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**NEW YORK STATE**  
**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**  
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Commissioner

## Administrative Directive

### Section 1

<b>Transmittal:</b>	04-ADM-05
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Temporary Assistance
<b>Date:</b>	July 1, 2004
<b>Subject:</b>	Temporary Assistance and Non-Temporary Assistance Mixed Households - Budgeting When the Family Includes an SSI Member
<b>Suggested Distribution:</b>	Temporary Assistance Staff Food Stamps Staff CAP Staff Staff Development Coordinators Medical Assistance Staff
<b>Contact Person(s):</b>	Central Team at 1-800-343-8859, extension 4-9344. Medicaid Local District Liaison: Upstate (518) 474-8216 and NYC (212) 268-6855.
<b>Attachments:</b>	None
<b>Attachment Available On – Line:</b>	<input type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
03 ADM-7 01 ADM-4 94 ADM-10 02 INF-42 91 INF-8	02 INF-42 91 INF-8	352.2(b) 352.3(k) 352.30(a) and (f) 352.31(a)(3) 353.2(a)(6) 369.3		TASB Chapter 10	

### Section 2

#### I. Purpose

- The purpose of this release is to inform districts about changes to Office Regulations governing:
1. Temporary Assistance (TA) budgeting when the family includes a Supplemental Security Income (SSI) recipient.
  2. The penalty for refusing to apply for or accept SSI benefits.

## II. Background

### 1. TA budgeting when the family includes an SSI recipient

SSI recipients have been considered separate households from their Family Assistance (FA) family members for the purpose of determining the FA family members' eligibility and the amount of the FA benefit.

In 1994, 94 ADM-10 (Rice budgeting) directed districts to consider the presence of a legally responsible SSI recipient relative when determining eligibility for and amount of Home Relief, now Safety Net Assistance (SNA). Grants of SNA recipients were prorated to reflect the presence of an SSI individual. At the time that this budgeting methodology was introduced, most of the affected individuals were adult spouses of SSI recipients. Since that time, as families reached the state sixty-month time limit, families with children in SNA have been affected by this budgeting methodology.

The proration budgeting methodology is based upon the principle of "economies of scale"; per capita costs are reduced as the size of the unit increases. For example, while a family of four may need a larger dwelling unit than a single individual, the living cost per person in the family of four can be expected to be less than for the single person. The budgeting methodology further recognizes that recipients of SSI, whether or not members of families in receipt of TA, are generally expected to meet their own living expenses with their SSI income.

This change, which applies the proration methodology to FA as well as SNA case types and to both SSI recipient children and adults in the family, will also result in more uniform budgeting when a TA family resides with an SSI family member.

This methodology will also apply to families residing in high cost living arrangements such as temporary housing and will change the budgeting methodology first transmitted in 91 INF-8 and later in 02 INF-42.

#### **This methodology will NOT apply to:**

- households requesting and eligible to receive an emergency shelter allowance under 18 NYCRR 352.3(k) for persons with HIV/AIDS, or
- households covered under the 'grandfathering' provisions of 18 NYCRR 352.2(a)(2) which are receiving a court ordered shelter supplement or a temporary shelter supplement, or
- households eligible to receive a shelter supplement under 18 NYCRR 352.2(a)(3), if a district's approved shelter supplement plan excludes the SSI household from the application of the methodology (note: an alternative, but no more restrictive methodology may be applied for the treatment of SSI income under the approved shelter supplement plan), or
- families applying for a one-time emergency payment to cover evictions and foreclosures, and for one-time payments to meet other types of emergencies/immediate needs such as utility shut off.

### 2. The penalty for refusing to apply for or accept SSI benefits

The penalty for refusal to apply for SSI benefits has always applied to the individual, not to the case. For FA, that penalty was the deletion of the non-compliant person from the case (an incremental sanction). In addition, the regulation did not specifically state that the individual was required to accept SSI, if eligible. The change to 18 NYCRR 352.30(f)

provides that the individual must apply for SSI, follow through on the SSI application process and accept SSI. If the individual refuses, the sanction will result in the same financial action against the case that would occur if the individual applied for, was found eligible for, and accepted SSI; a prorata reduction.

