ESNA SHELTER ARREARS DIVERSION PAYMENTS AND AFFORDABILITY OF SHELTER

Eligible applicants may receive a TA allowance for rent, mortgage or tax arrears for the time prior to the date the case was opened if several conditions are met, including the condition that the applicant can reasonably demonstrate an ability to pay future shelter expenses (see [95 INF-43](#)). If, after careful review, it is determined that an EAF or ESNA payment for shelter arrears will assist the household in maintaining self-sufficiency and divert the applicant from needing ongoing assistance, the SSD may be flexible with the shelter affordability requirement. For example, an employed person applies for assistance to meet rental arrears. The SSD determines that the housing is not affordable. However, to ensure the stability of the household so that employment is not disrupted and progress towards self-sufficiency is maintained, the SSD decides that it's better to pay the arrears and assist the applicant in locating more affordable housing within a specified time period.

I. TA NOTICES

Notice [LDSS-4002](#) "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance" should be used to notify the applicant family of the decision concerning payments made to divert a household from needing ongoing TA. If the applicant family is denied, the [LDSS-4002](#) including the full reason for the denial must be provided. If the applicant family is approved for a diversion payment, the notice must clearly explain to the applicant how the diversion payment is being used to meet their identified and discrete need. If the need is an immediate need the [LDSS-4002](#) must be provided the same day.

If an applicant designates in writing that they are only applying for a diversion payment, or a one-time payment to meet an emergency/immediate need, and are not seeking ongoing TA, SNAP or Medical Assistance, the Notice [LDSS-4002](#) "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance" may be used to adequately notify applicants without providing any additional notice(s).

If an applicant does not designate in writing that they are only applying for a diversion payment, or a one-time payment to meet an emergency/immediate need, the household must be provided with the following two notices:

1. [LDSS-4002](#) "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance"
2. [LDSS-4013A](#) & [LDSS-4013B](#) "Action Taken on Your Application": Temporary Assistance, Supplemental Nutrition Assistance Program and Medical Assistance Coverage" (Part A and Part B)

J. SNAP IMPLICATIONS

A Temporary Assistance for Needy Families (TANF) payment made to divert a family from becoming dependent on ongoing TA benefits is excluded from SNAP income as a non-recurring lump-sum payment if the payment is not defined as assistance because of the TANF exception for non-recurrent, short-term benefits. These diversion payments meet that criteria and are excluded as SNAP income. However, SSDs must remember that the diversionary requirements of TA do not apply to the Supplemental Nutrition Assistance Program. Districts must process applications for SNAP even if diverting from TA and must encourage applications from those expressing concerns about not having enough food or money to buy food (food insecurity).

K. MEDICAID IMPLICATIONS

Temporary Assistance for Needy Families (TANF) and Safety Net diversion payments made to avoid the need for recurring assistance are exempt for the purposes of qualifying for Medicaid. Individuals who apply and receive such payments who also apply for Medicaid must have Medicaid eligibility determined separately. Districts should inform applicants of the availability of health care through the Medicaid, Family Health Plus and Child Health Plus Programs and encourage application for health care.

L. EXAMPLES

EXAMPLE 1

Mr. Solomon has never received TA, but his wife has just had their first child and has stopped working. To relieve the financial burden to the family, Mr. Solomon has obtained a new job with a substantial increase in pay, 10 miles from the family's apartment. A friend who has agreed to provide Mr. Solomon with transportation to and from his new job has been hospitalized and will be unable to take him to work for 2 weeks. Mr. Solomon needs help in meeting the expense of transportation costs to and from the new job for two weeks until his first pay check is received. Mr. Solomon applies for TA benefits to meet this discrete need at his local SSD. The worker determines that Mr. Solomon has no available resources to pay for two weeks of taxi and bus fare. Since Mr. Solomon is an employed applicant and the new job offers higher wages, the authorization of transportation expense will probably enable Mr. Solomon to maintain his family's self-sufficiency and prevent the opening of an ongoing TA case. For both NYC and upstate WMS the worker authorizes a diversion payment 'D9 - Diversion Transportation Payment'.

EXAMPLE 2

Mr. Taupans has a minimum wage job. He has been able to maintain his family by working 50 hours a week. Recently, he has fallen behind in utility payments and has received a shut off notice. Mr. Taupans applies for TA benefits at his local SSD to meet this discrete need. The worker determines that due to excess income the household is ineligible for ongoing assistance. Since this is an energy-related emergency, the worker does not consider a diversion payment type. The family's eligibility for EAF must be determined and, if eligible for assistance, a payment would be authorized by using WMS payment type '60 - Emergency Payment to Prevent Shut-off or Restore Service'. In NYC the payment would be issued as code '50 - Utility Advance-Non-Recoupable'.

