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Informational Letter

Section 1

Transmittal:	06-INF-34
To:	Local District Commissioners
Issuing Division/Office:	Employment and Transitional Supports
Date:	November 16, 2006
Subject:	Domestic Violence Residential Programs – Payment Issues and District of Fiscal Responsibility (DFR)
Suggested Distribution:	Temporary Assistance Staff Housing Staff District of Fiscal Responsibility Liaisons Domestic Violence Liaisons Food Stamps Staff Medicaid Staff Services Staff
Contact Person(s):	OTDA: Temporary Assistance Bureau at 1-800-343-8859, extension 4-9344 MA: Local District Liaison, Upstate (518) 474-8887, NYC (212) 417-4500
Attachments:	Attachment 1: An Important Message for Domestic Violence Providers Attachment 2: Public Assistance (PA) Budget Examples
Attachment Available On – Line:	yes

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
03 ADM-12 03 ADM-2 97 ADM-23 94 ADM-11 06 INF-14 02 INF-36 02 OTDA-INF-27 02 OCFS-INF-06 00 INF-19		311.3 311.4 408.5	§62.5(f)		

Section 2

I. Purpose

The purpose of this release is to reinforce the provisions of 94 ADM-11 “Domestic Violence: Eligibility and Payment for Residential Services” and the established procedures for District of Fiscal Responsibility (DFR) transmitted in 00 INF-19.

In addition to the above releases, detailed, current information about domestic violence residential program eligibility and payment is found in the joint release OTDA 02 INF-27 & OCFS 02 INF-06 entitled, “Domestic Violence: Frequently Asked Questions on Reimbursement, General and Programmatic Issues”.

II. Background

Several issues continue to arise for individuals in need of Domestic Violence (DV) Residential services, Social Services Districts (SSDs), and DV Residential Service providers. Those issues are:

A. District of Fiscal Responsibility (DFR)

Social Services Law §62.5(f) provides that “the social services district in which a victim of domestic violence was residing at the time of the alleged domestic violence shall be responsible for the cost of shelter and care provided to such victim and his or her children at a residential program for victims of domestic violence located in another district if the victim was receiving public assistance at the time of entry to the program or applies for public assistance and care during the time of residing in such program and is found eligible.”

When the victim is not a recipient of public assistance (PA), an application must be filed by the victim in the social services office in the where-found district. The where-found district will contact the presumed DFR according to the DFR procedures (00 INF-19).

DFR situations are more problematic for DV cases for a number of reasons, including:

- The victim is not known to the SSD in the responsible district because the victim has not had need for social services programs prior to the incident of domestic violence.
- The victim may appear on the Welfare Management System (WMS) as active for some program, for example Medicaid, even though the victim has moved to a different district since the last recertification.
- The presumed DFR refuses to accept responsibility because the victim was not referred to the residential program via that district’s usual referral process.
- The where-found district fails to do what is routinely done when there is an inter-district dispute: attempt a mediation and process the application if the presumed DFR continues to refuse responsibility, provide assistance to the eligible household and request an inter-district hearing to settle the matter of fiscal responsibility.

When the process breaks down, the costs to social services districts, domestic violence victims and residential programs can be significant.

For example, a victim (and her or his children) may remain in the residential program for the maximum 135 days, at a high cost, because no district is taking responsibility for the victim and

providing the help needed to get the family into permanent housing. When the matter comes to the attention of OTDA, and the matter is reviewed with the responsible district, the district accepts responsibility for the eligible family. However, if not contacted by one district or the other at the time of application, the matter often comes to the attention of OTDA many months after the stay, and after the residential program has attempted, but failed to secure payment from the social services district.

B. Payment of the Residential Program Cost

Even when there is no DFR dispute, there can be confusion about which funding source (if any) can make a payment for the cost of the residential program. If payment of the cost of the DV residential program cannot be made under a PA program, Services may make a payment from (Title XX or 50 State/50 local funding) under some circumstances.

Often, SSDs are unclear about the requirement to pay the cost of the residential program when the victim is ineligible for PA but may be eligible for payment of the residential cost under Services funding. The residential programs, which often suffer financial loss for victims who cannot pay and are not eligible for PA or Services (Title XX or 50 State/50 local), have to expend additional resources attempting to collect payment from SSDs for those victims who are eligible.

For these reasons, OTDA and OCFS have agreed to:

- Restate the DFR rules pertaining to victims of DV who enter residential DV programs.
- Restate the policy regarding the treatment of PA applications from DV victims.
- Formalize what has been an informal process whereby OTDA and/or OCFS will review cases raised via the DV/DFR Helpline by residential programs that had been unsuccessful in securing PA or Services (Title XX or 50 State/50 local) payment for those victims believed to be eligible for payment. The DV/DFR Helpline will provide a problem-solving tool because residential programs do not have standing to request fair hearings on the issue of denial of payment, unless they have a limited power of attorney provided by the applicant/recipient.

