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OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
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Administrative Directive

Section 1

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Issuing Division/Office:	Temporary Assistance
Date:	August 4, 2003
Subject:	Temporary Assistance: New Shelter Allowances and Related Changes
Suggested Distribution:	Temporary Assistance Directors Medicaid Directors Food Stamp Directors TOP Coordinators Staff Development Coordinators
Contact Person(s):	Temporary Assistance Policy Questions: Central Team at (518) 474-9344 Medicaid Local District Support Unit Upstate (518) 474-8216 Medicaid NYC (212) 268-6855
Attachments:	Attachment A - LOCAL AGENCY MONTHLY SHELTER ALLOWANCE SCHEDULE WITH CHILDREN Attachment B - LOCAL AGENCY MONTHLY SHELTER ALLOWANCE SCHEDULE WITHOUT CHILDREN Attachment C - MODEL DISTRICT APPLICATION FOR SHELTER ALLOWANCE SUPPLEMENT
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Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-30	83 ADM-52 87 ADM-49	349.3(a) 352.3 (a) 352.3(d) 352.5 352.22(p) 352.29(h) 352.30(a) 352.30(e) 352.32(e) 369.2(c) 369.5(c) 370.10		TASB 9-E; 13-D; 13-G; 14-D; 17-C; 17-D; 20-E; 21-E; 23-C; 27-C FSSB V-A	

Section 2

I. Purpose

The purpose of this directive is to advise local districts of the impact of regulatory changes related to the shelter allowance. These changes affect both Family Assistance (FA) and Safety Net Assistance (SNA) programs.

II. Organization and Content

The regulatory changes which were promulgated cover a variety of policy areas associated with the shelter allowance. Where necessary, the Medicaid (MA), Food Stamps (FS), Systems and Notices implications are identified along with the discussion of the Temporary Assistance (TA) program implications and required actions.

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III. Background

On July 22, 2003 several different Office of Temporary and Disability Assistance (OTDA) regulations were amended that will significantly impact Local Department of Social Services (LDSS). A description of these regulatory changes and their respective justifying objectives follows below:

- **Shelter Allowance & Supplement** (18 NYCRR 352.2(c), 352.3(a)(1), (2)&(3)) – These regulatory amendments authorize a new shelter allowance and the payment of a rent supplement (at district option but with State approval) to temporary assistance recipients with children. When assessing the changes in the amount and provision of the shelter allowance and developing the supplementation policy, OTDA was mindful of the need to: 1) meet the policy mandates of welfare reform as reflected by the Legislature in the Welfare Reform Act of 1997 (WRA) and related Federal and State welfare reform legislation; 2) provide a shelter allowance that reflects the cost of adequate housing for each district of the State; and 3) reduce the incidence of serious housing problems, including homelessness.

In particular, the amendments are designed to address the following objectives:

- a. For each district within the State, provide a shelter allowance that reflects the cost of acceptable quality housing.** The new shelter allowances are based on revised estimates by a leading expert of the amount necessary to rent units that meet the housing standards used in the federal Housing and Urban Development's (HUD's) Section 8 program. The shelter allowances are designed to allow families to rent modest but adequate units, meeting specified standards, and are sufficient to allow families to live together in a home-type setting. The rates are set at a modest level to advance the successful State welfare policy that publicly provided cash benefits should be adequate to meet basic needs, and that welfare recipients should be encouraged through work incentives to purchase higher quality housing if desired.
- b. Provide for a supplement to ensure that family units facing special circumstances may be kept together in a home-type setting.** Even with shelter increases reflecting the standards noted above, recipients might, for a variety of reasons, experience housing problems. These reasons include personal problems (such as domestic violence, drug abuse or mental illness), inability to manage a limited budget, or specific housing characteristics in particular districts or parts of districts. To further ensure that resources are sufficient to avert housing crises, the recently enacted regulatory amendments provide for provision of a rent supplement at local discretion. The rent supplement provides a flexible and efficient means for local districts to respond to the housing problems of particular families or of particular groups of recipients. It also provides the means to respond to special housing issues within a district that may affect housing access.
- c. Maintain strong incentives to work.** This objective reflects the recent major shift within NYS and the nation in welfare policy goals from that of income maintenance, to encouraging work, and through work effort and related governmental supports, improved family well being and self sufficiency. This goal is reflected in a wide range of provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and New York's WRA of 1997, which implemented and extended provisions of PRWORA. These provisions include generous earnings disregards for those on assistance, establishing a time limit on receipt of Family Assistance, disregarding the entire State and federal Earned Income Tax Credit (EITC) and providing a combination of employment opportunities and support services to assist recipients who work to achieve economic independence. All these changes are focused on encouraging employment.

It is a well-established fact that increases in grant levels (a result of increasing the shelter allowance) reduce the incentive to work. Increased government benefits reduce work incentives for those on assistance, as well as low-income persons not currently on assistance. Moreover, for technical reasons explained more fully below, increases in the standard of need automatically reduce the earnings disregards, further eroding work incentives for those on assistance.

It is therefore essential that changes in the grant structure be designed in a way that minimizes reductions in work incentives. The regulatory amendments accomplish this by first providing increases in the shelter allowance that meet the statutory and commonly accepted notion that shelter and other components of publicly provided welfare should be adequate to meet basic needs (such as the need for adequate housing), but not exceed amounts required to meet such basic needs; and second, providing a discretionary supplement (as described above) that is not part of the shelter increase and therefore does not increase the standard of need. This method insures that increases in the grant itself are not so high that it takes away the incentive to obtain employment and the related employment benefits available. In turn, this insures that the improvements in family well being achieved under welfare reform will continue, including the significant reductions achieved in child poverty.