EXAMPLE 3

Miss Kelso lives with her seven year old daughter in an apartment that is within walking distance of her current job. Miss Kelso's current job pays minimum wage for up to 30 hours week. She has been offered another job in a neighboring town that offers a full workweek and a higher hourly wage. She has found a new apartment that is reasonably priced and is within walking distance of her new job. She has used all of her available resources to pay the security deposit on the apartment but she does not have enough money to pay for the current month's rent or to move her personal belongings. Miss Kelso applies for TA benefits at her local SSD to meet this discrete need. The worker determines that this is a diversion situation since the applicant will probably become self-sufficient with the move. The worker therefore authorizes the moving expenses as 'F5-Diversion Payment' for upstate WMS or 'D5-Diversion Payment' for NYC WMS and the current month rent as 'F6-Diversion Rental Payment' for upstate WMS or 'D8 -Diversion Rental Payment' for NYC WMS.

EXAMPLE 4

Mr. Smith, a single individual living alone, filed an application for temporary assistance after exhausting his Unemployment Insurance Benefits (UIB). During the application period, Mr. Smith was assigned to participate in job search activities and subsequently secured employment with a local manufacturing company. Before Mr. Smith could accept the job he needed help to pay his car insurance premium so he could get to the job. Diversion and Emergency Assistance to Families (EAF) payments are not available because Mr. Smith is not categorically eligible for TANF. Emergency Safety Net Assistance (ESNA) is not available in this situation because there is no authority in Part 352 of office regulations to pay for car insurance for individuals not categorically eligible for EAF. Therefore, the local social services official determined that a supportive service (a car insurance payment) was necessary for Mr. Smith to obtain employment and divert his need for ongoing assistance. The local district documents that the personal vehicle is needed for Mr. Smith to get to work and authorizes a supportive service payment directly to Mr. Smith's insurance company using payment type "R7" to avert his need for ongoing assistance. The worker decides to issue a supportive services payment even though Mr. Smith maybe eligible for ESNA because there is no authority in Part 352 of Office Regulations to pay for car insurance for individuals not categorically eligible for EAF. (R7 payment type is considered an assistance payment, and it will therefore count towards the state 60-month time limit).

EXAMPLE 5

Mr. Williams and his family are receiving FA benefits. Mr. Williams is currently employed as a part time mechanic at a local car dealership. Mr. Williams has an opportunity to begin working as a full time mechanic making \$17 an hour, 40 hours a week but he must first purchase \$500 in tools. Mr. Williams has no resources to purchase the tools so he discussed the situation with his SSD worker. The worker determined that this is a diversion situation because Mr. Williams will be able to obtain increased employment that would lead to the closing of the household's TA case. The worker telephoned the manager of the dealership and an agreement was reached that Mr. Williams could purchase a used set of tools for \$400.00 directly from the dealership. At the time of case closing the worker authorizes the purchase of the tools using WMS diversion payment type D7 - Transitional Services Payments (for Upstate and NYC WMS).

Glossary - A

The following is an alphabetical listing of terms (and their definitions) used throughout the Source Book.

ABEL BUDGET

Temporary assistance or supplemental nutrition assistance program budget which has been calculated by the Automated Budgeting and Eligibility Logic subsystem of WMS after input of basic data regarding case category, household composition, needs, and income.

ACCEPTED FOR ASSISTANCE

Eligibility has been fully established through investigation or emergency need and presumptive eligibility have been established and authorization for assistance has been made and approved by the social services official.

ACKNOWLEDGED PATERNITY

Admission by a man that he is the father of a child born or expected to be born out of wedlock. Acknowledgment of paternity includes a signed statement from the man acknowledging paternity or any other satisfactory evidence that the relationship was recognized and admitted as a valid acknowledgment of paternity.

ACTION NOTICE

An action notice means a notice from a local district advising an applicant or recipient of any action the local district intends to take or has taken on any assistance or benefits.

ADJUDICATED PATERNITY

Determination by a court that a man is the father of a child born out of wedlock; regardless of whether the man has admitted or acknowledged paternity.

ADEQUATE NOTICE

An adequate notice means a notice of action, or an adverse action notice or an action taken notice. The provisions of an adequate notice are found in [TASB Chapter 8, Section B](#).

AGENCY CONFERENCE

An informal meeting at which an applicant or recipient may have any decision of a local district concerning the applicant's or recipient's TA reviewed or may have any other aspect of the applicant's or recipient's case reviewed by an employee of that local district who has the authority to change the decision with which the applicant or recipient disagrees.

