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Governor

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

**Robert Doar**  
Commissioner

## Administrative Directive

### Section 1

<b>Transmittal:</b>	06-ADM-06
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Employment and Transitional Supports
<b>Date:</b>	May 16, 2006
<b>Subject:</b>	Coordination of Temporary Assistance Employment and Eligibility Requirements for Individuals Who Are Required to Apply for SSI
<b>Suggested Distribution:</b>	Employment Coordinators Temporary Assistance Directors Medical Assistance Directors
<b>Contact Person(s):</b>	Welfare-to-Work Technical Advisor for employment related questions. Temporary Assistance Bureau at 1-800-343-8859, extension 4-9344, for questions on TA eligibility requirements. Medicaid: Local District Support Liaison Upstate (518) 474-8887 NYC (212) 417-4500
<b>Attachments:</b>	
<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.
91 ADM-32 92 ADM-29 93 INF-4 01 INF-12 01 INF-18 04 ADM-05	93 INF-4	18 NYCRR 351.2 18 NYCRR 352.30 (a),(d) and (f) 18 NYCRR 360-2.2 18 NYCRR 369.2(h) 18 NYCRR 370.2(b)(5) 18 NYCRR 385.2	SSL 332-b	WTW Manual Section 2	

Note: The Welfare-to-Work employment regulations in Part 1300 of 12 NYCRR have been repealed and adopted into Part 385 of 18 NYCRR, effective March 15, 2006. The WTW Employment Manual is being revised and will be posted on the Office of Temporary and Disability (OTDA) website as soon as it has been updated.

## **Section 2**

### **I. Summary**

This policy directive is to inform districts that individuals who are required by the district to apply for Supplemental Security Income (SSI) benefits as a condition of eligibility for temporary assistance are exempt from temporary assistance and food stamp work requirements. Districts cannot require these individuals to comply with employment activities until the district has determined, based on the documentation available, that the individual is nonexempt and no longer required to apply for SSI benefits as a condition of eligibility for temporary assistance benefits. Recipients who apply for SSI remain eligible to participate in employment activities on a voluntary basis and would therefore be eligible for supportive services which the district has determined are needed in order to enable the recipient to participate in the designated employment activity.

### **II. Purpose**

The purpose of this directive is to provide clarification on the coordination of temporary assistance eligibility and employment requirements pertaining to individuals who are required to apply for SSI benefits. Districts are also instructed to exempt from temporary assistance and food stamps work requirements those individuals who are required by the district to apply for SSI benefits as a condition of eligibility for temporary assistance.

### **III. Background**

#### **A. District Responsibility**

##### **1. Employment Requirements**

Districts are required to determine whether or not an individual is exempt or nonexempt from work activities before making an employment assignment. Districts must review whether a temporary assistance applicant or recipient has any medical or other conditions that would limit his or her ability to participate in work activities at the time of application and recertification or any other time the social services official has reason to suspect that an individual's nonexempt/exempt status has changed. Any time the district is making a determination of whether or not an applicant or recipient suffers from physical or mental health limitations that may affect his or her ability to participate in work activities, it must follow the employability disability review procedures specified in 18 NYCRR 385.2(d) and Social Services Law section 332-b. Districts must also notify an individual of its exempt/nonexempt determination whenever an individual alleges that he or she is unable to participate or the individual otherwise participates in the employability disability review.

Nonexempt applicants and recipients must be assigned to work activities, which the district has determined will assist the individual to become self-sufficient in accordance with the individual's assessment and employability plan. Districts are required to determine whether or not an individual who has been determined to be exempt from participation in work activities has the potential to be restored to self-sufficiency through rehabilitation and may require such individuals to participate in rehabilitation or treatment programs, as appropriate.

## **2. Eligibility Requirements**

Districts are required to ensure that individuals who reasonably appear to qualify for SSI benefits apply for these benefits and comply with all additional requests for information from the Social Security Administration (SSA). Districts must require individuals whose application for SSI benefits has been denied and who continue to be unable to participate in work activities because of a medical condition that reasonably appears to qualify the individual for SSI to file an appeal and comply with all SSA requirements.