The DV/DFR Helpline will also be an available tool for SSDs.

- Provide this information to DV Residential Services providers as well as to the SSDs.

III. Program Implications

A. Social Services District (SSD) Responsibilities

1. District of Fiscal Responsibility (DFR):

a. DFR Rule for DV Victims

The district of residence at the time of the DV incident is the district responsible for the payment of the residential DV program costs and for other PA, Food Stamps and Medicaid. It is important that the application include as much information as possible about the individual's district of residence and that the SSD secure additional information as needed to reduce or eliminate doubt about the correct DFR.

The SSD in which the DV victim is found in a residential domestic violence program (the "where-found" SSD), is responsible for accepting the application (unless the victim chooses to apply in the district in which she resided at the time of the domestic violence incident). The where-found SSD must follow the DFR

procedures. The following are step-by-step guidelines for processing DV/DFR cases:

Step #1: The where-found district must take the application from the victim and arrange an interview with the assumption that it will be the district of fiscal responsibility for PA, MA and FS.

Note: For the correct application procedure for DV victims in New York City (NYC) shelters, who resided outside NYC at the time of the domestic violence incident, see 1.b. below.

Step #2: The where-found district must obtain relevant documentation including releases to cover the districts involved. (Examples of releases are medical releases and releases that allow the SSD, OTDA and OCFS to release information to the DV Residential provider.) The where-found district should also register the application and complete finger imaging.

Note: The where-found district is responsible for the DV screening and assessment. That district is also responsible for the decision about whether a waiver is needed IF the presumed DFR does not respond or has refused to accept responsibility for the case. When the presumed DFR accepts responsibility, waiver decisions must be discussed between the DV liaisons in both districts (where-found and DFR). Then the DFR makes the final waiver decision. However, the DFR should make the decision based on the recommendation of the where-found district (02 INF-36, #41).

Step #3: The where-found district should contact the presumed DFR and explain that it has an application involving a question of DFR. The where-found district then will complete and fax, as soon as possible but within 5 business days, LDSS-4732-A and B, the DFR Cover Letter and Response Form and the DFR Worksheet along with a completed Documentation Requirements form (LDSS-2642 or approved local equivalent).

Step #4: The presumed DFR should assess which district it believes is the DFR and complete its section of the LDSS-4732-A, the DFR Cover Letter and Response Form, either accepting or rejecting fiscal responsibility. The presumed DFR must ensure that if it denies DFR responsibility that the reason for this is clearly indicated on the DFR "Cover Letter and Response Form". The decision by the assumed DFR to accept or deny responsibility should be made as soon as possible, but no later than five business days from the receipt of the Cover Letter and Response Form and DFR worksheet.

Step #5: If the where-found district receives no response from the assumed DFR within five business days, or if the assumed DFR rejects responsibility, the where-found district is to proceed as the responsible district for PA (including the cost of the DV residential program), MA and FS. A decision should then be made by the where-found district as to whether or not to bring the dispute to mediation (see Section III A.1.c. below) and/or to proceed with an inter-district jurisdictional dispute (IDD) in accordance with 18 NYCRR 311.3(c). Please note that if a decision is made to proceed with an IDD, 18 NYCRR 311.3(c) requires

the district to, among other things, notify the other district that it is filing an IDD.

However, if the applicant is ineligible for PA but may be eligible for Title XX, the where-found district is not responsible for the Title XX payment. Rather, the where-found district must request assistance by calling the DV/DFR Helpline as described in Section III.A.3 below.

Step #6: If the district of presumed responsibility accepts that it is the DFR, then the where-found district withdraws the application and forwards a completed application packet to the DFR. The packet must contain, in addition to the completed application, available documentation, the results of Finger Imaging, the DSS-4571 "Alcohol/Substance Abuse Screening Instrument", and other forms as needed, such as the Safety Net Repayment (DSS-4529) and the Safety Net Assignment of Future Earnings (DSS-4530), as well as information, where appropriate, about the applicant's child support status and DV waiver request(s). The DFR must then notify the applicant of acceptance or denial of the application within the regulatory timeframes of thirty (30) days from the date of the application for Family Assistance (FA) or forty-five (45) days for Safety Net Assistance (SNA).

As noted above, if a DV waiver is requested, decisions must be discussed between the DV liaisons in both districts (where-found district and DFR). Then the DFR makes the final waiver decision. However, the DFR should make the decision based on the recommendation of the where-found district (02 INF-36, #41).

b. DV/DFR – NYC Domestic Violence Shelter Residents From Other SSDs in New York State

When a victim enters a DV residential program in NYC and must apply for cash assistance to pay the DV bill, the individual will usually apply at the appropriate center that serves the area in which the DV shelter is located.