AMERICAN REPATRIATE

A citizen of the United States or his/her dependent identified by the Federal Department of State as having returned or been brought back home from a foreign country to the United States because of destitution of the citizen of the U.S. or the illness (mental or physical) of such citizen or any of his dependents or because of war, threat of war, invasion or similar crisis and are without available resources.

APPLICANT

Person who has expressed in writing on the state-prescribed form directly or by a representative to a social services official a desire to receive assistance and/or care or to have his eligibility considered.

APPLICATION

Action by which a person indicates in writing on the state-prescribed form his desire either to receive assistance and/or care or to have his eligibility considered by a social services official.

ASSET

Item of value that is owned

ASSIGNMENT

Transfer of title or interest from the applicant/recipient to the local district and/or the State Department of Social Services. Commonly occurring types of assignment include:

1. assignment of support rights,
2. assignment of insurance or other benefits,
3. assignment of title to a resource.

ASSISTANCE UNIT

The individual or number of individuals, for whom assistance is provided.

AVAILABLE INCOME

Income which may be used to reduce or eliminate an individual's need for temporary assistance.

AUTHORIZATION PERIOD

The period for which TA benefits are authorized.

Glossary - B

BASIC LITERACY LEVEL

A level of reading ability which allows an individual to function at the level of a person who has successfully completed at least the ninth month of the eighth grade.

BASIC/REMEDIAL EDUCATION

See Educational Activities

BLIND

As defined in the Human Rights Act, a person shall be considered blind if the person has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than twenty degrees shall be considered as having central visual acuity of 20/200 or less.

BOARDER/LODGER

1. Person who is paying room and board,
2. A budgeting methodology for determining the amount of the income available to a PTA recipient from a person paying room and board or from certain non-applying, non-legally responsible members of the household.

BUDGET DEFICIT

Amount by which an applicant's or recipient's needs exceed his income.

BUDGET SURPLUS

Amount by which an applicant's or recipient's income exceeds his needs.

BUDGETING

Process by which the local district determines:

1. An applicant's/recipient's financial eligibility for TA; and,
2. The amount of his TA grant

Glossary - C

CARETAKER RELATIVE

The parent or appropriate other relative, as defined by the TA program, who is primarily responsible for the care of a child.

CASE CLOSING

Final action signifying that the case is no longer eligible for financial assistance in the TA program. Such action is also taken when the case is transferred or reclassified to another category of TA.

CASE COUNT

Consists of the number of people in the household who are applying for or receiving TA, plus any non-applying, legally responsible relative with income sufficient to meet their needs.

CASE MANAGEMENT

A supportive services system of counseling and interaction between a case manager and a participant. The purpose of case management is to help enhance the participant's motivation to achieve self-sufficiency and to help the participant develop a sense of personal responsibility for resolution of problems.

CASE RECORD

Means all written material concerning an applicant or recipient, including the application form, the case history, budget and authorization forms, medical, resource and financial records.

CHILD CARE

Any lawful form of care of a child, for less than 24 hours per day including any such form of care defined in Office Regulation 415.1.

CHILD SUPPORT

The legal obligation of a non-custodial parent to contribute to the economic maintenance of his/her child.

CIN (CLIENT IDENTIFICATION NUMBER)

This is a WMS assigned number which uniquely identifies each individual known to WMS. If an applicant has been on assistance previously, this number will be on the Application/Registry and/or on the WMS Clearance Report. In New York City, this number is called RIN (Recipient Identification Number).

COMPLAINT

Any written or oral communication made to a local district or the Department by or on behalf of an applicant for or recipient of TA or care, other than a complaint for which there is a right to a fair hearing, or a communication from any other source directed or referred to the local district or OTDA directly or indirectly alleging dissatisfaction with a local district action.

COMMON BENEFIT IDENTIFICATION CARD (CBIC)

Statewide card used by recipients to access Medicaid, Cash and Supplemental Nutrition Assistance Program benefits. The CBIC system is a statewide sub system of WMS

CONCILIATION PROCESS

A procedure for resolving participant grievances and issues related to a participant's failure to comply with employment requirements. The process may establish whether or not a participant's failure to comply with employment program requirements was willful and without good cause.

COOPERATIVE CASES

Cases that exist when two or more persons in the same dwelling unit are eligible for or are in receipt of separate grants of TA.

COUNTABLE INCOME

Net income which can be used in determining eligibility or degree of need for TA.

CUSTODIAL PARENT

A parent who lives with his/her child.

