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NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Robert Doar
Commissioner

Administrative Directive

Section 1

Transmittal:	05-ADM-03
To:	Local District Commissioners
Issuing Division/Office:	Division of Temporary Assistance
Date:	January 27, 2005
Subject:	Establishing the Standard of Need and Budgeting Income for Persons not Residing in Their Own Homes (18 NYCRR 352.8)
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors Staff Development Coordinators WMS Coordinators Fair Hearing Staff Medicaid Staff TOP/CAP Coordinators
Contact Person(s):	Central Team (TA) at 1-800-343-8859; extension 4-9344, Eastern Team (FS); extension 3-1469, Western Team (HEAP); extension 3-0332, and Metro Team, (212) 961-8207 For Medicaid: Upstate Regional Representative at (518) 474-8216; New York City Representative at (212) 268-6855
Attachments:	None
Attachment Available On – Line:	<input type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
96 ADM-20 94 ADM-11 94 ADM-20 91 ADM-3 02 INF-27 94 LCM-153		18 NYCRR 352.8 18 NYCRR 352.7(k) 18 NYCRR 408 18 NYCRR Part 900	SSL 131 SSL 62.5 SSL 459-a	TASB Chapter 17, Section E TASB Chapter 26 TASB Chapter 27	ABEL Transmittal 89-3

Section 2

I. Purpose

The purpose of this directive is to remind local social services districts that, for those applicants and recipients who are not living in their own homes, local districts must determine the correct standard of need for each living arrangement and budget income, in accordance with 18 NYCRR 352.8 and 18 NYCRR 352.29, to determine the correct level of assistance. It also informs districts that they are now required to provide to OTDA, on an annual basis, locally negotiated rates for room and/or board that exceed the standards found in 18 NYCRR 352.8 for room and/or board provided by an individual, family or commercially operated enterprise.

II. Background

Some persons who apply for or who are in receipt of temporary assistance (TA) are either permanently or temporarily residing in situations where they do not reside in their own home. These situations include:

- room and board provided by an individual, family or commercially operated boarding house;
- room and/or board situations operated by a non-profit agency that generally also provides some type of supportive services (e. g. shelters for the homeless and supportive housing);
- approved residential programs for victims of domestic violence;
- maternity homes;
- public shelters for homeless adults;
- homeless shelters operated under Part 900 of NYCRR; and
- congregate care facilities.

It has come to our attention that the appropriate standard of need may not always be used nor is income budgeted in these situations to reduce the amount of TA provided.

III. Program Implications

Local social services districts must:

- apply the correct standard of need for persons not residing in their own homes; and
- apply income correctly to this standard to reduce the amount of assistance granted.

IV. Required Action

To establish eligibility and the amount of assistance to be granted for applicants or recipients living in one of these situations, the local district must first determine the appropriate standard of need and budget income received by the applicant/recipient against this standard of need. The standard of need may be higher than for those persons residing in their own homes because of the increased shelter costs associated with these living arrangements.

Local districts must follow the directions below in establishing the standard of need and budgeting income for persons not residing in their own homes.

A. Room and/or Board

1). Room and Board Provided by an Individual, Family or Commercial Entity

An allowance must be established for persons purchasing room and board to cover the cost of board, room rent and other expenses except when such items and services are furnished by a legally responsible relative or by another recipient of TA. For example, a parent cannot receive a room and/or board payment for his/her child under the age of 21. However, a non-legally responsible self-maintaining grantee caring for dependent children may charge either room and board, or may choose to receive a regular TA grant for the dependent children, including a fuel allowance (McMullen vs. Perales). Another recipient of TA cannot charge room and/or board to another relative or non-relative TA applicant or recipient. These cases must be budgeted in accordance with cooperative budgeting procedures.

For applicants or recipients purchasing room and board from an individual, family or commercially operated boarding house, the amount granted for room and board must not exceed the sum of the Basic Allowance, the statewide home energy payments (HEA), the statewide monthly supplemental home energy payments (SHEA) and the local district's maximum monthly shelter allowance (without children) for the family size. Local districts must establish room and board allowances on a case-by-case basis. However, each situation should be examined to see if the amount charged is reasonable. The standard of need for each person residing in such a situation also includes a personal needs allowance (PNA) of \$45 a month.