- d. Ensure fairness and equity in the provision of public benefits.** Working low income populations (often former recipients), must make a variety of choices concerning how to best provide for their families without publicly provided cash assistance (e.g., the choice to share housing costs with other family members or friends so as to extend resources for other purposes). It is imperative that resources provided to those on assistance not be so generous as to create advantages in housing access that would be viewed as unfair or placing working families at a disadvantage compared to families on welfare. These changes recognize this need by first increasing the shelter allowance to a level that is adequate, and then providing a rent supplement for those who still experience severe housing problems. This targeting of much of the housing relief on those actually experiencing serious problems (or groups likely to experience such problems), or on specific localities with special housing circumstances, avoids the increased inequity of providing larger shelter increases than those described here to all recipients.
- e. Simplify grant administration.** This change eliminates the current distinction between shelter with heat included or not in order to simplify grant administration.

Additional changes to policy and regulation that provide integrity and program reform in light of the increased shelter allowances, as well as a measure of cost savings to help fund the increased shelter allowances are detailed immediately below.

- **Existing Excess Shelter Litigation and Temporary Shelter Supplements (TSS)** (18 NYCRR 352.3(a)(ii) and 370.10) - Cases currently in receipt of court ordered Jiggetts (NYC) or other similar court ordered excess shelter payments (Nassau (Golding), Suffolk (Sharp and Holmes) and Westchester (Hedgepeth) Counties) as well as Temporary Shelter Supplements are allowed a 2-year frozen “grandfathering” period before receiving a shelter allowance pursuant to these regulations. After two years or a break in their receipt of the payment (such as when the family has lost temporary assistance eligibility or the family is sanctioned) the new supplement, if applicable, will be applied to the case. However, OTDA will continue to comply with existing court orders in the four districts until the courts terminate these orders.

- **Public Housing Schedule** (18 NYCRR 352.3(d)) - Public housing authorities are allowed to charge up to the shelter allowance maximum for temporary assistance recipients. This amendment will limit the increase that the housing authority may charge by allowing them to increase their rental charge by 10% a year, until they reach the new shelter allowance amount. This has been a formula that is currently in existence for many years through an informal agreement with the housing authorities. By promulgating this policy there will be a clear understanding between this Office and the housing authorities of the rent increase policy. Families in public housing will continue to receive an allowance for rent as paid up to the approved modified welfare rent schedule.
- **Shelter Arrears Limitations** (18 NYCRR 352.7(g)(3) and 352.7(g)(4)) - Under welfare reform, it is incumbent on temporary assistance applicants/recipients that they learn to manage their expenses in a responsible manner. These changes will encourage applicants/recipients to make sure that shelter expenses are paid and arrears problems reported and addressed in a timely fashion. In addition, these changes will provide for a limit of six months' shelter arrears once in a five-year period but also provide districts with discretion to make additional arrears payments, when warranted, based upon particular circumstances.
- **Eliminate Dependent Parent Only Cases** (18 NYCRR 352.30(a)) – This change requires that adults applying for temporary assistance include their children in the application in most instances and have their needs and income used in determining the family's TA eligibility. This regulation already provides for some exceptions and these exceptions will continue. This change recognizes that children are part of the family financial unit and if the family is in need of temporary assistance, it is reasonable that the assistance determination be based on the financial needs of the family, not just on the needs of one or some family members but not others.
- **Cooperative Budgeting of Shelter Allowances** (18 NYCRR 352.32(e)(2)(iii) and (iv)) – Previous policy provided for the prorating of shelter allowances between cases when shelter cost is shared for the same dwelling unit. This policy provided that the district prorated the appropriate allowance for rent as paid up to the agency maximum to each case based on the number of recipients in each case. This was true unless a family facing an emergency housing situation moved into a household containing a TA family that was not legally responsible for anyone in this new family. In those cases, if the family faced economic hardship, districts provided each household TA with a non-prorated shelter allowance for rent as paid up to the agency maximum.

Under the revised regulation, districts must cease prorating the shelter allowance for all cooperatively budgeted cases when there are no legal lines of responsibility. Each case is now eligible to receive an allowance based on rent as paid up to the appropriate agency maximum for each case, not based on the number of individuals in each case. The intent of this provision is to preserve housing when more than one family resides in the same dwelling.

- **Restriction Policy** (18 NYCRR 381.3(c)) - Previous policy allowed for direct payments to vendors (restricted payments) in FA cases only when the client has shown mismanagement (generally not paying rent for two consecutive months) or when the client requested the restricted payment. Under the Safety Net Assistance program, local districts may also restrict payments for administrative ease (note: non-cash SNA must be restricted). This regulatory amendment allows districts to restrict payments to vendors for administrative ease under the FA program. Local districts have long sought this option as a way of reducing arrears payments for nonpayment of rent and preventing homelessness by assuring that the clients' benefits are going toward shelter, utilities and heat.

IV. Program Implications and Required Action

This section details the program implications and required action related to each of the respective shelter allowance related changes.

A. Shelter Allowance

1. TA Program Implications

In the past, shelter allowance schedules were based upon whether or not heat was included in the shelter cost. Effective November 1, 2003 there are two changes to these allowances. First, there is an increase in the amount of the allowance by district. Second, the shelter allowance schedules will be based upon whether there is a child in the household (note: the child does not have to be in the case, but must reside in the household). These new schedules must be used effective November 1, 2003 regardless of TA category of assistance (FA or SNA).

a. Shelter Allowance With Children

A TA case must receive the actual shelter cost up to the maximum allowed under the schedule that includes children (Attachment A) if the household includes:

- A child under 18 years of age, or under 19 years of age and a full-time student regularly attending a secondary school, or the equivalent level of vocational or technical training, or
- A needy pregnant woman whose pregnancy has been medically verified.

It does not matter whether the child is a member of the TA case or not (exempt from filing unit provisions). When there is a co-op case between two separate households, each case will receive the schedule for the shelter allowance with children as long as the household includes a child meeting the definition above. For example, a woman and her child receive FA. Also, in her household is her uncle who is receiving SNA. The schedule for the FA case would be Shelter Allowance With Children. The schedule for the SNA case would be Shelter Allowance With Children.

b. Shelter Allowance Without Children

For all households in which there is no child or pregnant woman as defined above, the shelter allowance the household will receive is the actual cost up to the maximum allowance in Attachment B.

c. Fuel Allowance

There has been no change in the amount or eligibility requirements in order to receive a fuel allowance. If a household (tenant of record and customer of record) incurs a heating expense separate from their shelter expense, the household may also receive a monthly fuel allowance pursuant to 18 NYCRR 352.5, if otherwise eligible.