CUSTOMER OF RECORD

The person who has or persons who have an account, in their name, with a home energy vendor.

Glossary - D

DAY CARE

See Child Care

DEEMING

The process needed to determine the amount of a person's income available to reduce the needs of another individual whether or not the income is actually available to that other individual. Deemed income is income attributed to another whether or not the income is actually available to the second person.

DISABLED

As defined in the Human Rights Act, means a physical, mental or medical impairment resulting from anatomical, physiological or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, a record of such impairment or a condition regarded by others as such impairment.

DOMESTIC VIOLENCE SCREENING ASSESSMENT

Under the Family Violence Option in New York, procedures are in place to screen temporary assistance applicants/recipients for domestic violence and to provide services referrals and temporary waivers of TA requirements which would place the victim at further risk.

DRUG AND ALCOHOL SCREENING AND ASSESSMENT

All adults and head of household applying for TA are screened for drug and alcohol abuse. A positive screening results in an assessment of the individual by a certified drug/alcohol counselor. If a treatment program is indicated as a result of assessment, the individual is referred to an appropriate credentialed substance abuse treatment program.

DWELLING UNIT

House, apartment, room, trailer, duplex, or other living quarters used as a home by members of a household

Glossary - E

EARNED INCOME

See [TASB Chapter 18, Section C](#)

EARNED INCOME TAX CREDIT (EITC)

Refundable credit to which families with dependent children and limited incomes may be entitled. The credit is based on the family's earned income and is to be applied first against their tax liability. If the amount of credit is greater than the family's tax liability, the excess is treated as an overpayment of taxes and refunded to the family. The EITC may be included in regular pay checks based on estimated credits or as a lump sum payment at the end of the tax year.

EARNED INCOME DISREGARDS

Earned income disregards are the allowable deductions and exclusions subtracted from gross earnings. The resulting amount, or net income, is applied against the household's needs. Earned Income Disregards vary in amount and type.

EDUCATIONAL ACTIVITIES

Include but are not limited to secondary and post-secondary level activities, defined as follows:

a. Secondary Level

- (1) High School - A public or private educational facility providing a standard high school curriculum offered by or approved by the local school district.
- (2) General Education Development (GED) - An education program that prepares an individual to obtain a New York State high school equivalency diploma.
- (3) Basic/remedial education - Education in the areas of reading, writing, mathematics and oral communications for individuals functioning below the eighth grade level in those areas.
- (4) Literacy training - Education designed to help individuals improve their ability to read and write.
- (5) English as a second language (ESL) - An instructional program designed to develop skills in listening, speaking, reading and writing the English language for individuals whose native or primary language is other than English.

Post-secondary education - A two year full-time degree granting program at a community college at a two year college or at a four year college which offers two year degree programs.

ELECTRONIC BENEFIT TRANSFER

A debit card method of accessing Cash and Supplemental Nutrition Assistance Program benefits

ELIGIBILITY

Determination as to whether an individual meets defined criteria which entitle him to assistance under a specific program. In most assistance programs, there are two types of eligibility - financial eligibility and categorical eligibility. An applicant must meet both sets of eligibility criteria before being granted assistance.

CATEGORICAL ELIGIBILITY - A determination as to whether an individual is a member of the class of individuals whose needs are to be served under a specific assistance program.

FINANCIAL ELIGIBILITY - A determination as to whether an individual may be considered needy under a specific assistance program.

EMERGENCY ASSISTANCE FOR ADULTS (EAA)

EAA is a temporary assistance program that provides financial assistance to meet emergency needs of adults who are eligible for SSI.

EMERGENCY ASSISTANCE TO NEEDY FAMILIES (EAF)

EAF provides assistance for families with children to deal with crisis situations threatening a family, and meet emergent needs resulting from a sudden occurrence or set of circumstances demanding immediate attention.

EMERGENCY SAFETY NET ASSISTANCE (ESNA)

ESNA is a TA program that provides financial assistance to meet individual's emergency needs.

EMANCIPATED MINOR

A person over 16 years of age who has completed his compulsory education, who is living separate and apart from his family and is not in receipt of or in need of foster care.

EMPLOYABILITY PLAN

A written document, developed in consultation with a TA recipient that specifies the services to be provided by a district and the steps to be taken by the recipient as part of plans to lead the participant to employment.

EMPLOYABLE

An individual who is not exempt from employment program requirements.

ESSENTIAL PERSON

An individual who qualifies for FA because he/she is essential for the well-being of case members.

EQUITY VALUE

Fair market value less encumbrances.

EXCLUSIONS

See "Income Disregards and Exclusions".