However, if the individual was a resident of another SSD in NYS at the time of the DV incident, then that district is responsible for the payment of the DV bill. In order to avoid delay in the payment of the DV bill and in getting the victim the assistance she or he needs to move out of the shelter as soon as is possible, application for cash assistance must be made to the Human Resources Administration (HRA) Office of Project Support (OPS) – 20th floor, 180 Water Street, NY, NY 10038.

The worker at the DV residential program or the victim must call the OPS at (212) 331-5806 or (212) 331-5794 for an appointment when the victim is the fiscal responsibility of another SSD. If the victim completes the application in the shelter but leaves the shelter before the appointment, the application must be considered for Title XX, provided it is submitted by the shelter to OPS.

If the worker at the DV shelter is not sure which SSD (NYC or another) is responsible for the individual, then the worker should contact the OPS to discuss whether the application should be filed at the center serving the DV program location or at OPS.

Under no circumstance may an applicant be prevented from filing an application for PA immediately if he or she wishes. If an application is filed at a Job Center and it later becomes apparent that the applicant is the fiscal responsibility of another SSD and is referred to OPS, the date of the original application must be maintained.

c. DFR Mediation Process for Public Assistance

This process offers SSDs the alternative of non-binding State mediation when a DFR issue arises. This process will not replace the inter-district jurisdictional dispute (IDD) hearing process, but rather offer districts the opportunity to have an OTDA representative review the facts involved in the DFR dispute and advise both SSDs of which SSD is responsible. The purpose of this process is to reduce the need for DFR fair hearings and thereby save districts the expense and administrative burden of preparing for and attending a fair hearing. Procedures to request OTDA mediation of a DFR dispute are as follows:

- i. SSDs must attempt to resolve the DFR issue prior to requesting State mediation. Districts also may continue to contact OTDA staff to resolve DFR policy issues at any time, regardless of whether mediation is involved.
- ii. Both SSDs must agree to State mediation.
- iii. Either SSD may contact the State to set-up a conference call between both SSDs and the State mediator to attempt to resolve the dispute.
- iv. If the dispute still cannot be resolved, a completed LDSS-4732-A, DFR Cover Letter and Response Form and LDSS-4732-B, DFR Worksheet must be faxed to the mediator along with documentation supporting each DSS's position. (See Section III.A.3 below.)
- v. The mediator will review the information and supporting documentation to determine which SSD is responsible. LDSS-4734: "DFR Mediation Resolution Form" then will be faxed to both SSDs indicating the mediator's nonbinding decision. It is anticipated that the mediator's decision will be rendered within two business days. However, the timeframe may be longer depending on the volume of requests, and whether a particular case has an unusually complex fact pattern.

If the districts still disagree as to which district is responsible, the where-found district must accept and process the application, and if the applicant is found eligible, provide assistance during the pendency of the dispute. An interjurisdictional dispute fair hearing then may be requested in accordance with 18 NYCRR 311.3 (c). Districts are reminded that the district requesting the IDD must send a written notice to OTDA's Office of Administrative Hearings and to the other SSD including a brief statement of fact and law upon which the determination of fiscal responsibility is based.

d. PA Needs of Applicants Thought to be the Responsibility of Another SSD

- i. As provided above, if the individual is thought to be the fiscal responsibility of another district, the where-found district must accept and process an application for PA if the presumed DFR will not accept fiscal responsibility or will not accept fiscal responsibility in time to meet the regulatory timeframes for application acceptance or denial. The where-found district also must provide

child care for individuals required to take part in employment activities by the where-found district during the pendency of the dispute about which district is fiscally responsible.

Even when the DFR accepts fiscal responsibility, the where-found district still may have to meet emergency needs for eligible individuals in the shelter, or during the transition period of the month the individual leaves the shelter and the following month.

For example: An individual has left the shelter after securing a house to rent. The DFR paid moving and other necessary expenses related to moving from the DV shelter to the permanent housing. One week later the individual discovers that she has enough fuel oil to heat for only four days. Even though she is still the fiscal responsibility of the former district during the transition period, the emergency need for fuel must be met by the where-found district, provided the individual is otherwise eligible.

ii. Use of the Application Form

The where-found district must identify any immediate needs at the time of the application. If the applicant is the responsibility of another SSD for processing a payment for the DV Residential costs and other non-emergency PA needs, the where-found district must copy the application and use the copy to register the case for the issuance of the help necessary to meet the emergency or immediate need as appropriate. The original application must be forwarded to the DFR once that district accepts fiscal responsibility.

If the individual presents with an emergency or immediate need at the time of leaving the DV shelter or thereafter, the individual must complete an application in the where-found district for emergency assistance and/or ongoing PA.

