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OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
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Robert Doar
Acting Commissioner

Administrative Directive

Section 1

Transmittal:	03 ADM 10
To:	Local District Commissioners
Issuing Division/Office:	Temporary Assistance (TA)
Date:	November 19, 2003
Subject:	TA Policy Changes: Lump Sum Set Asides And Resource Two-Year College Fund Exemption
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 1 800 343-8859 extension 4-9344
Attachments:	A - Informational Book Insert - Revised Lump Sum Notice
Attachment Available On – Line:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92 ADM-17 92 ADM-7 84 ADM-39 93 INF-18		352.29(h); 352.23	131-a(12)(c); 131-n(1)(c)		TASB-Chapter 18, Section U

Section 2

I. Purpose

The purpose of this directive is to advise districts of the Temporary Assistance (TA) impact of two changes in State law. These are:

- a new provision under lump sum policy that allows for TA recipients to retain without impacting eligibility, set asides from lump sums under certain circumstances; and

- a new resource exemption from the TA resource limit for a separate and distinct bank account of up to \$1,400 when established by an individual while currently in receipt of assistance for the sole purpose of paying tuition at a two-year accredited post-secondary educational institution, so long as the funds are not used for any other purpose.

II. Background

Currently, when a TA recipient receives lump sum income, a period of ineligibility is calculated during which the TA recipient (and filing unit) cannot receive TA benefits. There does not exist a provision allowing for any exemption and set aside of portions of the lump sum monies received. Likewise, there is currently no resource exemption for bank accounts used solely for two-year post-secondary school costs.

Paragraph (b) of subdivision 12 of section 131-a of the Social Services Law was amended and a new paragraph (c) added to provide for certain limited set aside exemptions from lump sums. In addition, a new paragraph (c) was added to subdivision 1 of 131-n to provide for a resource exemption for a distinct bank account of up to \$1,400 for tuition expenses at a two-year college. The intent of these provisions was to encourage savings in a manner normally beneficial to the family and society.

III. Program Implications

There are two TA areas impacted by this change in State law:

A. TA Lump Sum Policy

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 social services district 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.

An example will help to illustrate how this resource limit set aside will work.

Bingo Winnings Example

A single SNA recipient with needs of \$250 has countable resources of \$500. He reports to his worker that he has won \$1,000 from Bingo. In the past, 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's) 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 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.

It is important to note however that this change in State statute only applies when a lump sum period of ineligibility would be calculated without application of the resource limit set aside. Thus, an important implication of this law change is that many lump sums that are not of substantial amounts will continue to be budgeted as income in the month received. This is not a policy change. The reason for this is to spare both the client and the district the harm that would be caused by an open-and-close in

light of the purpose of the statute to encourage savings for beneficial purposes. Lump sums that are below the standard of need would not have had this effect and, **statutorily**, are outside the lump sum statute. Furthermore, for clarity and to avoid confusing TA applicant/recipients, these one-time only payments for which a period of ineligibility would not be calculated should no longer be referred to as lump sums but rather simply as income as they have historically been treated. The lump sum informational notice is being clarified to correct this.

An example will help to illustrate how small windfall income payments are treated (again this is not a change in policy but is just for clarity):

Small Bingo Winnings Example

A single SNA recipient with needs of \$250 has countable resources of \$500. He reports to his worker that he has won \$100 from Bingo. In the past, the \$100 would be counted as income in the month received. There is no change in this policy under the new law. There would be no resource limit set aside. The \$100 would still count as income.

Only when the amount of the lump sum, when combined with countable resources exceeds the TA resource limit will a period of ineligibility be calculated. In these instances, TA recipients may still choose to assign the amount of the lump sum over the resource limit to the agency as a repayment of past assistance.

In addition to the initial resource limit set aside exemption, the new law 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 within 90 days of receipt:

- an automobile exempt from the resource limit because it is needed to seek or retain employment or for travel to and from work activities (maximum amount \$9,300 or higher if set by district);

- 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 post-secondary educational institution (maximum amount \$1,400);

- a resource exempt burial plot; or

- 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.

An example will illustrate:

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 apply, 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).

At the next revision of the Client Information Books, the language contained in Attachment A: "Requirement To Report A Lump Sum Payment " will be incorporated and replace the current "Lump Sum" information on Page 18 of LDSS-4148A: "What You Should Know About Your Rights And Responsibilities".