2. TA Required Action

Local districts must rebudget all TA recipient cases, and all TA applicant households, eligible for or receiving assistance as of November 1, 2003 or later, as appropriate based on the revised shelter maximum schedules. To assist districts in this regard, an ABEL Mass Rebudgeting/Reauthorization (MRB/A) of TA recipient households will be conducted as indicated below under Systems Implications.

3. Food Stamps Implications

For TA/FS households, the increase in TA income resulting from increased shelter allowances generally will reduce FS benefit amounts. The ABEL MRB/A will include rebudgeting of FS for TA/FS cases.

4. Medicaid Implications

The revised shelter standards will also apply to Medicaid eligibility determinations for TA applicants and recipients.

Individuals eligible for Family Assistance or Safety Net Assistance (federal participation) using the revised shelter schedule with children are also eligible for Medicaid under the Low Income Families Program (LIF). If families with children under 18 are financially ineligible for TA using the revised shelter allowance with children, then a referral for a separate Medicaid determination must be done. Individual applicants who are between 18 and 21 and who are financially ineligible for TA using the revised shelter allowance schedule without children must be referred for a separate Medicaid determination, as is done under current policy.

Individuals who are eligible for Safety Net Assistance using the revised shelter allowance without children are also eligible for Medicaid under the S/CCs program. Singles and Childless Couples (S/CCs) who are between the ages of 21 and 65 and whose income exceeds the standard of need using the revised shelter allowance schedule without children will be closed or denied for Medicaid for the same reason that TA is closed/denied. If the case is closed because of excess income, an evaluation for Family Health Plus will be done systematically, as is currently done.

5. Notice Requirements

Shelter regulation change language - The adequate notice will include all required information, including budget calculation information, conference and fair hearing information. (Note: The notice must be timely and adequate if any benefit is reduced, for example FS). The amount of the old benefit and the amount of the new benefit and the effective date of the new benefit will be provided on the notice. The notice reason language will be:

Initial change: - with children schedule:

“This is because the rules that tell how much social services can provide for the shelter allowance have changed. There are now two shelter allowance schedules:

- One schedule is for households that include a pregnant woman, or child under the age of 18, or an 18-year-old child attending full time secondary school.
- The second schedule is for adults without children.

Your household includes a pregnant woman, or a child under age 18, or an 18-year-old child attending full time secondary school.

This decision is based on Department regulation 352.3(a).”

Initial change:- singles and childless couples schedule:

“This is because the rules that tell how much social services can provide for the shelter allowance have changed. There are now two shelter allowance schedules:

- One schedule is for households that include a pregnant woman, or child under the age of 18, or an 18-year-old child attending full time secondary school.
- The second schedule is for adults without children.

Your household does not include a pregnant woman, or a child under age 18, or an 18-year-old child attending full time secondary school.

This decision is based on Department regulation 352.3(a).”

Ongoing shelter schedule change:

From "with children schedule" to "without children schedule":

“This is because there has been a change to the amount that we can allow for shelter expenses. Households that include a pregnant woman, or a child under age 18, or an 18-year-old child attending full time secondary school can get a shelter allowance based on a higher shelter schedule. Your household no longer includes an individual that can qualify a family for the higher shelter schedule.

This decision is based on Department regulation 352.3(a).”

From "without children schedule" to "with children schedule":

“This is because there has been a change to the amount that we can allow for shelter expenses. Households that include a pregnant woman, or a child under age 18, or an 18-year-old child attending full time secondary school can get a shelter allowance based on a higher shelter schedule. Your household now includes an individual that qualifies your family for the higher shelter schedule.

This decision is based on Department regulation 352.3(a).”

6. Systems Implications

Upstate

The new shelter allowance MRB/A for 2003 will be run on the weekend of September 20, 2003 with a district delivery date of September 22, 2003. The final phase will be run on the weekend of September 27, 2003 with a district delivery date of September 29, 2003. Details about the MRB/A will be provided in a forthcoming ABEL Transmittal.

CNS notices will be produced and mailed to affected clients.

New York City

Instructions will be provided in a forthcoming release.

B. Existing Litigation and Temporary Shelter Supplement

1. TA Program Implications

This section of this directive only impacts the four districts currently involved in court ordered supplementation of the district specific shelter maximums.

Prior to the promulgation of 18 NYCRR 352.3(a)(ii), four districts (Nassau (Golding), New York City (Jiggetts), Suffolk (Sharp and Holmes) and Westchester (Hedgepeth) Counties) were under court order to provide a shelter supplement to Family Assistance and some Safety Net Assistance households under specific court imposed circumstances (generally, that the family was in jeopardy of being evicted from their homes because of non-payment of rent or in some districts because the family was homeless and the supplement was necessary to obtain affordable housing). These court-ordered payments were of various amounts and continued until the family found less expensive housing, left Temporary Assistance or otherwise lost eligibility for the supplement.

In addition, families in receipt of court ordered shelter supplements, who moved from Family Assistance to Safety Net Assistance because of time limits, could continue to receive a shelter supplement under the temporary shelter supplement (TSS) rules defined in 18 NYCRR 370.10. These TSS supplements were also available to households residing in a district involved in shelter litigation, who were in jeopardy of being evicted because of non-payment of rent but did not previously receive a shelter supplement by court order under the Family Assistance program.

Section 352.3(a)(ii) provides that Temporary Assistance households in receipt of court ordered shelter supplements or TSS supplements may continue, as long as otherwise eligible (e.g., provided that there is no break in assistance of more than one calendar month, or that the family has not been sanctioned), to receive these “grandfathered” supplements for a two year period. This period will begin on November 1, 2003 and will end on October 31, 2005. During this period, the supplemental shelter amounts will be frozen at the same amount as long as the recipient remains otherwise eligible. This means that moves and modifications will not be provided for unless the district has a supplementation plan approved by OTDA as provided for under Section C below. At the conclusion of this period (October 31, 2005, or sooner if beneficial), these households may apply for and receive if eligible, a local district shelter supplement, if so offered by that particular local district.