2. Payment

a. DV Program Costs

PA Denial:

Even though a PA application is denied, the residential program still may be eligible for payment under Title XX for the cost of the individual's stay. However, an applicant who is ineligible for PA due to excess income also will be ineligible for Title XX.

NOTE: SSDs MUST remember that when determining financial eligibility for PA for an applicant who is (or was) in a residential program for victims of DV, the PA standard of need must include the residential program rate, not the standard PA shelter allowance. The appropriate shelter type code (see E. below) must be used as well, since ABEL will bypass the poverty level gross income test for DV shelter types.

- i. DFR denies PA: The DFR will send the application and PA denial to Services for its determination of the individual's eligibility for Title XX. In the event that the residential program asks about the status of the PA application, and provided that the program has a release from the client to secure information from the SSD, the district may tell the program that

the application has been denied and forwarded to Services for a determination.

- ii. Where-found SSD denies PA: When the presumed DFR has refused to accept the application, and the where-found district makes a determination of ineligibility for PA on the application, that application should not be forwarded to the where-found district's Services unit for a determination of Title XX eligibility. There is no equivalent in Title XX to the requirement that the where-found district act on the application that the presumed DFR refuses to accept.

Note: When the where-found SSD denies the PA application of a DV victim found in that district, the denial reason CANNOT be either of the following:

E61 – Not a Resident of the District

E63 – Not a Resident of the State

The where-found SSD must contact the DV/DFR Helpline (see Section III.A.3. below) to report that the presumed DFR has refused to accept the application. OCFS will work with the districts involved to resolve the issue.

In the event that the residential program asks about the status of the application, and provided that the program has a release from the client to secure information from the SSD, the SSD may tell the program that the application has been denied and the matter of responsibility for determination of Title XX eligibility has been referred to the OCFS for resolution.

b. Referral from SSD

A referral from the SSD to a DV residential program is NOT a requirement for eligibility for either PA or Title XX. Payment of the cost for a residential program for DV victims cannot be denied by either the DFR or the where-found district solely because the district did not refer the individual(s) to the DV residential program.

However, communication between the DV residential program and the DFR is very important to the task of transitioning the individual into safe housing as soon as possible, or to secure approval for the individual to remain in the program longer than 90 days (but no more than 135 days).

c. Sanctioned or Ineligible Individuals

Individuals in need of residential DV services may be eligible for a waiver of one or more requirements under the Family Violence Option (FVO). Refer to 03 ADM-2 and 02 INF-36. However, if a victim does not wish to be considered for a waiver, is ineligible for a waiver, or is currently in a durational sanction period, the following rules apply:

i. Sanctioned Individual:

- 1. Previous Sanction - An individual who is applying for PA, and who was previously sanctioned but who is not in a durational sanction period, must have the cost of the DV program met by PA if the

individual cooperates to the extent possible while in the DV shelter and PA is able to make a determination of PA eligibility.

For example: An individual's PA case was closed because of failure to cooperate with employment requirements. As an adult without children, the first instance of employment non-cooperation resulted in a sanction of 90 days and until compliance. The individual is two months past the end of the durational sanction period at the time of entry into the DV program and application for PA. The district conducted the face-to-face interview and had all necessary documentation to determine PA eligibility. However, it cannot schedule the applicant for an interview with the employment unit for nine days. Two days before the employment interview, the individual leaves the shelter and moves out of state.

Since the applicant cooperated to the extent possible while in the DV shelter, and the SSD can determine that the individual is eligible for PA, PA must pay for the cost of the DV stay.

In the event that the individual left the DV shelter prior to the face-to-face interview but had cooperated to the extent possible up to that point, the application for PA would be denied but would be referred to Services for its determination of Title XX eligibility.

2. Durational Sanction Period: If the individual files an application for PA to pay for the cost of the residential program for victims of domestic violence and the individual is within the durational sanction period, the individual is not eligible for PA. The application must be forwarded to Services for a determination of eligibility for Title XX. The application for Title XX cannot be denied for an otherwise eligible individual solely because of the durational sanction. If there are other family members on the application, they may be eligible for PA for their share of the needs.
3. Current Non-cooperation: If the individual files an application for PA to pay for the cost of the residential program for victims of domestic violence and the individual refuses to cooperate with the requirements such as employment, D/A screening, assessment and treatment requirements, etc. without good cause and without a DV waiver, then the individual is ineligible for both PA and Title XX. If there are other family members on the application, they may be eligible for PA for their share of the needs.

ii. Ineligible Individuals

1. Fleeing Felons/Parole/Probation Violators – As stated in 97 ADM-23, such individuals are ineligible for PA. The other family members (if any) may be eligible for PA. However, if otherwise eligible, such individuals will be eligible for Title XX.
2. Ineligible Aliens: See LDSS-4579 “Alien Eligibility Desk Aid” to determine if the status of a non-citizen qualifies the individual for either Family Assistance (FA) or Safety Net Assistance (SNA). Individuals without a PA eligible status cannot have the cost of their DV stay paid by PA or Title XX.