EX-OFFENDER

An applicant/recipient who has been convicted of a crime and has served the required term of incarceration or is on probation or parole, or in a pre-sentencing program.

Glossary - F

FAIR HEARING

Fair hearing is a formal procedure provided by OTDA upon a request made for an applicant or recipient to determine whether an action taken or failure to act by a local district was correct.

FAMILY ASSISTANCE (FA)

FA provides cash assistance to eligible needy families that include a minor child living with a parent(s) or caretaker relative. It is operated under the federal TANF rules and is funded with federal/State/local money.

Under FA, eligible adults are limited to receiving benefits for a total of 60 months in a lifetime, including months of TANF-funded assistance granted in other states. Once this limit is reached, the adult and all members of his or her household are ineligible to receive any more FA benefits.

FEDERAL SUBSIDIZED HOUSING AUTHORITY

A public housing authority is sponsored by a legal jurisdiction, usually a town or city and received federal funds for its construction. In addition, a Federally subsidized public housing authority receives an annual Federal subsidy usually in the amount of the Federally subsidized public housing authority's annual operating deficit.

FILING UNIT

Filing unit refers to those individuals who must be included in the TA household and case count when a minor dependent child applies for assistance.

FULL-TIME SCHOOL ATTENDANCE

For academic institutions, the determination of what constitutes full-time attendance is based on the institution's definition of full-time. Full-time status includes the following:

1. resident pupils while temporarily absent from home, when the primary purpose is to secure educational, vocational or technical training and the parent retains full responsibility for and control of such minor;
2. enrolled in school, but on vacation, or
3. instruction in the home conducted by the board of education or enrolled in any course leading to a high school equivalency certificate.

Glossary - G

GARNISHEED WAGES

Income from work activity that has been attached through legal action to guarantee payment of a debt. The amount withheld usually represents a percentage of salary or wages.

GENERAL EDUCATION DEVELOPMENT (GED)

See Educational Activities

GENERAL INFORMATION SYSTEM (GIS)

A means for quickly distributing advisory or directive information and technical WMS-related instructions to local districts through the use of the WMS telecommunications network. Any appropriate textual material relative to Department programs and WMS systems becomes immediately available, via Visual Display Terminals (VDT's), to all local districts. GIS was developed to quickly advise local districts of urgent and state-wide relevant information in a clear and concise format.

GROSS INCOME TEST

As a condition of TA eligibility, a household's total gross income, before application of any disregards or exclusions, cannot exceed 185 percent of the standard of need for a family of the same size.

GROSS WAGES

Total earned income before applicable income exclusions and disregards have been subtracted.

Glossary - H

HIGH SCHOOL

See Educational Activities.

HOME ENERGY VENDOR

The individual or entity engaged in the business of selling electricity, natural gas, oil, wood, coal, propane, kerosene or any other fuel used for residential heating.

HOMELESS PERSON(S)

A person or family who is non-domiciled, has no fixed address, lacks a regular night time residence, resides in a place not designed or originally used as a regular sleeping accommodation for human beings or is residing in some type of temporary accommodation such as a hotel, shelter, or residential program for the victims of domestic violence.

Glossary -I

IMMIGRANTS

Aliens who have been admitted for permanent residence.

INCOME DISREGARD & EXCLUSIONS

Income specified by OTDA regulations which is not to be considered in establishing initial or continuing financial eligibility for TA.

INCOME IN-KIND IN TEMPORARY ASSISTANCE PROGRAMS

Payment received in lieu of wages, usually in the form of a commodity such as rent, fuel for heating, clothing. (The SSI definition is different.)

INDIVIDUAL ASSESSMENT

A written evaluation of a participant's employability based on the person's educational level, including literacy and English language proficiency, his or her child day care and other supportive services needs and the skills, prior work experience, training and vocational interests of the participant. The evaluation includes a review of family circumstances, including a review of any special needs of a child.

INFORMAL CHILD DAY CARE

Child day care provided in a home meeting the requirements for such homes as contained in Department Regulation 417.

INITIAL DETERMINATION

Action based upon the local social services district's review of the facts concerning an application for TA or care in which a determination of eligibility or ineligibility for temporary assistance or care is made.

INITIAL PAYMENT (SSI)

First payment of SSI benefits to or on behalf of an eligible applicant, retroactive to date of SSI application or eligibility.

INQUIRY

Is any request for information which does not constitute an application for temporary assistance or care and which does not come within the definition of a complaint.