However, because the shelter supplements are court ordered in the four districts, OTDA will have to take action to terminate the court orders. Until that happens, OTDA and the districts will have to comply with the existing orders. OTDA will keep the four districts informed about the progress of the litigation.

2. TA Required Action

These four districts will be notified directly of any resolution of the litigation and the subsequent implication of the new regulations. If any district currently involved in shelter litigation is considering submitting a plan for a shelter allowance supplement pursuant to Section C below, the district should develop and submit this shelter allowance supplement plan prior to the resolution of the shelter litigation so that there is a seamless transition between the shelter allowance supplement program and the shelter litigation.

3. Food Stamps Implications

There are no FS implications.

4. Medicaid Implications

The temporary shelter supplement is outside the TA standard of need; therefore, there are no Medicaid implications. Any supplemental shelter allowances issued after November 1, 2005 will also be outside of the standard of need, and as a result will have no Medicaid implications.

5. Notice Requirements

None at this time.

6. Systems Implications

Upstate

Systems support for current excess shelter litigation cases will be covered in a future ABEL transmittal.

New York City

Instructions will be provided in a forthcoming release.

C. Shelter Allowance Supplement

1. TA Program Implications

The enacted regulatory changes add a provision for local districts to request State approval for a shelter allowance supplement. This supplement is to provide an additional shelter payment in excess of the shelter allowance maxima to pay for shelter in high cost areas or special situations. This shelter supplement is not included in the standard of need and therefore would not be considered (by ABEL) when computing financial eligibility (i.e., the supplement is not used for TA eligibility when computing the needs or gross income tests).

2. TA Required Action

Local districts that want to provide a shelter supplement need to submit plans (see Attachment C) for approval in order to receive authority to provide the shelter supplement. The plans must outline the following:

- **Why is shelter allowance supplementation necessary (i.e., the district's justification for the supplement)?** At a minimum, districts should address the following issues: availability of low income housing, vacancy rates, eviction rates, availability of public housing, length of temporary shelter stays, how the supplement will impact work incentives and existing litigation. Data on these issues should be provided.

Additionally, districts would need to explain the purpose(s) for which the supplement is to be used: find or retain housing, ameliorate homelessness, deal with domestic violence, etc. **Most importantly, how will the district ensure that the existence of the supplement does not adversely affect the ability of non-TA recipient families (i.e., low income working families) to find and retain affordable housing?**

- **What is the effective date of the plan?** Districts need to be cognizant that this Office may approve plans that authorize supplemental payments only if it determines that there are sufficient funds available to provide such reimbursement. Reimbursement for shelter supplementation will be at the same rate as provided for the TA program under which payment is authorized (i.e., FA or SNA).
- **Who would be eligible to receive shelter supplementation?** Districts must define the targeted population, such as: entire caseload (excluding single and childless couples as noted below), segment of caseload (e.g., FA Only), cases where disabilities prevent earnings or specified case-by-case situations.

This Office will not approve plans that provide for shelter supplementation for TA households that include a sanctioned individual or are comprised solely of single individuals or childless couples. Neither will plans be approved that provide for shelter supplementation for families residing in Section 8 (except for Section 236 housing), or public housing. In addition, plans may not be approved that provide for TA supplementation in addition to other government provided shelter supplementation.

- **What will be the amount of the supplement?** The amount of the supplement needs to be specified including whether it will be in different amounts for varying groups (for example, homeless or DV victim families will receive a larger supplement, etc.) Because the amount of funding for supplemental shelter allowances is limited, districts should carefully weigh the amount of the supplemental allowance that the plan would provide. Upon approval, normal fiscal claiming and reimbursement for FA and SNA will apply.

This Office will not approve plans that provide for shelter supplementation that includes any amount for court costs, legal fees or late charges.

- **What will be the anticipated financial costs of the supplementation?** Districts must estimate the annual financial costs associated with the supplementation.
- **This Office may require districts to submit reports on a monthly basis related to supplementation addressing such areas as size of families, number of placements, number who leave TA, number who become employed, etc. Any such required reports will be addressed in the Office's plan approval letter or subsequent correspondence.**
- **How will the supplementation process work?** District plans must address in specific detail how eligibility for a supplemental shelter allowance will be determined. Among the variables that **must** be addressed are:
 1. How much will non-legally responsible Non-Temporary Assistance (NTA) individuals residing in the same dwelling be required to contribute towards the excess shelter costs? (a prorata share of shelter costs, 30 percent of income, the lesser of these two variables, etc.) Will SSI recipients or ineligible aliens residing in the household be expected to contribute towards rent cost? If so, how will this amount be determined?
 2. How will contributions towards rent cost from individuals outside the household be verified and what standards will be applied in determining whether such contributions can be sustained in the future? How will the agency assure that third party contributors are not legally responsible relatives?
 3. Will it be required that there be a court proceeding concerning the nonpayment of shelter cost prior to the family being determined eligible for supplemental shelter payments? If not, how will the district assure that the shelter arrears are legitimate and the responsibility of the TA recipient?

4. How will co-tenant of record lease arrangements be handled? Will leases be required of all tenants of record?
5. Will shelter arrears for shelter supplementation cases be limited in monetary amount (e.g., \$3,000) or to six months of arrears?
6. How will the district handle modifications (moves, rent increases, etc.)? What standards will be followed in determining whether supplementation will continue following a move? Will the district require the recipient of the supplemental shelter allowance to report changes related to the supplemental allowance timely as a condition of eligibility for the allowance?
7. Will any local forms be used to facilitate the supplementation process? If so, copies must be provided with the plan.
8. Will there be any health and safety standards that must be adhered to prior to paying supplemental allowances or arrears?
9. Will the supplemental allowance be time limited in any way?
10. Will the supplementation process include a onetime incentive payment to the landlord?
11. Districts that already have existing rent supplement programs that are not court ordered (such as the Human Resources Administration's Employment Incentive Housing Program and the Department of Homeless Service's Long-Term Stayers Rent Supplement Program) should consolidate all existing rent supplementation programs into one uniform submission.
12. How will the district ensure that the existence of the supplement does not adversely affect the ability of non-TA recipient families (i.e., low income working families) to find and retain affordable housing?