### III. Program Implications

#### A. TA

##### 1. TA budgeting when the family includes an SSI recipient

This change applies only to families with SSI family members who would be required to be included in the filing unit except that they are in receipt of SSI. This policy already applies to adult recipients of SSI who are legally responsible for Safety Net Assistance (SNA) individuals and families.

#### **This methodology will NOT apply to:**

- households requesting and eligible to receive an emergency shelter allowance under 18 NYCRR 352.3(k) for persons with HIV/AIDS, or
- households covered under the ‘grandfathering’ provisions of 18 NYCRR 352.2(a)(2) which are receiving a court ordered shelter supplement or a temporary shelter supplement, or
- households eligible to receive a shelter supplement under 18 NYCRR 352.2(a)(3), if a district’s approved shelter supplement plan excludes the SSI household from the application of the methodology (note: an alternative, but no more restrictive methodology may be applied for the treatment of SSI income under the approved shelter supplement plan), or
- due to the crisis situation, families applying for a one-time emergency payment to cover evictions and foreclosures, and for one-time payments to meet emergency/immediate needs such as a utility shut-off .

Whenever an individual or family lives in the same dwelling unit with an SSI family member, the presence of the SSI adult or child must be considered when determining the household’s standard of need. The SSI individual’s SSI benefit counts only against the SSI individual’s need, not against the needs of the TA family members.

For example, a family of three – two FA members (mom and one child) and one SSI member. Other than TA, the SSI is the only income in the household. If the standard of need for two is \$519 and the standard of need for three is \$691, the TA benefit for the FA mom and child will go from \$519 a month to \$460 a month ( $\$691 \times 2/3 = \$460.00$ ). The family will make up about one-third of that TA benefit reduction by increased food stamp benefits.

The following examples will illustrate this policy and how it applies to different family types.

#### Example 1:

A TA mother resides with her two children. One child is on the TA case and one child is in receipt of SSI. Before this change, the TA mother and child would have received a TA benefit based on the full needs for two persons.

Now, the TA mom and child will receive a TA benefit based on a standard of need equal to two-thirds of a family of three. The SSI child’s needs are one-third of three and the SSI income applies only to the SSI child. No SSI income is counted against the TA mom and child.

Example 2:

A TA dad resides with his child by a previous marriage. Also in the household is his wife who is an SSI recipient. Since the SSI recipient is a step-parent and has no child in common with her husband, she would not be required to be included in the filing unit even if she did not receive SSI. Therefore, this budgeting methodology cannot be applied. The TA dad and his child will continue to receive TA based on the full standard of need for two persons.

**Note:** The budgeting methodology does not apply in this case since, as a step-parent, the wife would not be required to be included in the filing unit even if she was not an SSI recipient.

Example 3:

An SSI grandmother receives FA for her two grandchildren. Since the SSI grandmother is not a legally responsible relative and would not otherwise be required to be in the filing unit, this budgeting methodology cannot be applied. The children's TA must be based on the full standard of need for two.

Example 4:

A family includes a dad, mom and two children. One child will soon turn age 18 and is an SSI recipient. The district has applied the SSI budgeting methodology and provides the family with a TA benefit based on three-quarters of the standard of need for four. The following month, the SSI child turns age 18. Since the 18-year-old would not be a required filing unit member even if not in receipt of SSI, and since she is not legally responsible for her sibling and parents, the SSI budgeting methodology must not be applied. The family will receive TA based on the full standard of need for three persons.

Example 5:

A non-legally responsible caretaker relative receives assistance for two children who are cousins – one of whom begins to receive SSI. 18 NYCRR 369.3(a)(3) provides that 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. Although the cousins are in the same case, they do not form a filing unit because they are not blood-related or adoptive siblings. The SSI budgeting methodology cannot be applied.

Example 6:

A family with minor children resides in temporary housing. Due to the cost of temporary housing, the family's standard of need is very high. The needs are prorated to determine the TA members' standard of need. If the SSI individual's prorata share of the needs is more than his or her SSI benefit, supplemental SNA must be provided to the SSI individual if the individual applies for TA. The non-SSI members will receive FA unless their alien status or time limit count requires SNA.