### **B. Temporary Assistance Applicant/Recipient Responsibility**

#### **1. Employment Requirements**

Nonexempt temporary assistance applicants and recipients are required to participate in work activities, which the district has determined will assist the individual to become self-sufficient in accordance with the individual's assessment and employability plan. Nonexempt individuals who willfully refuse or fail to comply with employment requirements without good cause are subject to prorata employment sanctions in accordance with 18 NYCRR 385.12 and 352.30(d).

A temporary assistance applicant or recipient who is determined to be exempt from participation in work activities who in the judgment of the social services official has the potential to be restored to self-sufficiency may be required to provide additional medical documentation or submit to an independent evaluation. The additional medical documentation and/or the independent evaluation will be used by the district to determine whether the individual can recover from a mental or physical impairment. Individuals who apply for or receive temporary assistance and who are exempt from work requirements may also be required to:

- Accept reasonable medical care that will assist the individual in recovering from the mental or physical impairment;
- Accept referral to and enrollment in a program of vocational rehabilitation, training and other essential rehabilitation designed to restore an individual to self-sufficiency, and
- Give evidence, as requested by the social services official that he/she is participating in such program as assigned by the district.

Exempt individuals who in the judgment of the social services official do not have the potential to be restored to self-sufficiency are generally required to apply for SSI benefits as discussed below.

#### **2. Eligibility Requirements**

##### **A. Temporary Assistance**

Individuals may pursue SSI independently or as required by the district. If a district finds that a TA applicant or recipient reasonably appears to be eligible for SSI, the district must require the applicant or recipient to apply for SSI benefits, follow through on the application for such benefits and accept such benefits, if eligible.

## Failure to Comply with Requirement to Apply for and Accept SSI Benefits

When an applicant for or recipient of TA refuses, without good cause, to cooperate in applying for SSI benefits, in appealing a denial when the district determines such appeal is required or declines to accept SSI benefits for himself or for a member of the temporary assistance household, the consequence for noncompliance is as follows:

- Since SSI income cannot be applied to other household members, the penalty for refusing to apply and accept SSI is the same result that would occur if the individual did apply and began to receive SSI. This penalty remains in effect until the individual cooperates with the requirement.
- If an adult caretaker applicant or recipient refuses to apply, follow through or accept SSI on behalf of a child, the prorata needs of only the non-cooperative adult must be eliminated until the individual cooperates. This is true even if the adult caretaker is not a legally responsible relative. If the adult caretaker is not in receipt of temporary assistance, no sanction is imposed.
- If the individual who failed to comply with the requirement is not a required filing unit member and/or a legally responsible relative (e.g., a 20 year old sibling residing in the household), the individual would be ineligible (incremental sanction) and denied if an applicant or **deleted** from the temporary assistance budget, if a recipient.

A timely and adequate notice must be sent to advise the household of any reduction in temporary assistance benefits. Use of Client Notices System (CNS) temporary assistance individual reason code "F-12", Failure to Apply for or Accept SSI will produce the required notice language.

As noted in 04 ADM-05, if the temporary assistance applicant or recipient is not physically or emotionally capable of applying for SSI benefits, the district must provide services that are necessary to ensure that the individual is assisted in applying for and following through with the application for SSI benefits including helping the individual complete the application or filing for an appeal, as appropriate. In such instances, the TA benefits shall not be reduced or discontinued for failure to apply for SSI benefits.

Individuals whose application for SSI benefits are denied, but are still unable to participate in work activities including employment because of a medical condition that reasonably appears to qualify the individual for SSI must be required to file an appeal to maintain his/her eligibility for temporary assistance benefits.

### **B. Food Stamps**

The requirement to apply for SSI benefits and appeal a denial of a SSI application are **not** food stamp eligibility requirements. However, in those instances where the household's temporary assistance benefits are reduced or discontinued for refusing to apply for or accept SSI, the food stamp benefits would be calculated using the pre-sanction temporary assistance grant.

## **C. Medicaid**

The requirement to apply for SSI benefits and appeal a denial of an SSI application are **not** Medical Assistance program eligibility requirements. In those instances where the household's temporary assistance benefits are discontinued for refusing to apply for or accept SSI, a Medicaid separate determination will be prompted by the use of the appropriate TA closing/denial code.