INTERIM ASSISTANCE

Safety Net Assistance (SNA) grants or Child Welfare Foster Care (non IV-E) benefits furnished to or on behalf of an applicant for Supplemental Security Income (SSI) during the period beginning with the month in which the recipient filed an SSI application and

was eligible for SSI and ending with the month after the month in which the initial payment was received.

INVESTIGATION

Collection, verification, recording and evaluation of factual information on which basis a determination is made of eligibility and degree of need or of ineligibility for any form of TA.

Glossary - L

LAWFUL PERMANENT RESIDENT

An alien who is lawfully admitted for permanent residence or otherwise permanently residing in the United State under color of law.

LEGAL CHILD DAY CARE

Any child day care provided by a regulated provider or an informal child day care provider as defined in Department Regulation 415.1.

LEGAL GUARDIAN

An individual other than a parent, legally responsible for a child

LEGALLY RESPONSIBLE RELATIVE

A relative who, by law is responsible for the support and care of another person such as a spouse, parent or step-parent. Parents (including adoptive parents) and step-parents are responsible for the support of their children and/or step-children only under the age of 21.

LIFE INSURANCE

Contract between the holder of a policy and an insurance company, whereby the company agrees, in return for periodic premium payments, to pay a specified sum (face value) to the designated beneficiary upon the death of the insured. Life insurance is a potential asset.

1. CASH VALUE (INSURANCE) - The cash surrender value of a life insurance policy is:
 - a. The reserve value less a surrender charge which the insurer will pay upon cancellation of the policy before death, or
 - b. A predetermined amount at a given point in time.
2. FACE VALUE (INSURANCE) - The value stated on the face of an insurance policy, the value at maturity or death, or the value upon which interest is computed.
3. TERM INSURANCE - A form of pure life insurance usually having no cash surrender value and generally providing insurance protection for only a specified or limited period of time; though such policy is usually renewable from time to time.

LITERACY TRAINING

See Educational Activities.

LUMP SUM PAYMENTS

Lump sum income is receipt of any substantial, non-recurring/windfall amount of money
- i.e., inheritance, gift, accident settlement, etc.

Glossary - M

MANDATORY PAYROLL DEDUCTIONS

The personal work expenses of Federal, State, and local taxes, social security taxes and disability insurance.

MINOR CARETAKER RELATIVE

A parent or appropriate other relative, under 21, who is primarily responsible for the care of a child.

MINOR DEPENDENT CHILD (filing Unit)

An individual under the age of 18

MISSING PARENT

Parent whose whereabouts are unknown.

Glossary - N

NEEDS (ESTIMATE OF NEED)

Monthly amount which is considered adequate for an individual or family to meet the basic necessities of living. Items to be considered in determining needs are defined in OTDA regulations as are the monetary amounts which are considered sufficient to meet those needs.

NET INCOME

Total earned income less income deductions and exclusions.

NET LOSS OF CASH INCOME

An amount by which a household's gross income, less any necessary work-related expenses, is less than the cash assistance the household was receiving at the time of receiving an offer of employment. Gross income includes, but is not limited to, earnings, unearned income and cash assistance.

NON-ASSISTANCE

Non-assistance for federal purposes are benefits that are not recurring and are short - term, designed to meet a specific crisis or episode of need, not meeting recurrent or ongoing needs, and not extending beyond four months. Non- assistance paid to a TANF recipient does not count toward the TANF 60-month time limit.

NON-IMMIGRANTS

Aliens admitted temporarily for specific purposes and specific periods of time.

NON-LEGAL UNION

Refers to an unmarried couple living together with or without children.

NON-PERSONAL WORK EXPENSES

Expenses incurred in connection with a particular job, such as union dues, cost of tools, materials, uniforms, and/or equipment not supplied by employer, and/or fees for licenses or permits required by law.

Glossary - O

ON-THE-JOB TRAINING (OJT)

An activity which participants are trained at worksites for particular jobs. The training is mostly active learning-by-doing and participants immediately apply the skills they learn. Participants are employed by private sector employers and, while engaged in productive work, receive training that provides the skills and knowledge essential to the full and adequate performance of the jobs.

Glossary - P

PARENT

Natural or adoptive parent, but not stepparent.

PARENT (MINOR)

Parent under age 18.

PAROLEES

Aliens not otherwise admissible who are sometimes paroled into the United States at the discretion of the government.

PARTICIPATING IN A STRIKE

The term "participating in a strike" means concerted cooperation and support for a strike action which results in a reduction of income, but does not include in its meaning concurrent work stoppage due to illness, approved vacation, firing, lock-out, lay-off related to the strike, intimidation or threats by strikers, acceptance of other full time employment or any other reason consistent with OTDA Regulations.