**PLEASE NOTE:** This is a change from the policy stated in 91 INF-8 and 02 INF-42 which provided that the SSI person's share of the needs would be the incremental share when the family resides in temporary housing. In situations where the temporary housing cost was per family rather than per person, the SSI person was determined to have no shelter cost to which he or she would apply the SSI income. Now, regardless of whether the charge is per person or per family, the SSI individual will have a prorata share of the cost.

Example 7:

A family includes the mother, father and three children. Three family members receive TA and two family members receive SSI. The TA family members currently receive TA based on the full standard of need for three. Now, the three TA family members will receive TA based on a standard of need equal to three-fifths of the standard of need for five.

Example 8:

A husband receives TA and his wife receives SSI. There is no change to the policy conveyed in 94 ADM-10. The husband will receive TA based on one-half of the standard of need for two persons.

2. The penalty for refusing to apply for or accept SSI benefits

The penalty for refusal to apply for SSI benefits has always applied to the individual, not to the case. For FA, that penalty was the deletion of the non-compliant person from the case (an incremental sanction.) In addition, the regulation did not specifically state that the individual was required to accept SSI, if eligible. The change to 18 NYCRR 352.30(f) provides that the sanction will result in the same financial action against the case, a prorata reduction, that would occur if the individual applied for, was found eligible for, and accepted SSI.

When the applicant or recipient of TA is physically and mentally capable of completing the SSI application process but refuses, or declines to accept SSI benefits for himself or herself or for a member of the TA household, the prorata needs of the non-cooperative individual will be eliminated. If the applicant or recipient is not physically or emotionally capable of applying for SSI, the local district must provide any services that are necessary to insure that the individual is assisted in making the SSI application.

If an adult caretaker is refusing to apply for or accept SSI on behalf of a child, the prorata needs of only the non-cooperative adult will be eliminated. This is true even if the adult caretaker is not a legally responsible relative.

If an adult caretaker is not in receipt of TA, no financial penalty can be applied against the child.

Example:

The standard of need for a family of three in a district is \$450.00 per month. A mom and two children receive TA in that district. Mom is capable of applying for SSI for her child but refuses to do so. Mom's prorata share of the needs will be eliminated and the needs of the two children will be based on \$300.00, 2/3 of the needs of three.

B. Food Stamps

The change in the TA budgeting methodology does not affect Food Stamp household composition rules.

If a household is sanctioned for refusing to apply for or accept SSI benefits, the food stamp benefits should be calculated using the pre-sanction TA grant.

### C. Medical Assistance

In determining eligibility for Medicaid, SSI recipients and their income and resources continue to be considered "invisible". Medicaid does not prorate eligibility standards; therefore, an SSI recipient is excluded from the case count and the household size.

If TA denies, closes, or sanctions a case and/or an individual for failure to apply for SSI or accept SSI benefits, a referral must be made to Medicaid for a separate determination.

## IV. **Required Action**

### 1. TA budgeting when the family includes an SSI recipient.

When a TA household resides together with persons who would be required to be in the filing unit except that they are in receipt of SSI, those persons applying for TA constitute a separate household from any such SSI recipients who do not apply for TA. The standard of need for such separate household shall be the standard of need for the number of persons in the household as if the SSI recipients were included, reduced prorata to reflect the number of persons actually applying. The income of the SSI recipient applies only to his or her own needs and not to the needs of the TA family members.

With the exception of those cases exempt from the methodology as noted in Section III.A.1, districts must rebudget cases when the dwelling unit includes an SSI person who would be required to be included in the TA filing unit except that he or she is an SSI recipient.

When a district does not identify and rebudget an affected case by the effective date of this Administrative Directive, no overpayment will be calculated.

Notices:

Appropriate timely and adequate notice is required before the change can be made.

- a. When the TA family includes a member already receiving SSI, the family's benefit will change due to the SSI proration policy. The appropriate WMS case level reason code will be used (B20 for changes; B60 for recertifications; E30 for closings) along with the new CNS reason code B90. B90 will produce the following language:

"Your family includes a child or adult in receipt of Supplemental Security Income (SSI) who is:

- a legally responsible relative (LRR) of a member of your case. A LRR is a spouse, or the natural or adoptive parent of a child under age 21; or
- the natural or adoptive child of a case member; or
- a minor (under age 18) blood related or adoptive sibling of a minor case member.