The Medical Assistance program has no employment requirements, except for the special Medicaid Buy-In Program for Working People With Disabilities (MBI-WPD)

## **IV. Program Implications**

### **A. Temporary Assistance Employment Requirements**

Districts must coordinate employment and eligibility requirements for all applicants and recipients of temporary assistance. OTDA strongly encourages districts who have not already done so to consider contracting out for the completion of independent employability evaluations by a health care practitioner who is certified by the Division of Disability Determinations (DDD) within the Office of Temporary and Disability Assistance to assist the district with the determination of whether or not an individual who applies for or receives temporary assistance is exempt from work requirements.

Individuals who are required by the district to pursue SSI benefits as a condition of eligibility are exempt from participation in work requirements and cannot be assigned to work activities until the district determines, based on the documentation available, that the individual is no longer exempt from work requirements and is not required to pursue SSI benefits as a condition of eligibility for temporary assistance. Individuals who are required by the district to appeal a denial of SSI benefits continue to be exempt from participation in work requirements while the appeal is pending a decision unless additional medical information is received which indicates that the individual is no longer exempt from work requirements and the district determines that the individual is no longer required to pursue SSI benefits as a condition of eligibility for temporary assistance.

Districts will need to evaluate those individuals who pursue SSI benefits on their own to determine whether or not the district would have otherwise required the individual to apply for such benefits as a condition of eligibility for temporary assistance. The exemption from participation in work requirements for self-applicants for SSI described above will only apply if the district would have required the individual to pursue SSI as a condition of eligibility for temporary assistance.

### **B. Temporary Assistance Eligibility Requirements**

The requirement for TA applicants and recipients who reasonably appear to be eligible for SSI to apply for and pursue SSI benefits as a condition of eligibility and the consequences for refusal or failure to comply are unchanged.

## **C. Food Stamp Program Requirements**

Applying for and pursuing SSI benefits is **not** an eligibility requirement under the food stamp program. However, the Office strongly recommends that districts continue to encourage food stamp applicants and recipients to explore all resources which may be available to assist the household in meeting their needs.

## **V. Required Action**

Some individuals who receive SSI benefits can work with necessary accommodations and the State supports all efforts by individuals to secure employment even if limited. Nonetheless, districts are instructed to exempt from temporary assistance and food stamp work activities those individuals it has determined must apply for SSI benefits as a condition of temporary assistance eligibility. These individuals remain eligible for all employment preparation and support services otherwise available to the extent such participation is voluntary on behalf of the individual.

## **VI. System Implications**

### **Assignment of Employability Codes**

Employability code “43- SSI Application Filed” (on screen 3 of WMS-Upstate) and a SSI Status Code of “2-Pending” (on screen two of WMS-Upstate) are generally used to identify individuals who have a pending SSI application, unless the district is required or determines that it is more appropriate to use another employability code. Note: Employability codes and SSI Status codes are entered on eligibility individual data entry screen NCEM15 or undercare data entry screen NUCMCL for NYC.

For example, 01 INF-18 requires that districts must use an employability code of “63- Substance Abuser-In Rehabilitation or Waiting for Rehabilitation-Exempt” for individuals who have been determined through the assessment process as unable to work due to drug and/or alcohol abuse, even if another condition exists that would also make the individual unable to work. Additionally, instead of employability code “43”, it may be more appropriate to use employability code “45-work requirements waivable-exempt” for individuals who have been granted a waiver from work requirements or employability codes “47”, “48”, or “49”, as appropriate for individuals who have been granted a time limit waiver, in accordance with existing Office policy. In all instances, the SSI Status Code of “2- Pending” should still be used to identify individuals who have applied for SSI.

## **VII. Additional Information**

### **A. Welfare-to-Work Employment Policy Manual Updates**

The Office published a notice in the March 15, 2006, edition of the *State Register* to announce that the employment regulations in Part 1300 of 12 NYCRR have been repealed and adopted into Part 385 of 18 NYCRR, effective March 15, 2006. The WTW Employment Manual is being revised and will be posted on the OTDA website as soon as it has been updated.