Until this revision occurs, **local districts are required to photocopy and provide applicants/recipients with the attached, Attachment A: "Requirement To Report A Lump Sum Payment"**. Local districts must provide this information whenever the informational books are distributed and when someone receives a lump sum.

B. TA Two-Year College Fund Resource Exemption

Districts must exempt from the TA resource limit a separate and distinct bank account of up \$1, 400 when established for the sole purpose of paying tuition at a two-year (not a four-year) accredited post-secondary educational institution, so long as the funds are not used for any other purpose.

Once established, districts must monitor the balance of these accounts at least at recertification, to ensure that the funds are not being used for any other purpose than the earmarked tuition expense. Once it has been determined that the funds have been used for purposes other than intended, the full amount of the funds in the account at the time of withdrawal become countable towards the resource limit.

The exemption only applies to TA recipients. It does not apply to applicants, including former recipients, with previously established accounts who subsequently reapply for TA.

Note: If a "Two-Year College Tuition" account is established with lump sum income and the funds are later inappropriately withdrawn and used, the value of the account is not only a countable resource but the prior lump sum ineligibility period is reinstated as appropriate based on the amount withdrawn. Any resulting overpayment would be calculated back to the effective date of the initial notice.

IV. Required Action

A. TA Lump Sum Policy

Districts must begin applying the lump sum policy outlined above for any lump sums received on or after December 17, 2003.

B. TA Two Year College Fund Resource Exemption

Staff must be advised of this new resource exemption and the need to document and monitor these accounts. Proper documentation of these accounts must be obtained directly from the financial institution.

V. Food Stamp Implications

For purposes of determining food stamp (FS) eligibility, the resources of TA recipients, because they are categorically eligible for FS, are not counted toward the household's FS resource limit. Households that lose TA eligibility due to their receipt of non-exempt lump sums must have their continued eligibility for FS, including transitional benefits alternative (TBA) for former Family Assistance (FA) recipients, separately determined.

VI. Systems Implications

Upstate and NYC

CNS notice language is being modified to reflect these policy changes, but no specific action is required of the worker.

VII. Medicaid Implications

There has been no change in Medicaid policy regarding payments received as either lump sums or windfalls. Lump sum payments are generally considered income in the month received and a resource thereafter. Certain lump sum payments may be considered to be exempt for a limited time period. Windfalls, such as bingo winnings, are considered resources in the month received for ADC-Related and Low Income Families recipients and as income in the month received for SSI-Related and Singles and Childless Couples recipients.

The Medicaid Program does not have certain limited set aside exemptions for the purchase or replacement of a vehicle, or a resource exemption for a bank account of up to \$1,400 for tuition expenses at a two-year college.

In deciding whether a case should be referred for a separate Medicaid determination, the above-mentioned set asides should not be allowed in determining the family's resources. For Medicaid, any monies set aside for the purchase or replacement of a vehicle or monies in a bank account for tuition expenses at a two-year college, are counted towards the Medicaid resource exemption level. Therefore, a TA case should be referred for a separate Medicaid determination when the amount of the above mentioned set asides, combined with any other countable resources exceed the TA resource exemption level. The use of the appropriate closing code for excess resources will systemically refer the case for a separate Medicaid determination.

VIII. Effective Date

December 17, 2003.

Issued By

Name: Patricia A. Stevens

Title: Deputy Commissioner

Division/Office: Temporary Assistance

The lump sum section of Book 1 (What You Should Know About Your Rights and Responsibilities) at the top of page 18 is no longer accurate. A new law has been put in place. The notice below tells you about this new law on lump sums.

Requirement To Report A Lump Sum Payment

A lump sum payment is a one-time payment, such as an insurance settlement, an accumulated retroactive monthly benefit, an inheritance or a gambling winning that when combined with your other countable monthly income is more than your monthly Temporary Assistance needs (this is the TA grant before income is counted). When a one-time payment is small, that is, when it, combined with your other countable monthly income, is less than your monthly Temporary Assistance needs (this is the TA grant before income is counted), it is not considered a lump sum; it is just treated as income. If you or any member of your household gets or expects to get a lump sum payment or a one-time income payment, you must tell your worker **right away**. If you get a lump sum payment, and you are getting Temporary Assistance, your grant may be affected as follows.