The SSI person's needs are considered when we determine your standard of need. For example, in a family of three with one SSI member, the Public Assistance members' standard of need is based on 2/3 of three rather than on just two PA family members. The SSI person's income does not count when we determine how much PA the non-SSI family members can receive.

This decision is based on 18 NYCRR 352.2(b).”

- b. For cases that have a member determined SSI eligible after the effective date of this ADM, the worker will use the appropriate WMS case level reason code (B20 for changes; B60 for recertifications; B20 for closings) along with WMS individual reason code E94 “Receiving SSI” to explain that the individual is being removed from the TA case due to the receipt of SSI.

2. Penalty for refusing to apply for or accept SSI benefits

If the TA applicant or recipient who is physically and emotionally capable of applying for SSI for himself or herself or for a member of the TA household refuses to apply, or if approved, refuses to accept SSI, the prorata needs of the applicant or recipient will be eliminated until the individual cooperates.

An individual, who would be in the TA household except that he or she refused to apply for or accept SSI, must be offered the opportunity to comply at next contact or at next recertification. If such individual continues to refuse to apply, the needs of the TA household including the non-compliant person shall be reduced prorata.

When an individual refuses to apply for or accept SSI, timely and adequate notice is required. Use of CNS individual reason code F12 – Failure to Apply for or Accept SSI will produce the following language:

“(Name’s) share of your household’s public assistance benefit cannot be included.

This is because when a benefit is available that will reduce or end the need for public assistance, that benefit must be used. Individuals must apply for Supplemental Security Income (SSI) benefits at the Social Security Administration Office (SSA). They must do all the things they need to do so the SSA can decide if individuals can get SSI. You did not apply for or complete all the application steps for SSI even though told to do so. We were not told a good reason why this was not done.

This decision is based on Department Regulations 351.2.”

**V. Systems Implications**

- a. Upstate

**1. TA budgeting when the family includes an SSI recipient**

Workers should enter the total number of household members, including the SSI individuals, in the HH field on the ABEL budget. In the CA field, the number of individuals eligible for TA should be entered.

Example 1: A TA mother resides with her two children. One child is on the TA case and one child is in receipt of SSI. The worker will enter a 3 in the HH field and 2 in the CA field. ABEL will calculate a TA benefit based on a standard of need equal to two-thirds of three.

## 2. Penalty for refusing to apply for or accept SSI benefits

Example: A mom and two children receive TA in that district. Mom is capable of applying for SSI for her child but refuses to do so. The worker will enter a 3 in the HH field and 2 in the CA field. ABEL will calculate a TA benefit based on a standard of need equal to two-thirds of three.

### b. NYC

#### 1. TA budgeting when the family includes an SSI recipient

In order to obtain the appropriate proration of public assistance benefits and the correct food stamps amount for the household, it is necessary to perform the following two-step calculation:

##### Step 1

- Enter the number of SSI individuals (\*) in the LRR field of the Household Screen (NSBL02). Remember to enter the actual rent paid up to the maximum for the household size in the SHEL: AMT field of the NSLB02 screen.  
\*This includes adults and children who would be in the filing unit except that they receive SSI.
- Access the individual screen (NSBL06) for the any active PA recipient and enter income source code 52. Enter code 2 for the FREQ and code P for the PROG. **DO NOT** enter income in the GROSS field yet (see last bullet in Step 2).
- Access the individual screen (NSBL06) for the SSI recipient. Enter code 31 (SSI Income) the income source field, the income amount in the GROSS field, code 1 for the FREQ and code F for the PROG.
- Access the budget results screen (NSBL80). Next, determine the amount of the prorata standard of need reduction due to the presence of the SSI family member.

(Following each calculation direction is the result based on the maximum needs by household size – SSI individual included – based on the “with child” shelter allowance in the standard of need. If the family’s standard of need is equal to the maximum, note the appropriate bolded amount. If the family’s standard of need is different from the maximum, the worker must do the calculation.)