This Office will not approve plans that provide for shelter supplementation when any member of the TA household has lost Section 8 or public housing within the last two years without good cause.

Districts (New York City, Westchester, Nassau and Suffolk Counties) having had experience in excess shelter litigation may want to evaluate prior to their submission the eligibility guidelines previously in place under the litigation and determine whether comparable guidelines are suitable for any supplemental shelter allowance plan they might submit.

Requests by a local district for plan approval to administer a shelter supplement must be submitted to:

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance
Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, New York, 12243

Email - PStevens@dfa.state.ny.us
Fax (518) 473-0511

Plan submissions must be made by September 1, 2003, if a district is interested in providing a TA supplement as of November 1, 2003. After this date, the date of approval of district plan submissions will be contingent upon WMS reprogramming needs. This Office will process county submissions for approval or denial within 30 days of receipt (though the effective date of the implementation may be later). If additional information is required from the district to complete the plan, the 30-day period may be extended.

Local districts must submit Attachment C, which summarizes the plan, and includes an estimate of the annual cost of the supplement along with other documentation necessary to answer all of the questions asked above.

4. Food Stamps Implications

For TA/FS households, the increase in TA income resulting from shelter supplements generally will reduce FS benefit amounts.

5. Medicaid Implications

The shelter allowance supplement is not included in the TA standard of need; therefore, there are no Medicaid implications.

6. Notice Requirements

CNS will support the acceptance or denial of a request for a shelter supplement based on whether or not a district chooses to participate. For participating districts, standard reasons for denial will be supported. These are: household includes a sanctioned member; TA household does not include a child or caretaker of a child; household resides in public or subsidized housing. As shelter supplement plans are submitted and approved, CNS will include plan criteria. When households requesting a supplement do not meet the criteria set in the district plan, CNS will support giving the plan criteria and the district's decision that the household does not meet those criteria. The following reason code and definition will be used to support denial or termination of a shelter supplement: **R16-“Shelter Supplement Denied or Ends”**.

Because it is expected that CNS will be programmed to accommodate each district's plan criteria, CNS support for this action may not be immediately available for the first requests. In that event, the "LDSS-4002 - Action Taken on Your Request to Meet an Immediate Need or a Special Allowance" must be provided to inform the household of the agency's decision on the request for a shelter supplement.

7. Systems Implications

Upstate

Upstate systems support for shelter allowance supplementation will be addressed in a future ABEL transmittal.

New York City

Instructions will be provided in a forthcoming release.

D. Public Housing

1. TA Program Implications

The shelter allowances for Temporary Assistance families living in public housing are contained in 18 NYCRR 352.3(d)(1). The monthly allowances range from a low of \$65 to a high of \$110 based on bedroom size.

Subparagraph (i) of 352.3(d)(1), provides that when a modified schedule of allowances is approved by this Office, the allowance for rent must be the amount actually paid up to the approved schedule amount. The modified schedules have been structured to be consistent with Temporary Assistance budgeting based on household size and if the rent includes heat or if heat is a separate expense.

Housing authorities that have requested modified welfare rent schedules have had such schedules established. In addition, the Office has approved requests for increases to the modified schedule of no more than ten percent (10%) once in a twelve month period until the schedule reaches the local district shelter maximums. When a housing authority's request for the establishment of, or an increase to their modified welfare rent schedule is approved, both the housing authority and the local district in which the housing authority is located are notified of the approval.

This established procedure for approving increases to the modified welfare rent schedules was not previously stated in the Office Regulations.

The addition of the already established procedure for approving increases to the modified welfare rent schedule in regulation is not expected to have any effect on local district operations.

However, the changes to the shelter schedules that are contained in Section A of this directive will affect public housing schedules in two ways:

- There are no longer separate private housing shelter schedules for heat included and heat excluded.
- There are now different shelter schedules depending on whether the family includes a child or not.

Housing authorities that have approved modified welfare rent schedules that are at the local districts private housing maximums will not automatically receive an increase to the higher amounts in the families with children schedules. All current housing authority schedules will remain in effect until the authority requests and is granted an increase.

At the time that an increase request is made, schedules will be established based on the new rules as follows:

- Housing authorities that currently have only heat-included units or only heat-excluded units, usually have only one modified welfare rent schedule. The current schedule will serve as the base schedule. Two schedules will be established from that schedule, one for families with children and one for those without children. Requests for increases will be approved until the PHA's schedules reach the LDSS maximums for the family type.
- Housing authorities that currently have heat-included units and heat-excluded units, usually have two modified welfare rent schedules. Those authorities will continue to have two modified welfare rent schedules but they will be based on the families with children, and the singles and childless couples schedules. The current "heat included" schedule will serve as the base schedule. Two schedules will be established from that schedule, one for families with children and one for those without children. Requests for increases will be approved until the PHA's schedules reach the LDSS maximums by family type.

PHA's may request increases to the modified welfare rent schedules once each year. Approvals will be for no more than a ten percent (10%) increase each time until the PHA's schedules reach the appropriate LDSS shelter maximums by family type.

PHAs may submit their request for modified Welfare Rent Schedules to:

LDSS staff will need training about the correct rent to allow for their households who reside in public housing. They may get questions from clients and from workers in the public housing authority about which schedules apply for that household and how the currently approved schedules will be used during the transition.

2. TA Required Action

LDSS staff will continue to provide shelter allowances for families, and singles and childless couples based on the current modified welfare rent schedule(s) for that housing authority.

When the PHA requests a modification of their Welfare Rent Schedule and that has been approved, they will be informed of the approval and the approval effective date. The LDSS will also be informed about the approval and the effective date of the new schedules. The LDSS may provide an allowance to households residing in the PHA units based on the new modified welfare rent starting with the effective date of the new schedules.