Example 1

A family of three is living with a friend who charges the family \$400 per month for room and board. This is well below the maximum possible rate of \$634 the family could have received in that county. The adult family member is working and earns \$75 per week, but is unable to meet expenses and goes into County A to apply for assistance. The family submits a landlord statement showing the amount charged is for room and board. The friend with whom the family is living is not legally responsible for any member of the family and is not a TA recipient. The family's TA benefit is calculated as follows:

Room and Board rate	\$400.00
PNA	135.00 (\$45 x 3)
Standard of Need	535.00
Total Gross Earned Income	325.00
Total Net Earned Income	133.95 (Total Gross Earned Income less \$90, less 43%)
Deficit	\$401.00(\$535 – \$133.95 Rounded down)
Paid to provider	\$400.00
Paid to family	\$ 0

2). Room and Board or Room Provided by a Not-for-Profit

The limit above for room and board provided by an individual, family or a commercially operated enterprise does not apply to applicants or recipients purchasing district negotiated room and board or room from a not-for-profit organization that also provides items and services associated with room and/or board. This is true whether the not-for-profit is providing permanent or temporary housing. Generally, these living situations are homeless shelters or some type of supportive housing situation.

If the not-for-profit entity is providing three meals a day (board), the local district must negotiate a rate for room and board with the not-for-profit entity. This rate can exceed the limit stated above for room and board provided by an individual, family or a commercially operated boarding house. In addition to this negotiated room and board rate, the standard of need for each recipient in this arrangement includes a PNA of \$45 a month per person.

If the not-for-profit agency is charging a room rate only and not providing board (less than three meals a day), the local district must negotiate a room rate with the not-for-profit entity. Again, this room rate can exceed the maximum monthly shelter allowance (with or without children). In this situation the standard of need for each recipient or recipient family also would include the basic allowance, the HEA and the SHEA for their family size. In addition, if the not-for-profit entity was providing less than three meals a day and there were no cooking facilities available to the individual or family, the standard of need for the individual or family would include the appropriate restaurant allowance.

Example 2 (Room and Board)

A single man resides in supportive housing operated by a not-for-profit entity that provides three meals a day. The local district has negotiated a room and board rate of \$800 per month. The man works and receives \$50 per week gross income. The man’s TA benefit is calculated as follows:

Personal Needs Allowance	\$ 45.00
Negotiated Room and Board Rate	800.00
Standard of Need	845.00
Total Gross Earned Income	216.67
Total Net Earned Income	126.66 (Total Gross Earned Income less \$90)
Deficit	\$718.00 (Rounded down)

\$718 is provided to the not-for-profit entity.

\$82 is the man’s share of the cost and he must give this to the not-for-profit entity.

Example 3 (Room Only)

A 21 year old woman resides in a homeless shelter operated by a not-for-profit entity that does not provide any meals and there are no cooking facilities available in the shelter. The woman has no earnings, but receives Unemployment Insurance Benefit (UIB) payments of \$75 gross per week, but her net amount of UIB was reduced to \$35 per week due to a prior overpayment. The not-for-profit entity charges \$275.00 per month for her room, which is above the maximum shelter allowance of \$257. The woman’s TA benefit is calculated as follows:

Basic Allowance	\$112.00
HEA	14.10
SHEA	11.00
Negotiated Room Rate	275.00
Restaurant Allowance	64.00
Standard of Need	\$476.10
Total Gross Monthly UIB	325.00 (TA considers “Gross” not “Net” UIB benefits)
Deficit	\$151.00 (Rounded down)

The \$151 is provided to the not-for-profit entity.

The woman must pay the not-for-profit entity \$124 from her UIB.

B. Residential Program for Victims of Domestic Violence

The State Office of Children and Family Services establishes approved per diem rates for each licensed residential program for victims of domestic violence. These rates apply in any local district that is financially responsible for a victim and his/her family who are residing in the program. A food add-on is available for programs that provide 3 meals a day to all residents. Programs that have an approved food add-on to their per diem will continue to receive the food add-on until there is a change in the provision of meals. Programs that want a food add-on must obtain approval from the local district in which their program is located.