PAYMENT QUARTER

A term used in quarterly reporting. The three calendar month period after the process month.

PERIODIC REPORT

A form ([LDSS-4310](#)) that recipient's subject to quarterly reporting must complete and return to the local district between semi-annual face-to-face recertifications.

PERIODIC REPORTING (QUARTERLY REPORTING)

A procedure for obtaining information concerning the incomes and circumstances of certain TA recipients through semi-annual recertifications and semi-annual mailed reports.

PERSONAL PROPERTY

Generally, any item of value owned, other than real property or insurance.

PERSONAL WORK EXPENSES

Expenses such as federal, state and local taxes, withholding taxes such as social security, group insurance, meals and transportation, and child care.

POLICY

Rules under which a program of TA is administered.

POST-SECONDARY EDUCATION

See Educational Activities.

POTENTIAL EMPLOYABLE

An applicant for or recipient of TA who is not employable for medical reasons and, in the judgment of the local district, can be restored to self-support through appropriate rehabilitation.

PREGNANCY ALLOWANCE

The \$50 allowance granted to a pregnant woman

PROCESS MONTH

A term used in quarterly reporting. The month in which information contained in a quarterly report or obtained during a recertification is reviewed. With respect to information obtained from a quarterly report, the process month is the third month of an authorization period. With respect to information obtained at recertification, the process month is the last month of the authorization period.

PRORATING

1. Process of calculating an amount for the specified number of days which are fewer or more than the regular period for which the need was established.
2. Arithmetic process whereby the needs and/or income of a household are divided by the number of people in the household to determine each individual member's share of those needs and/or income.

PROSPECTIVE BUDGETING

This means that the local districts shall determine the amount of the grant based on an estimate of average monthly income and/or circumstances which will exist in the month in which the TA grant is made.

PUTATIVE FATHER

A male against whom an allegation of paternity of a child born or to be born out of wedlock has been made, but for whom paternity has not been acknowledged or adjudicated.

Glossary - R

RECERTIFICATION

Process by which continuing eligibility for TA is established by investigation and documentation at specified intervals and which shall include a reevaluation and reconsideration of all variable factors of need and other factors of eligibility and a decision made to continue, modify or discontinue the grant.

RECIPIENT

Person who has submitted an application for TA and who has been determined by the local district to be eligible for a specific program. Also includes those eligible individuals on whose behalf a TA application was submitted by another person.

RECOUPMENT

The method of recovering overpayments made to TA households by reducing the amount of their ongoing assistance grant.

RECURRENT INCOME

Income received on a regular and anticipated basis.

REFUGEES

A refugee is an alien who is outside any country of his/her nationality and who is unable or unwilling to return, and is unable to avail himself or herself of the protection of that country because of persecution on account of race, religion, nationality, membership in a particular social group or political opinion, or is an individual designated a refugee by the President.

REGULATED CHILD DAY CARE

A licensed, certified or registered child day care provider as defined in Regulation 415.1.

REPORT QUARTER

A term used in quarterly reporting. The three-month period covered by a quarterly report.

RESOURCES

Assets, income (in cash or in kind), or other property which may be used to reduce or eliminate an applicant's/recipient's need for TA.

RESTRICTED PAYMENT

Money payment made to or on behalf of eligible individuals or families in a form other

than in cash, checks, or warrants immediately redeemable at par, with no restrictions on the use of funds by the individual imposed by the local district.

RSDI (Retirement, Survivors, and Disability Insurance)

The official name of benefits issued under Title II of the Social Security Act. These benefits are frequently referred to simply as "social security", and are also known as OASDI (Old-Age, Survivors, and Disability Insurance).

Glossary - S

SAFETY NET ASSISTANCE (SNA)

SNA is a state and locally funded program that provides cash assistance to eligible individuals, couples and families that are not eligible for family assistance.

SANCTION

The action of disqualifying a person from receiving TA because that person has refused to meet certain requirement(s) of a TA program. The sanction may be imposed for a specific period of time and/or until compliance depending on the program requirement.

SERVICE PROVIDER

A public agency or a private non-profit or private for-profit organization providing an employment related activity(ies) or service(s) to the local district or the Department through contract or agreement.

SEVERANCE PAY

Payment, usually a lump sum, by some employers to employees at termination of employment. Amount is usually based on wages and number of years of service.

SIBLINGS

For purposes of the "filing unit" provision a sibling is a blood related (at least one common parent) or adoptive brother or sister under the age of 18 but not stepbrother or stepsister (no blood relation).