A non-citizen in need of domestic violence residential services may be eligible for PA as a battered immigrant. Battered immigrants are individuals (1) who have a prima facie notice or approval notice for a Violence Against Women Act (VAWA) Self-Petition (I-360), (2) who are determined credible victims of domestic violence by the district's Domestic Violence Liaison (DVL) and have proof of a pending I-360 Self-Petition, (3) who are determined credible victims of domestic violence by the district's DVL and have proof of a pending or approved I-130 (Petition for Alien Relative), or (4) with proof of an Order from the Executive Office for Immigration Review (EOIR) granting suspension of deportation or cancellation of removal or evidence that application has been filed setting forth a prima facie case.

A battered alien also may be eligible for PA if they can be considered to be Permanently Residing under the Color of Law (PRUCOL). This would include but is not limited to aliens (1) who have been granted deferred action (for example U Visa applicants), (2) who have been granted a K visa (fiancé, fiancée, spouse, child or a U.S. citizen), or (3) granted a V visa (spouses and children of a Legal Permanent Resident whose Petition for Alien Relative (I-130) was filed with United States Citizenship and Immigration Service (USCIS)).

An individual to whom any one of the above applies has an eligible immigration status for public assistance and thus for payment for shelter stays and cannot be denied public assistance on the basis of immigration status.

Refer to 06 INF-14, "Battered Aliens Eligibility for Benefits Revised" for additional information.

3. Otherwise Ineligible Individuals: Individuals who would not necessarily be eligible for PA may be eligible if they are victims of DV and in need in a residential DV program. For example:
 - An individual or family with income that is in excess of the usual PA limit may be eligible with the residential DV program cost included in the budget. (See Attachment 2, Example 2).
 - Individuals age 16 through 20 may have a parental home as a resource. However, if the parental home is not safe because the batterer would have access to the victim at that location, the home cannot be considered a resource. The under age 21 individual, if otherwise eligible, cannot be denied payment for the cost of the DV residential program (or ongoing PA after leaving the DV residential program) based on an available resource of the parental home. However, the under age 21 individual must cooperate with the Child Support Enforcement requirements unless she or he has good cause for non-cooperation or has a DV waiver.

d. Meeting Needs When the Victim Leaves the DV Residential Shelter

The victim is responsible for reporting any changes to the SSD, including when the victim leaves the shelter. If the victim was in a DV shelter in another SSD and has decided to remain in that SSD after leaving the shelter, or to live in a district other than the DFR, the DFR is responsible for the PA, FS and MA for the month of the move and the following month (the transition period) provided that the victim is eligible. The transition period provides time for the individual to apply for benefits in the new district of residence and establish a case (if eligible) thereby avoiding an interruption in benefits.

In the event that the victim is homeless or has another emergency during the transition period, the where-found district is responsible for meeting the emergency need(s).

If the victim, who is homeless on leaving the shelter, finds permanent housing within the transition period, the DFR is responsible for providing necessary moving expenses, security, furniture, etc.

3. DV/DFR Helpline

Providers must attempt to resolve problems that arise with billing and payment with the SSD. A good working relationship between the DV shelter and the SSD in the district that the shelter is located will help both to recognize and resolve issues before they become problems.

Likewise, SSDs must attempt to resolve DFR issues with the SSD thought to be fiscally responsible for the applicant.

If payment problems or DFR problems persist despite diligent attempts to resolve them, SSDs and Domestic Violence Residential Program Providers may request help through the Helpline at:

The Domestic Violence (DV)/District of Fiscal Responsibility (DFR) Helpline
in the OTDA Temporary Assistance Bureau
Fax (518) 473-0511
or
Call (518) 474-9344

The helpline will receive calls from providers and SSDs and, if the problem is with a PA matter, will work with parties to resolve the problem. If, after screening, it is apparent that the issue relates to Title XX, the helpline will refer them to the appropriate OCFS regional office. As opposed to disputes involving PA, in which the where-found district is to proceed as the responsible district, Title XX (and the uncapped 50% State/50% local funding) is tied exclusively to the provisions contained in 18 NYCRR 408.5. Such section requires the SSD in which a victim of domestic violence was residing at the time of the domestic violence occurred to be responsible for the cost of residential DV services.

The appropriate OCFS regional office will conduct fact finding by obtaining the understanding of the provider and the involved districts as to the specific aspects of the disputed situation and, where necessary, seek guidance from OCFS policy and/or legal staff. After any such consultation and analysis, the regional office will determine which SSD, if any, is responsible for using Title XX (or the uncapped 50/50 State/local funds) to reimburse the residential program for some or all of the costs associated with providing residential services to the client. OCFS will advise both SSDs and the program of its determination.