**VII. Effective Date**

Immediately

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

**Name:** Russell Sykes

**Title:** Deputy Commissioner

**Division/Office:** Division of Employment and Transitional Supports

## Temporary Assistance SSI Coordination ADM

Summary of Comments received:

Agency/Bureau	Comments	Action Taken
TSP/TA	<ul style="list-style-type: none"> <li>• ADM should clearly state that an A/R who applies for SSI on his/her own and is not required to file by DSS is not exempt from work requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Language revised as suggested.</li> </ul>
TA	<ul style="list-style-type: none"> <li>• ADM should include information to describe consequences for failure to comply with requirement to apply for SSI and remind districts of requirement to assist individuals who are unable to do soon their own to apply/appeal SSI.</li> </ul>	<ul style="list-style-type: none"> <li>• Language added to address noncompliance with program requirements and respective consequences.</li> </ul>
FSP	<ul style="list-style-type: none"> <li>• Information should be added to advise districts that application for SSI or pursuit of other potential resources is not an eligibility requirement for food stamps.</li> </ul>	<ul style="list-style-type: none"> <li>• Information added to background and program implications to clarify that pursuit of resources may be encouraged, but can not be required for food stamp program.</li> </ul>
TSP	<ul style="list-style-type: none"> <li>• Previous policy directives have instructed districts to use specific employability codes in certain instances (e.g., code “63” is required for individuals who are determined to be unable to work based on alcohol/substance abuse.</li> <li>• Recommended that language be added to strongly encourage districts to consider contracting with an independent medical provider for completion of employability evaluations.</li> </ul>	<ul style="list-style-type: none"> <li>• Revised section pertaining to the assignment of employability codes as suggested.</li> <li>• Added language as suggested.</li> </ul>
WMS	<ul style="list-style-type: none"> <li>• Section on employability codes requires clarification. For example, it may be more appropriate for a district to use another employability code based on prior Office policy or the household’s situation.</li> </ul>	<ul style="list-style-type: none"> <li>• Revised language in the ADM to clarify that assignment of an employability code would be based on prior Office policy, as required or household’s situation.</li> </ul>



## Temporary Assistance SSI Coordination ADM

Summary of Comments received:

TA	<ul style="list-style-type: none"> <li>Recommended formatting and language changes on page 2 and 3.</li> </ul>	<ul style="list-style-type: none"> <li>Language and formatting suggestions incorporated.</li> </ul>
Counsel's Office	<ul style="list-style-type: none"> <li>Recommended formatting and language changes to clarify requirements for applicants and recipients who are exempt from work requirements and type of sanction imposed when an individual fails to comply with requirement to apply for SSI.</li> </ul>	<ul style="list-style-type: none"> <li>Reformatted respective sections of ADM and revised language pertaining to types of sanctions as recommended.</li> </ul>
DOH	<ul style="list-style-type: none"> <li>Information should be added to the ADM to describe MA implications and to provide MA contact information.</li> </ul>	<ul style="list-style-type: none"> <li>Language provided by DOH added to ADM, including MA contact and paragraph pertaining to MA implications to Background section.</li> </ul>
Lewis County	<ul style="list-style-type: none"> <li>The Employment Coordinator from Lewis County sent the following questions:               <ol style="list-style-type: none"> <li>Are cases which include an individual who is required to apply for SSI as a condition of eligibility for temporary assistance removed from the participation rate calculation.</li> <li>Can individuals who are required to apply for SSI may be required to participate in rehabilitation or treatment which is consistent with their assessment/employability plan.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Responded directly to Lewis County. Advised that federal rules do not permit such cases to be removed from the participation rate calculation.</li> <li>Also advised that individuals who the district determines have the ability to restore their employability may be required to participate in rehabilitation or treatment programs, but can not be assigned to work activities since the individual is exempt from work requirements.</li> </ul>
Suffolk County	<ul style="list-style-type: none"> <li>A representative from Suffolk County called to discuss the purpose of the ADM.</li> </ul>	<ul style="list-style-type: none"> <li>Explained the purpose of the ADM. Suffolk County believes their procedures already reflect the policy guidance outlined in the ADM.</li> </ul>