Districts are reminded of two policies that continue unchanged:

- A PHA may reduce the amount that the tenant must pay for rent by a utility allowance amount. The amount that the TA household may be allowed for rent is the out of pocket rent expense up to the approved modified welfare rent schedule for that family type in that PHA.
- The PHA may charge rent based on a percentage of household income. This is most likely to occur when there are non-TA family members with income in the dwelling unit (for example, SSI family members). When the PHA charges based on a percentage of household income, and when that amount is more than the approved welfare rent schedule, the LDSS must allow the amount actually charged the family, up to the LDSS private housing maximums according to family type.

3. Food Stamps Implications

There are no Food Stamps implications with this change.

4. Medicaid Implications

Public housing residents who are eligible for TA using a modified welfare rent schedule are financially eligible for Medicaid. If the family is not financially eligible for TA, a separate Medicaid determination must be done, which is consistent with current practice.

5. Notice Requirements

There are no additional notice requirements. As usual, if the household's shelter expense changes, a notice to inform the household of the effect of the change must be sent. If the action results in a TA or FS reduction, the notice must be timely and adequate. Otherwise, the notice may be adequate only.

6. Systems Implications

There are no systems requirements with this change.

E. Restricted Payments for Family Assistance

1. TA Program Implications

Previously, districts could make direct payments to vendors on FA cases only if the client demonstrated mismanagement or if the client requested the restriction. Simultaneously, the Safety Net Assistance program allowed districts to make direct payment to vendors if it was administratively easier to do so. In addition, the non-cash Safety Net Assistance program provided for a mandated restriction hierarchy.

In response to district requests, and to simplify existing programs, districts now may make direct payments to vendors on FA cases if they determine that it is administratively easier for them to do so.

2. Required Action

Districts applying this policy must provide timely and adequate notice to all cases placed on restricted payment. This change imposes no additional requirements for districts opting to use this method of payment.

For FA cases where the recipient has voluntarily placed himself/herself on direct payment, districts must allow that request to continue unchanged.

3. Food Stamps Implications

There are no Food Stamps implications for this change.

4. Medicaid Implications

There are no Medicaid implications.

5. Notice Requirements

Notice must be provided when the method of payment changes. In the past, the restriction reason "Agency decision" was not appropriate for Family Assistance cases. The CNS restriction screen has not allowed that choice for FA cases. The CNS restriction screens have been modified to accept that choice for FA cases. The CNS restriction screen is accessed by using reason code **R15-Restriction(s) Begins, Ends or is Denied.**

6. Systems Implications

There are no systems requirements for this change.

F. Shelter Allowance for Co-op Cases

1. TA Program Implications

Prior to this change, when two or more persons in the same dwelling unit shared shelter costs, districts and ABEL prorated the shelter allowance. The district prorated the appropriate allowance for rent as paid up to the agency maximum to each case based on the number of recipients in each case. This was true unless a family facing an emergency housing situation moved into a household containing a TA family that was not legally responsible for anyone in this new family. In those cases, if the family faced economic hardship as defined in regulation, districts provided each TA household with a non-prorated shelter allowance for rent as paid up to the agency maximum. This change eliminates the need for emergency housing budgeting.

Districts must cease prorating the shelter allowance for all cooperatively budgeted cases when there are no legal lines of responsibility. Each case is now eligible to receive an allowance based on rent as paid up to the appropriate agency maximum for the number of persons in each case. The sum total of the shelter allowances received by these cases must not exceed the actual amount of the rent as paid for the dwelling unit.

In Danks cases, where the co-op households are single economic units (and legal responsibility does not exist), each unit will receive an unprorated shelter allowance. This includes Danks essential person (EP) cases. A Danks EP case exists when a FA case contains an essential person who has no legal lines of responsibility to the FA members and also declares to be a separate economic unit. In these cases, only one ABEL budget may be done that provides unprorated Basic, HEA, and SHEA to the FA unit and the EP. Previously, the shelter allowance was based on the appropriate amount for all case members including the EP. Now, in addition to the appropriate unprorated Basic, HEA, and SHEA, the shelter allowance will also not be prorated. For example, in a three-person FA case with an EP, the two core FA case recipients will receive an unprorated shelter allowance for two and the EP will receive an unprorated shelter allowance for one.

However, when there are children in the care of one household caretaker, even if the grantee insists on receiving separate grants, the children cannot be Danks households and receive unprorated Basic, HEA, and SHEA and shelter allowances. For example, a NTA aunt receives FA for her nephew and an unrelated child in her legal custody (EP).

2. Required Action

Districts must continue to provide shelter allowances to TA cases based on the appropriate schedule for that case size. Cases that were previously cooperatively budgeted for shelter using the previous method must be rebudgeted by next contact (no later than next recertification) retroactive to November 1, 2003. Each separate household may receive an allowance up to the shelter allowance maximum for that family size as long as the combined shelter allowances of the separate families does not exceed the actual rent.

3. Food Stamps Implications

For TA/FS households, the increase in TA income resulting from full (rather than prorated) shelter allowances generally will reduce FS benefit amounts.

4. Medicaid Implications

Applicants/recipients who are co-op cases and who are eligible for TA based on the new shelter policy are also eligible for Medicaid. The Medicaid program has never prorated the shelter allowance; therefore, this change has no Medicaid implications. In those instances when the shelter allowance is still prorated, the applicants/recipients will continue to be eligible for Medicaid as is current practice.

5. Notice Requirements

Initial change for co-op cases - from prorated shelter to unprorated shelter. If the FS benefits are reduced, timely and adequate notice must be provided. Adequate notice may be provided when no FS benefit reduction occurs as a result of this action.

The notice reason language for cases going from a prorated shelter allowance to an unprorated shelter allowance follows:

"This is because the rules that tell how much social services can provide for the shelter allowance have changed. Your shelter allowance and the shelter allowance of other public assistance recipients living with you are no longer prorated. This means that your shelter allowance is more than it was when prorated.

This decision is based on Department Regulation 352.32(e)."

6. Systems Implications

Upstate

Instructions will be provided in a forthcoming release.

New York City

Instructions will be provided in a forthcoming release.