B. Food Stamps

Residents of programs for victims of domestic violence who receive PA from a DFR other than the district of residence also must have their food stamp case processed by the SSD determined to be fiscally responsible for PA (Food Stamp Source Book, Section 5) so long as the DFR is able to issue benefits within required timeframes.

If, for any reason, the DFR is unable to process the food stamp benefits within five days of application (assuming that the DV household is eligible for expedited processing) then the same inter-district dispute rules that would apply for PA are in effect. That is, in the interim, the “where-found” district would issue (including ensuring that the household and/or its authorized representative had a valid CBIC and PIN) the expedited food stamp benefits to the DV household within the five-day expedited limit. The DFR would issue food stamp benefits prospectively from the time that the determination of fiscal responsibility is made. Any of the food stamp benefits issued in the interim would not have to be reconciled fiscally between the SSDs, as the source of the funding is federal. The overriding consideration is that the household receive the correct entitlement, within required issuance timeframes, regardless of the issuing district.

This policy recognizes that the overwhelming majority of DV households, when screened, do not have access to income or resources that were left behind in the batterer’s domicile and, therefore, are usually eligible for expedited processing and benefits issuance.

All food stamp applications filed must have expedited screening, but it is especially important for the where-found district to do the screening at the time of application (Food Stamp Application Expedited Processing Summary Sheet, LDSS-3938) when an authorized representative is filing an application. No expedited rules are waived or changed in any way just because it is not a household member filing the application.

C. Welfare-to-Work

SSDs are reminded that when the case opens, these individuals are a factor in their participation rates. If the individual does not have a DV waiver from work requirements, the DFR should pursue fulfilling work requirements through a cooperative agreement with the district of residence or by some other means. The assessment may be done by the district of residence or by phone or mail when this isn't possible. The DFR could approach the shelter regarding becoming a work experience site for the individual. Creative methods may be developed for providing employment services to these individuals. Additionally, procedures should be in place to facilitate the timely sharing of information regarding the individual’s ability to work as well as any work activity participation.

D. Medicaid

When an eligible person enters an approved Residential Facility for Victims of DV located in another SSD following an incident of domestic violence, the SSD in which the person legally resided at the time of the incident is fiscally responsible for that person while s/he resides in the approved residential facility.

This rule applies to persons who had been receiving Medicaid prior to the incident as well as to persons who become eligible due to lack of available income and resources while residing in the approved facility.

This responsibility continues until the person leaves the approved residential facility. If the recipient chooses not to return to the former district of legal residence, such SSD is responsible

for providing Medicaid during the month the recipient leaves the shelter and must continue Medicaid for the following month. The "where-found" district is responsible thereafter.

E. ABEL/Budgeting Examples

a. Upstate ABEL Shelter Type Codes

22 – Residential Program for Victims of Domestic Violence (3 meals/day)

37 – Residential Program for Victims of Domestic Violence (Less than 3 meals/day)

b. NYC ABEL Shelter Type Codes

14 – Residential Program for Victims of Domestic Violence (3 meals/day)

13 – Residential Program for Victims of Domestic Violence (Less than 3 meals/day)

c. Budgeting Examples – See Attachment 2

1. Earned Income

2. Excess Income (eligible while in shelter/ineligible post-shelter)

F. Domestic Violence Residential Program Providers

Domestic Violence Residential Program Providers will receive a copy of this INF so that they will know the procedures for requesting assistance to resolve a payment issue. The attachment was developed with the input of advocates who identified some of the most common situations in which providers may believe eligibility for PA and/or Title XX may not exist even when it does.

Issued By:

Name: Russell Sykes
Title: Deputy Commissioner
Division/Office: Division of Employment and Transitional Supports

An Important Message for Domestic Violence Providers

Has the local social services district denied payment for services you provided in your shelter?

The Office of Temporary and Disability Assistance may be able to help.

FAX the case specifics, documentation and information about the actions you have taken to resolve this matter with the responsible social services district to:

*The Domestic Violence/District of Fiscal Responsibility (DFR) Helpline
In the OTDA Temporary Assistance Bureau*

Fax Number (518) 473-0511

Call -- (518) 474-9344

The rules are complicated. For example, did you know that:

1. Provided that they have filed a common application with the local social services district, persons who are not eligible for public assistance may be able to have their stays paid for under Title XX or 50 State /50 local funding for residential programs for victims of domestic violence.