- 1) If you get a lump sum payment, you may be allowed to keep that portion of the lump sum, which together with your countable resources does not go over the resource limit. This is called the resource set aside. The resource limit is \$2,000 for a person or family or \$3,000 if the person is, or the family contains a member, age 60 or older.
- 2) If the remaining amount (what is over the resource level) is **less than** your monthly Temporary Assistance needs (this is the TA grant before income is counted), this remainder of the lump sum payment will be counted as income for the month in which you get it. Be sure to look at the Exceptions below.
- 3) If the remaining amount is **more than** your monthly Temporary Assistance needs, you must do one of the following:
 - **TURN OVER** the lump sum payment to the local department of social services to pay back the money and help you got in the past.
 - If the lump sum payment is less than the amount of the assistance that was paid to you in the past, your case may stay open.
 - If the lump sum payment is more than the amount of the assistance that was paid to you in the past, the rules in the "**Keep**" section below apply.
 - **KEEP** the lump sum payment or the balance of the lump sum payment. Your Temporary Assistance case will then be closed for a certain amount of time. The length of time for which your case will be closed depends on how much the lump sum payment is, and how much your Temporary Assistance needs are.

EXAMPLE: If you get \$4,750 in a lump sum and had income of \$250 for a total of \$5000, and you have \$500 in countable resources, you can keep \$1,500 (\$2000 resource limit - \$500 in resources). This is the resource limit set aside. If you do not turn the remainder (\$3, 500) over to the agency, it

will be used to figure out how long you cannot get Temporary Assistance. If your monthly Temporary Assistance needs are \$500, your household cannot get Temporary Assistance for 7 months (\$3,500 divided by \$500 needs =7 months).

Be sure to look at the "**Exceptions**" below.

NOTE: If you are receiving child care benefits, some lump sum payments will impact your child care eligibility or the amount of your child care benefits. You must tell your worker about any lump sum payments immediately.

If you are receiving Medical Assistance, a lump sum payment may affect your eligibility. You must tell your worker about any lump sum payments you receive immediately.

EXCEPTIONS

You and anyone who is in your case during the month in which you got the lump sum will not be able to get Temporary Assistance for a certain amount of time, even if the lump sum payment was spent, **unless** one of the following shortens that amount of time:

- Within ninety days of receipt of the lump sum you document to us that you have used any or all of the lump sum for the following exempt resources:

-to purchase an automobile that is exempt from the Temporary Assistance resource limit and needed to seek or retain employment or for travel to and from work activities (maximum amount \$9,300 or higher if set by district);

-to open a separate bank account or bank accounts that is exempt from the Temporary Assistance resource limit 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 post -secondary educational institution (maximum amount \$1,400);

-to purchase a burial plot that is exempt from the Temporary Assistance resource limit, or

-to purchase a bona-fide funeral agreement (maximum amount \$1, 500) that is exempt from the Temporary Assistance resource limit.

If you use up the remainder of the lump sum within 90 days of receipt and document to us that the remainder has gone into one or more of these exempt resources we will reopen your case back to the date it was closed if you reapply and are found otherwise eligible. If you have questions about using the lump sum on these exempt resources talk to your worker before you do anything with the money.

Note: If the district determines you have not used any of these set-asides for the purposes for which they were intended (i.e. you later close out or remove funds and do not use these bank accounts for the purpose for which these funds are set aside or, you otherwise liquidate burial plots or funeral agreements etc.), the social services district may calculate an overpayment of assistance granted.

- Something happens which would make your Temporary Assistance go up if you were still getting Temporary Assistance.

For example, your rent goes up or you have a special need such as pregnancy.

- Some or all of the lump sum payment was used for a reason that you could not help. Some examples are: your family is faced with an emergency, you have unusually high household expenses such as fuel or shelter or the money is stolen.
- During the time you are ineligible for Temporary Assistance, a family member gets and pays for medical care that would be covered under the Medical Assistance Program.

If your local department of social services finds out that you have countable property or that you may be getting a lump sum payment, they may place a lien against that property or the lump sum payment. This means that before you get any money from the property or lump sum payment, your local department of social services may take the amount of Temporary Assistance you, your spouse and child (ren), including stepchildren, have gotten. Liens may also be placed on personal injury settlements and any real property that you own. Real property includes the home you own and live in, as well as other real estate you may own.

If you are receiving Food Stamp Benefits and you receive a non-recurring lump sum, it will be counted as a resource starting in the month it was received and will not be counted as income.