G. Eliminate Dependent Parent Only Cases

1. TA Program Implications

Filing unit rules have required that a minor dependent child must be named as an applicant before other birth or adoptive parents and siblings of the child, living in the same dwelling unit, could be required to apply for Temporary Assistance. If the parent chooses to apply only for him or herself and not for the child, the eligibility of the parent is determined based only on the income and resources of the parent. Parents would choose to apply for only themselves and not for the children to avoid having the children's income or resources counted or to avoid having the children's other parent, not married to the caretaker applicant, drawn into the filing unit.

Prior to the Welfare Reform Act of 1997, most dependent relatives applying only for themselves were eligible for ADC. After the Welfare Reform Act of 1997, most such applicants were eligible for Family Assistance. However, since 1997, some caretaker adults were ineligible for Family Assistance because they had refused to comply with substance abuse screening, assessment or treatment requirements, or were mandated into substance abuse treatment, or had received sixty months of Family Assistance and did not qualify for a time limit exemption. If the caretaker adult were otherwise eligible, Temporary Assistance would be provided in a Safety Net Assistance case. Safety Net Assistance rules provide that the parent must apply for the children. However, for Family Assistance cases, the adult could still apply only for him or herself.

The change to 18 NYCRR 352.30(a) provides that the applicant or recipient must include his or her minor dependent children in the application. This change will result in a more fair determination of a family unit's financial need. There are limited exceptions that have existed in 18 NYCRR 352.30(a) which continue unchanged.

Non-parent caretaker relatives may still be Family Assistance eligible even if they choose not to apply for the children.

LDSS staff will need some re-training as a result of this regulatory change. Staff will be required to review their existing cases at the time of next contact, but no later than the time of the next scheduled recertification and determine if the case is eligible for continuing assistance at the same or a different level.

Office publications that inform applicants and recipients that they may choose not to apply for a child in their care are being amended to reflect this change.

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. TA Required Action

Cases in which an adult is receiving assistance for him or herself, but not for children residing in the household, must be reviewed. When the worker determines that the adult is the birth or adoptive parent of a non-applying child under age eighteen who resides with the parent, the worker must review the household composition and determine which children and other individuals living in the dwelling unit must apply and be included in the filing unit. The parent must be notified (this may be done on a case-by-case basis, not necessarily a special mass mailing) about the change in the Office regulation, which now requires that the parent must apply for the children and birth or adoptive parents of the children. Please see Notice Requirements below for the informational notice.

When the parent refuses to apply for the children, or required filing unit member refuses to apply, the case is ineligible for Temporary Assistance. Please see Notice Requirements below for the appropriate closing notice language.

A parent cannot be required to include the following relatives of a child:

- Parents and siblings who are SSI recipients
- Stepbrothers, stepsisters and stepparents
- Ineligible sponsored aliens
- Aliens who fail to meet the citizenship and alien age requirements in 18 NYCRR 349.3(a)
- Individuals ineligible due to the lump sum provision of 18 NYCRR 352.29(h)
- Children who are receiving adoption subsidies which are exempt under 18 NYCRR 352.22(p)

A caretaker of non-applying child(ren) cannot be required to apply for the child(ren) if the caretaker is not a birth or adoptive parent. A non-legally responsible caretaker of a non-applying child who meets the FA age requirement (under age 18 or age 18 and a full time secondary school student) may receive assistance in FA. This is true unless the caretaker is ineligible for FA for some other reason (alien status, time limit, etc.)

This policy must be applied to affected applicants eligible as of November 1, 2003. Following the regulation filing effective date of November 1, 2003 the policy must be applied to **affected recipient cases at next contact, but no later than next recertification.**

The following examples will help to illustrate this policy change:

Examples:

1. A household consists of a woman and her two children, both under age 18. One child is on SSI and the other child receives child support. The mother does not want to apply for either child. Must she apply for the child(ren)?

Mom need not include the SSI child since that child is exempt under 18 NYCRR 352.30(a). Mom must include the non-SSI child. The eligibility of the two-person unit will be determined using the income of both members, including the child support (after the disregard).

2. An applicant resides with his girlfriend, their child and his child by a previous relationship. The applicant wants Temporary Assistance for himself alone. The girlfriend is employed full time and does not want TA. Must the applicant apply for either of the children who are both under age 18?

He must apply for both of his children. His girlfriend will be drawn into the filing unit by her child. The eligibility of the four-person household will be determined by counting any income, including the girlfriend's earned income (after appropriate disregards) against the needs for four. If the other household members will not apply, the applicant is ineligible.

3. The family consists of a woman, her two children and the woman's husband. The man is the stepfather of the children and he is the only applicant. The birth father pays child support for the children. Must the applicant include his stepchildren and his wife in the application?

No. A stepchild/stepparent relationship does not form a filing unit. Even though he is a legally responsible relative, filing unit rules do not apply. However, any income of the wife must be considered using Allen budgeting. (18 NYCRR 352.30(e))

4. A woman receives Family Assistance for herself alone. She has not wanted to apply for her adopted daughter. She receives an adoption subsidy payment for her daughter. Must she apply for her daughter?

That depends. Mom would have to apply for her daughter if the inclusion of the child and the adoption subsidy payment would result in an increased TA benefit. However, if that were the case, Mom probably would have applied for the child long ago. In this example, we will say that including the child and the adoption subsidy would result in a decrease in the TA benefit. Therefore, Mom does not have to apply for the child. (18 NYCRR 352.22(p))

5. A grandmother is applying for TA for herself. Also in the household is a seven-year-old grandchild who is in the care of the applicant. No other persons live in the dwelling. Must the grandmother apply for the child?

No. The worker may explore that possibility, but because the grandmother is not legally responsible for the child and she and the child would not form a filing unit, she cannot be required to apply for the child.

6. A mother receives FA for herself and has chosen not to apply for her two children. One child is now age 18 (and is still a full time secondary school student). The other child is age 16. Must Mom apply for both children?

No. The Mom must apply only for her 16 year old. An 18 year-old sibling cannot be required to be included in the filing unit of his under age 18 sibling.

7. If the Mom from #6 above had only the 18 year old (still a full time student in secondary school or the equivalent level), would she have to apply for him and what would her case category be?