SPONSOR OF ALIEN

A sponsor is any person or public or private agency that executed an Affidavit(s) of Support (I-864) or similar agreement on behalf of an alien who is not the child of the sponsor or the sponsor's spouse as a condition of the alien's entry into the U.S.

SPOUSE

Husband or wife.

STATE-PRESCRIBED FORM

A form which must be used for a specified purpose and without alteration by local districts and/or applicants/recipients. For example, the application form is a State-prescribed form and must be used by anyone seeking TA.

STEP-PARENT

Person not a natural parent who is the spouse of a parent; the stepmother or the stepfather of a child.

STRIKE

The term includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slow down or other concerted interruption of operations by employees.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

A state program that provides food assistance to some individuals who are ineligible for federal supplemental nutrition assistance program due to their alien status.

Glossary - T

TA HOUSEHOLD

1. Number used in the TA budgeting process to determine the total needs of a household. Generally, the household count shall include persons who indicate a desire to receive TA and who reside together in the same dwelling unit. However, some individuals are automatically included in the TA household, regardless of their desire to apply for assistance. These individuals can be:
2. Persons on separate assistance grants (cooperative cases)
3. Non-applying legally responsible individuals with income sufficient to meet their needs. SSI recipients are not counted in the TA household unless they are applying for supplementary SNA. When the TA household number differs from the case count, a proration factor is used to determine the actual TA needs for the case. The amount of need for the number in the household is multiplied by the proration factor to give the total needs for the case.

TEMPORARY ABSENCE

Any absence from the local district administering the grant, providing that the recipient:

1. Does not leave the United States, and
2. Does not show evidence of intent to establish residence elsewhere.

TEMPORARY ASSISTANCE (TA)

TA is the cash assistance component of welfare. In New York State, temporary assistance includes: Family Assistance, Safety Net Assistance, Emergency Assistance to Needy Families, Emergency Safety Net Assistance and Emergency Assistance to Adults.

TENANT OF RECORD

The person who has or persons who have primary responsibility for payment of the monthly rent or mortgage for their dwelling unit. Individuals who contribute a portion of the monthly rent/mortgage to a person responsible for payment of the monthly rent/mortgage for their dwelling unit are not considered a tenant of record. To have primary responsibility for the payment of residential heating costs, the applicant recipient must be the customer of record with a home energy vendor.

TIME LIMITS

Assistance received will count toward a time limit (TANF 60-month, State 60-month or State 24 month) when made to a trackable individual in a trackable case type (FA, non-cash SNA/FP, cash SNA).

TIMELY NOTICE

This is the written notice a local district must issue before taking action to reduce or terminate a household's grant or allotment within its certification period. This notice must be sent at least ten days prior to the date such action is effective.

TRANSITIONAL CHILD DAY CARE

Child day care provided to eligible families in accordance with [TASB Chapter 28, Section A](#) when such care is necessary for a family member to accept or retain employment.

Glossary - U

UNDOCUMENT ALIEN

Undocumented aliens are non-citizens who entered the U.S. by avoiding inspection at the border, without being admitted or paroled by INS officer or temporary visitors who overstay their nonimmigrant visa.

UNUSUAL CIRCUMSTANCES

Failure or delay on the part of an applicant, recipient, or examining physician, or an administrative or other emergency beyond the social services district's control, which prevents a decision on categorical eligibility within the time limits specified in Office regulations.

Glossary - V

VENDOR PAYMENTS

Issuance of an order to a vendor, or payment to a vendor for furnishing food, living accommodations, or other goods or services to a TA recipient.

VOLUNTEER

An applicant for or recipient of TA who, whether or not exempt from participation requirements, volunteers for participation in employment activities.

Glossary - W

WAGE SUBSIDY

A payment made to a public or private employer to subsidize an employee's wage or fringe benefits. A wage subsidy may be offered as an incentive for an employer to hire a welfare recipient.

WELFARE TO WORK BLOCK GRANT

A program funded by the U.S. Department of Labor to provide employment related services to move hard to employ individuals to unsubsidized employment.

WORK ACTIVITY

A program or job to which an applicant or recipient of temporary assistance is assigned by a social services official. All unsubsidized employment is considered a work activity. A list of work activities is included in Department of Labor regulations (12 NYCRR 1300.9). The number of hours an individual may be assigned to work experience is limited by the value of the temporary assistance and supplemental nutrition assistance program benefits divided by the minimum wage.

WORK EXPERIENCE

A program designed to improve the job readiness of participants through actual work experience. Participants may be assigned to public or private nonprofit agencies.

WORK EXPERIENCE SITE

A public agency, municipality, or non-profit institution where work experience positions are provided through contract or agreement with the local district or project operator.