For example:

- Some persons who are sanctioned.
 - Persons who have not completed the public assistance application process because their stay in the shelter is very short.
2. The social services district where the domestic violence victim resided when she or he enters a DV residential facility must pay for the victim's stay in a DV shelter and provide the victim with public assistance or Title XX or 50 State/50 local funding for residential programs for victims of domestic violence, Medicaid, and food stamps if she is otherwise eligible. The domestic violence victim can apply for public assistance in the district where the victim is currently in shelter, which is called the "where found" district. If the victim chooses, the victim can apply in the district from which the victim fled. However, this is usually not a safe thing to do. Under no circumstances should the victim be forced to go back to the district from which the victim fled in order to apply for or pick up a benefits card.
 3. If the other district has not responded or **has refused** to accept the application, the "where found" district is responsible for providing public assistance including payment to the DV residential program, employment-related child care and transportation for persons eligible for public assistance; and for food stamps and Medicaid for eligible persons. The "where found" district must also provide for any emergency benefits such as food stamps, moving expenses, security, and other eligible emergency needs.

For persons not eligible for public assistance for their shelter stay, the "where found" district is not responsible to pay Title XX or 50 State/50 local funding for the shelter stay if the other district refuses to accept the application. However, it is responsible for paying for the food stamps and Medicaid and any emergency benefits if the individual or family is otherwise eligible.

In the situation where there is a dispute as to which district is fiscally responsible and/or the victim has been determined ineligible for public assistance, the Domestic Violence Residential Program provider can

contact the Domestic Violence/District of Fiscal Responsibility (DFR) Helpline and staff from either OTDA or the Office of Children and Family Services, which oversees Title XX and 50 State/50 local funding for DV shelter stays, will attempt to resolve the dispute regarding Title XX and 50 State/50 local funding.

4. A brief break in shelter stay is not necessarily a ground for finding that a person is no longer in danger and not in need of shelter. The criteria for admission depends upon the victim's need for emergency shelter and care due to an act that has resulted in actual physical or emotional injury or creates a substantial risk of physical or emotional harm to the person or the person's child. The criterion for admission focuses upon the immediate need for the victim's safety, not the date of the domestic violence incident. However, a victim's maximum length of stay may not exceed 90 days plus 45 days for each incident of DV.
5. Presence of relatives or friends nearby does not necessarily mean that a victim has a safe place to stay.
6. A non-citizen in need of domestic violence residential services may be eligible for PA as a battered immigrant. Battered immigrants are individuals (1) who have a prima facie notice or approval notice for a Violence Against Women Act (VAWA) Self-Petition (I-360), (2) who are determined credible victims of domestic violence by the district's Domestic Violence Liaison (DVL) and have proof of a pending I-360 Self-Petition, (3) who are determined credible victims of domestic violence by the district's DVL and have proof of a pending or approved I-130 (Petition for Alien Relative), or (4) with proof of an Order from the Executive Office for Immigration Review (EOIR) granting suspension of deportation or cancellation of removal or evidence that application has been filed setting forth a prima facie case.

A battered alien also may be eligible for PA if they can be considered to be Permanently Residing under the Color of Law (PRUCOL). This would include but not be limited to aliens (1) who have been granted deferred action (for example, U Visa applicants), (2) who have been granted a K visa (fiancé, fiancée, spouse, child or a U.S. citizen), or (3) granted a V visa (spouses and children of a Legal Permanent Resident whose Petition for Alien Relative (I-130) was filed with United States Citizenship and Immigration Service (USCIS)).

An individual to whom any one of the above applies has an eligible immigration status for public assistance and thus for payment for shelter stays and cannot be denied public assistance on the basis of immigration status.

Public Assistance (PA) Budget Examples

Below are two sample PA budgets. The methodology used in these budgets is the method used to determine the amount that the local social services district pays a domestic violence residential program and the amount of a victim's fee under both PA and Title XX when the victim has available income.

Note that although the examples do not include special allowances, recipients in DV residential settings may be eligible for additional needs such as the pregnancy allowance, storage fees, etc.

Glossary

The following terms are used in these examples:

Per Diem Rate: This is the daily per person rate established by the Office of Children and Family Services for a domestic violence residential program.

Personal Needs Allowance (PNA): This is the per person Public Assistance allowance for persons in domestic violence residential programs where three meals a day are provided. The personal needs allowance is for personal needs items not covered in the per diem rate.

Monthly Standard of Need: This is the total Public Assistance needs for an individual or family for the month. For individuals and families without income, this is equal to the amount of the Public Assistance grant. For individuals and families with income, this is the standard from which the available countable income is subtracted. Available countable income plus the Public Assistance grant will equal the standard of need.

Monthly Countable Income: This is the amount of the individual's or family's monthly income that is used to offset the standard of need. Not all available earned income is countable. All available unearned income is countable. The difference between the monthly standard of need and the monthly countable income is the amount of the Public Assistance grant. This is also known as the PA deficit.

Daily PA Deficit: This is the monthly PA deficit divided by the number of days in the month and the daily amount that is paid by the social services district to the residential program.