Mom would not have to apply for the 18 year old. Filing unit rules apply to children under age 18, to their under age 18 siblings and to the parents of under age 18 children. Even though the 18 year old meets the definition of an FA eligible child, the 18 year old is not a mandatory filing unit member. Unless Mom is ineligible for FA for some other reason (time limits, substance abuse rules, alien status), she can get FA. Provided that the child remains in the household, Mom will remain categorically eligible for FA until the child reaches his 19th birthday or is no longer a full time secondary school student, whichever occurs first.

3. Food Stamps Implications

Household composition requirements as specified in section V-A of the Food Stamp Source Book continue to apply.

4. Medicaid Implications

Medicaid does not require that parents apply for their children.

If TA redetermines eligibility based on the new filing unit requirements, and a case is closed because a child and the child's income are included in the household, a separate Medicaid determination must be done. Transitional Medical Assistance (TMA) eligibility could exist if the child were added to the case at the same time that a family with earnings had increased income. The family must also meet additional TMA requirements. Refer to 90 ADM-30, "Transitional Medical Assistance Coverage and Extensions".

5. Notice Requirements

A. Closing or Denial Language

When denying an application, or closing a Temporary Assistance case because the parent will not apply for the child(ren) in the household, the language below must be used to explain why the action is being taken.

The CNS case level reason code is **F53-Refusal by Parent to Apply for Child**. Use of this code will produce the following language:

“This is because you have not applied for public assistance for family members who live with you and who are required to be included in your case.

At least one of your children who live with you is under age 18 and is not receiving Supplemental Security Income (SSI). You are required to apply for that child. In addition, the blood related and adoptive siblings of the child, who are under age 18 and who live with you, must apply. The natural and adoptive parents of any child required to apply must also apply if they live in your household. Children and their parents who receive Supplemental Security Income (SSI) are not required to apply.

This decision is based on Department Regulation 352.30(a).”

If the case is denied for TA, then a separate determination for Medicaid will be done. If the case is closed, Medicaid will be continued. The appropriate Medicaid language will be reflected on the notice.

B. Informational Notice to Affected Cases

As noted above under required action, this informational notice language must be reproduced and provided to families impacted by this policy change.

IMPORTANT INFORMATION

There are new regulations (rules) that tell social services which family members must apply to be included in the Public Assistance case.

Under the old rules, a mother or father could sometimes decide to apply for her or himself but not for the children in the family. A parent would usually make this decision when it meant that the parent would get more public assistance without including the child(ren) and the other parent.

The new rules do not allow a parent to apply for him or herself but not for the child(ren). The new rules require the children must be included. If the other parent of the children also lives with you, that parent will also have to apply and be included in the public assistance unit.

Our records show that you receive public assistance for yourself and you have children who live with you who are not included in your case. **You will be required to apply for your child(ren). If the parent of the child(ren) lives with you and is not on TA, that parent will also have to apply.**

There are some exceptions to the rules. Individuals who will not have to apply include:

- Parents and children who are SSI recipients.
- Stepbrothers, stepsisters, and stepparents of your child.
- Ineligible sponsored aliens.
- Aliens who fail to meet the citizenship and alien requirements.
- Individuals ineligible due to the previous receipt of a lump sum.
- Some children who are receiving adoption subsidies.

Even if you think a member of your family will not have to apply for public assistance due to one of these exceptions, you must keep the appointment that social services schedules for you to talk about the new rules. Social services must make the decision about who in your family must apply.

If you do not keep the appointment, and you have not requested that the appointment be rescheduled, social services will think that you do not want public assistance. Social services will send you a notice telling you that your case will close and the effective date of the closing.

If members of your family who must apply for public assistance refuse to do so, you will be ineligible for public assistance. Social services will send you a notice telling you that your case will close and the effective date of the closing.

The new rules **do not** apply to Food Stamps or to Medicaid.

6. Child Support Implications

When applying for a previously non-TA child, the parent assigns support rights and must be referred to the Child Support Enforcement Unit to cooperate with the parent locator, paternity establishment, and support requirements.

7. Systems Implications

There are no systems implications for this change.

H. Limit on Shelter Arrears Payments

1. TA Program Implications

Prior to the amendment of recent regulatory amendments to 18 NYCRR sections 352.7(g)(3) and 352.7(g)(4), there was no limit on how many months of shelter arrears that districts may pay.

With the enactment of the amended rules noted above, districts are authorized to limit shelter arrears payments 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.

Example

A TA family applies for shelter arrears of three months (Oct. through Dec.) on January 15, 2004. The district determines them eligible and pays three months of arrears on January 20, 2004. If the district has a policy of not allowing any exceptions to the one-shelter arrears payment totaling no more than six months in five years cap, the family cannot receive another shelter arrears payment up until January 20, 2009.

2. TA Required Action

Districts must assess whether they want to limit shelter arrears payments to one payment in a five-year period or allow exceptions.

District procedures must be modified so that any shelter arrears payments made after November 1, 2003 are limited to one payment (not exceeding 6 months total) in a five year period except when the district has established an exception policy.

3. Food Stamps Implications

There are no FS implications.

4. Medicaid Implications

There are no Medicaid implications.

5. Notice Requirements

When an individual or family requests help to pay arrears, the district must inform the applicant about the decision on that request using the LDSS: 4002 - "Action Taken on Your Request for Assistance to Meet an Immediate Need or a Special Allowance".

When denying the applicant's request for an arrears payment due to this change, please use the following language: "You cannot receive more than one shelter arrears payment in a five-year period. You or an adult member of your family who is living with you received a shelter arrears payment within the last five years. (NAME) received shelter arrears on (DATE). Therefore, you are not eligible for a shelter arrears payment at this time.

This decision is based on Department Regulation 352.7."

6. Systems Implications

There are no systems implications.

7. Additional Information (Optional)

None.

8. Effective Date

This release is effective November 1, 2003.

Issued By Office of Temporary and Disability Assistance
Name: Patricia A. Stevens
Title: Deputy Commissioner
Division/Office: Temporary Assistance