The standard of need for persons in these programs includes the cost of per diems under 18 NYCRR 352.8 and Part 408 of 18 NYCRR and the PNA of \$45 per person when three meals a day are provided. When fewer than three meals per day are provided by the residential program, the standard of need includes the per diem amount, the Basic Allowance, the HEA and the SHEA. If there are no cooking facilities available to the individual or family, the standard of need also includes the appropriate restaurant allowance.

Example 4

A woman with two children enters a shelter for victims of domestic violence in July that provides three meals per day. The per diem rate for the shelter is \$100 per day per person. She continues to work earning \$240 per week gross, and the income is available to her without compromising her safety. The woman's TA benefit is calculated as follows:

Personal Needs Allowance	\$ 135.00
Shelter Rate	9,300.00 (\$300 per diem x 31 days in July)
Standard of Need	\$9,435.00
Total Gross Earned Income	\$1,039.99
Disregard	90.00
Earned Income Disregard (43%)	408.50
Total Net Earned Income	541.49
Deficit	\$8,893.00 (Rounded down)

\$8,893 is paid to the residential program.

The woman's fee (\$9,300 Shelter Rate less \$8,893 Deficit) is \$407.

Example 5

A woman enters a shelter for victims of domestic violence in March that provides less than three meals a day and there are no cooking facilities available in the shelter. The shelter does provide breakfast. She continues to work while in the shelter and earns \$154.50 per week, and the income is available to her without compromising her safety. The woman's TA benefit is calculated as follows:

Basic Allowance	\$ 112.00
HEA	14.10
SHEA	11.00
Shelter Rate	2,325.00 (\$75 per diem x 31 days in March)
Restaurant Allowance	47.00 (Lunch and Dinner in a Restaurant)

Standard of Need	\$ 2,509.10
Total Gross Earned Income	\$ 669.50
Total Net Earned Income	579.50 (Total Gross Earned Income less \$90)
Deficit	\$1,929.00(Rounded)

\$1,929.00 is paid to the shelter.

The woman's fee (\$2,325 Shelter Rate less \$1,929 Deficit) is \$396.

For further information on budgeting these cases and computing the victims' fee, please refer to 02 INF-27, "Domestic Violence: Frequently Asked Questions on Reimbursement, General and Programmatic Issues".

C. Maternity Homes

The allowance for each person residing in a maternity home is established by each local district at the lowest rate for which suitable care can be purchased from such facility.

A woman in this type of living arrangement is eligible to receive the \$50 Pregnancy Allowance beginning in the fourth month of pregnancy or the month in which medical verification of the pregnancy is presented to the district, whichever is later. The budget calculation for persons residing in this type of arrangement is computed in the same manner as Example 2 and Example 3 above.

D. Public Shelters for Homeless Adults

A shelter for adults is defined as an adult care facility established and operated for the purpose of providing temporary residential care, room, board, supervision, information and referral and, where required or otherwise deemed necessary by the operator, social rehabilitation services for adults in need of temporary accommodations, supervision and services. This definition does not include facilities providing such temporary residential service to fewer than 20 persons, unless such facility is operated by a local district. Currently, only New York City operates such shelters.

The standard of need for residents of public shelters for homeless adults is equal to the grant for one which includes the Basic Allowance, the HEA, the SHEA and the Shelter Allowance without Children rate. The only cash that such persons are eligible to receive is a cash allowance of \$45 per month (this is not a PNA). The remainder of the budget deficit is paid to the shelter. Any income received by the individual is only budgeted against the \$45 cash allowance. If income exceeds the \$45, the SNA case may be zero budgeted with full SNA requirements, or if the applicant agrees, the application is separately processed for Medicaid and/or food stamps, and not for SNA.

Example 6

A man resides in a public shelter for homeless adults in New York City. He has gross earnings of \$130 per month. The man's TA benefit is calculated as follows:

Basic Allowance	\$112.00
HEA	14.10
SHEA	11.00
Shelter Allowance without Children	215.00
Total Needs	\$352.10
Maximum Cash Available to Recipient	45.00

Total Gross Earned Income	130.00
Total Net Earned Income	40.00 (Gross Earned Income less \$90)
Total Cash Available to Recipient	\$ 5.00 (Maximum Cash Available less Net Income)

E. Congregate Care Facility

An individual's eligibility for an allowance must be determined when he/she enters a Level I (certified family-type homes, and family care homes certified by the Office of Mental Health (OMH) and the Office of Mental Retardation and Developmental Disabilities (OMRDD)) and Level II (adult homes, residences for adults and enriched housing programs, residential substance abuse treatment programs certified by the Office of Alcohol and Substance Abuse (OASAS), community residences certified by OMH, OMRDD or OASAS). The standard of need (allowance) for these persons includes a rate for the type of congregate care and a PNA.