- For one PA and one SSI family member, divide the semi-monthly needs amount by 2 (**\$125.25**)



- For two PA and one SSI family members, divide the semi-monthly needs amount by 3 (**\$115.16**)
- For three PA and one SSI family members, divide the semi-monthly needs amount by 4 (**\$103.25**)
- For four PA and one SSI family members, divide the semi-monthly needs amount by 5 (**\$96.40**)
- For five PA and one SSI family members, divide the semi-monthly needs amount by 6 (**\$88.25**)
- For six PA and one SSI family members, divide the semi-monthly needs amount by 7 (**\$82.35**)
- For seven PA and one SSI family members, divide the semi-monthly needs amount by 8 (**\$76.62**)

Note the amount in the PA grant field that you must use in Step 2 of the calculation.

These steps increase the PA standard of need to include the SSI individual but do not count the income of the SSI individual for PA.

### Step 2

- Return to the Menu Screen (NSBL00). Enter 08 and the Case Number to access the recalculation function.
- Enter the line number of the PA recipient at the bottom of the Household Screen (NSBL02).
- Access the individual screen (NSBL06) for the PA recipient and enter the PA prorata amount from the last bullet in Step 1 in the GROSS field (next to the income source code 52 entered in Step 1. FREQ code 2 associated with income source 52 will multiply the semi-monthly amount to a monthly amount).

## **VI. Additional Information**

1. Lists of cases that have a family member in receipt of SSI will be sent to districts under separate cover. Districts must review the cases to determine which are affected by the new budgeting methodology which applies the proration methodology to the TA family members' TA benefits.
2. Interim Assistance Reimbursement (IAR) Calculation: 18 NYCRR 353.2(a)(6), defines grants or payments furnished to or on behalf of an applicant for SSI. These are the assistance for basic needs given to such an individual applicant for SSI or the incremental amount of assistance for basic needs given to a family with which the individual resides. They include amounts paid to vendors for such individual and amounts directly expended directly on behalf of the individual.

**IAR must continue to be calculated using the incremental method**, which finds the difference between the benefit (including vendor payments) that the family received with the SSI individual included and the benefit without the SSI individual included. For example, if a family received \$500 based on four household and case members before

one member became eligible for SSI, the IAR will be determined by finding the difference between that amount and the TA for the household and case of three.

Ongoing TA for the remaining members of the family will be based on three-quarters of the needs for four as described in this ADM.

3. Reportable Individuals in the FA and SNA Household: 01 ADM-4 discusses reporting requirements and the NTA individuals affected by the requirements. The proration discussed in this ADM will in no way change the way that SSI parents and siblings are reported.

For cases outside NYC, the SSI individual is included on the LDSS-3209 with Individual Status Code "08 – Inactive-Excess Restricted Income/Non-Applying HH Member" and MA Coverage Code "04-No Coverage-Ineligible".

For New York City cases, most of the individuals that meet the additional reporting requirements are NPA/FS individuals in TA cases. The necessary data will be available for them.

4. Claiming Hierarchy: The following information was included in 02 INF-42 which is being cancelled.

The Social Security Administration requires that assistance payments made to or on behalf of SSI recipients from Temporary Assistance to Needy Families (TANF) funds, including Family Assistance (FA), Safety Net Assistance-Federally Participating (SNA-FP) and Emergency Assistance to Needy Families (EAF), count as income and reduce the recipient's SSI benefit. When the benefit paid on behalf of a household reflects the SSI recipient's share of the total household needs, districts may use TANF funds to meet the needs of eligible non-SSI members. However, districts must not meet the needs attributed to the SSI member using TANF funds.

SSI individuals will generally only have unmet needs if the SSI individual or family member is in a residential program for victims of domestic violence or homeless shelter, including Tier I and Tier II.

Districts must authorize and claim the temporary assistance payments using the following hierarchy: FA or SNA-FP, EAF and SNA-Federally Non-Participating (SNA-FNP). **However, districts must not use FA, SNA-FP or EAF for the SSI individual's share of the needs.**

## VII. Effective Date

The effective date is July 7, 2004 which is the effective date of the regulation. Local districts must apply the policies as soon as possible after the case is identified and timely and adequate notice is provided.

Issued By \_\_\_\_\_

**Name:** Richard McElroy

**Title:** Acting Deputy Commissioner

**Division/Office:** Division of Temporary Assistance