Example 7

An adult man is placed in a Level I family-type home. He receives \$550 in Social Security Survivor's benefits. The man's TA benefit is calculated as follows:

PNA	\$108.00
Shelter Rate	684.00
Total Needs	\$792.00
Total Gross Unearned Income	\$550.00
Deficit	\$242.00

\$242 is paid to the provider.

The man must pay \$442 from his unearned income to the provider.

Example 8

A single woman is placed in a congregate care Level II drug/alcohol treatment facility. She currently receives \$600 in Social Security benefits. The woman's TA benefit is calculated as follows:

PNA	\$127.00
Shelter Rate	872.00
Total Needs	\$999.00
Total Gross Unearned Income	\$600.00
Deficit	\$399.00

\$399 is paid to the provider.

The woman must pay \$473 to the provider from her Social Security Benefits.

To be eligible for a Level I allowance, the individual must be officially placed in a Level I facility by the OMH, by OMRDD or by a local social services district. Placement is confirmed by contacting the appropriate agency. To receive an allowance in a Level II facility, the local district must confirm that the facility is in the Congregate Care Directory and is eligible for Level II payments.

When a parent and a child reside in a Level I or a Level II facility, if the parent and the child both receive Level I or Level II care, both are entitled to receive the appropriate rate for care. If the child is living with the parent in the facility but not receiving Level I or Level II care, the child is only eligible to

receive a negotiated room and board rate plus a PNA in a group residence, or a basic TA grant in an apartment-like facility.

An adult or a child may be considered temporarily absent from an active TA case while residing in a Level I or Level II facility. The remaining TA case members may continue to receive a shelter and fuel allowance that considers the needs of absent case member in order to help retain permanent housing.

Local districts must provide this Office by March 31, 2005, and annually by March 31st each year thereafter, with information on all locally negotiated rates (room and/or board operated by a not-for-profit entity and maternity homes-if applicable) that pertain to the information contained in this directive. Please provide this information to:

Office of Temporary and Disability Assistance
Division of Temporary Assistance
Attention: Deputy Commissioner
40 North Pearl Street
11th Floor
Albany, New York 12243-0001
FAX (518) 473-0511

V. Systems Implications

There are no systems changes associated with this Directive.

VI. Additional Information (Optional)

Food Stamp Implications

Individuals who pay another individual or family for room and board cannot participate in the food stamp program separately from the household that provides their meals. Residents of commercial boarding homes also are not eligible for food stamp benefits. As described in the Food Stamp Source Book Section 5, residents of the following institutional living arrangements, however, may participate in the food stamp program if they are otherwise eligible:

- certain federally subsidized housing for the elderly;
- certain drug or alcohol treatment facilities;
- certain group living arrangements, if the resident is disabled;
- domestic violence shelters;
- homeless shelters; and
- State-operated or State-certified supervised/supportive apartments.

Medicaid Implications

Individuals who are not living in their own homes and have been determined eligible for TA are also eligible for Medicaid. This includes individuals residing in one of the following: room and board provided by an individual, family or commercially operated boarding house; room and/or board situations operated by a non-profit entity that generally also provides some type of supportive services; approved residential programs for victims of domestic violence; maternity homes; public shelters for homeless adults; homeless shelters operated under Part 900 of NYCRR; and congregate care facilities.

Single individuals/childless couples who apply for Medicaid-only and who live in a room and board arrangement must be eligible under the TA Standard of Need described. Parents, children under 21, pregnant women and individuals who are certified blind or disabled, or are at least age 65 have Medicaid eligibility determined under the higher of the TA standards of need described or the appropriate Medicaid level.

The Medicaid eligibility of individuals residing in Congregate Care Level I or Level II facilities is determined by comparing the net monthly income to the appropriate TA standard of need since that is higher than the Medicaid standard.

VII. Effective Date

Issued By _____

Name: Russell Sykes
Title: Deputy Commissioner
Division/Office: Division of Temporary Assistance