DSS Payment to Residential Program: This is the payment the residential program will receive from the social services district for the victim/family. It represents the daily PA deficit multiplied by the number of days (bednights) the victim/family was in the residential program.

Victim's (Recipient's) Fee: This is the amount that the victim is responsible to pay the residential program. It is the per diem rate for the number of persons in the family times the number of days (bednights) the victim/family was in the residential program minus the payment from the local social services district.

EXAMPLE 1

Family of 3, mother and two children, residing in Albany County with spouse. The mother and the children enter a domestic violence residential program in Albany County on October 1, 2006 and leave on the morning of October 21 (20 bednights). The mother and two children move into their own apartment in Albany on October 21 (10 days in October) and are in need of Public Assistance when they leave the residential program. The mother continues to work and has \$600/month gross earned income.

1. PA Standard of Need in Residential Program

Per diem rate	\$100.00 per person
Times Number of persons (3)	300.00 per day
Actual number of days in the month = 31* (October)	
31 x \$300/day =	\$9300.00
Personal Needs Allowance	<u>+ 135.00</u> (\$45 x 3 persons)
Monthly Standard of Need	\$9435.00

* While TA usually uses a standard 30-day proration factor, in DV situations the actual # of days in the month is used.

2. Monthly Countable Income

Monthly Gross Earned Income	\$600.00
Disregard	<u>- 90.00</u>
	\$510.00
Earned Income Disregard (47%) **	<u>- 239.70</u>
Monthly Countable Income	\$270.30

And/Or

Monthly Unearned Income (counted \$ for \$)	0
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** % disregard changes June 1 each year

3. Daily PA Deficit in Residential Program

Monthly PA Standard of Need (From 1 above)	\$9435.00
Monthly Countable Income (From 2 above)	<u>-270.30</u>
Monthly PA Deficit	\$9164.00(Rounded down)

Divide by number of days in month (31)

Daily PA Deficit	\$295.61
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4. DSS Pays Residential Program

Daily PA Deficit \$295.61 x
Number of days Family in program (20)

DSS Payment to residential program	\$5912.20
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5. Recipient's Fee

Residential Program Bill (\$300.00 x 20 days)	\$6000.00
Minus DSS Payment (From 4 above)	<u>-5912.20</u>

Recipient's fee	\$ 87.80
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Out of a monthly gross income of \$600, the fee is \$87.80 towards a bill of \$600.

1. Monthly Standard of Need in Apartment For Remainder of Month

Basic Allowance	\$ 238.00
Home Energy Allowance	30.00
Supplemental Home Energy Allowance	23.00
Shelter with Children	<u>309.00</u>
Monthly Standard of Need	\$ 600.00

2. Monthly Countable Income

Monthly Gross Earned Income	\$ 600.00
Disregard	<u>- 90.00</u>
	\$ 510.00
Earned Income Disregard (47%) **	<u>- 239.70</u>

Monthly Countable Income **\$270.30**

And/Or

Monthly Unearned Income (counted \$ for \$) 0

** % disregard changes June 1 each year

3. PA deficit

Monthly Needs	\$600.00
Monthly Countable Income	- <u>270.30</u>
PA deficit	\$ 329.00 (Rounded down)

Shelter Allowance	\$309.00
(Full Month for Initial Case Opening)	
Monthly Prorated Non-Shelter Needs	<u>+ 6.67</u> (\$20.00 / 30 days times 10 days)

PA cash grant for Remainder of October **\$315.67**

For the Month of October, DSS paid \$5912.20 for the residential program and \$315.67 for the 10 days that the family resided in their own apartment. The recipient's fee for the residential program was \$87.80.

EXAMPLE 2

Family of 3, mother and two children, reside in Albany County with spouse. The mother and two children enter a domestic violence residential program in Albany County on October 1, 2006 and remain there until the morning of October 21 (20 bednights). The family then enters their own apartment on October 21. The mother continues to work and has gross monthly income of \$1,200/month.

1. PA Monthly Standard of Need in Residential Program

Per diem rate	\$100.00 per person
Number of persons x 3 persons	
Family per diem	\$300.00 per day
Actual number of days in the month	<u> x31 (October)</u>
	\$9300.00
Personal Needs allowance	<u>+ 135.00</u> (\$45 x 3 persons)
Monthly Standard of Need	\$9435.00

2. Monthly Countable Income

Monthly Gross Earned Income	\$1200.00
Disregard	<u>-90.00</u>
	\$1110.00
Earned Income Disregard (47%) **	<u>\$ -521.70</u>
Countable Income	\$ 588.30
And/Or	
Monthly Unearned Income (counted \$ for \$)	0

** % disregard changes June 1 each year

3. Daily PA Deficit in Residential Program

Monthly PA Standard of Need (From 1 above)	\$9435.00
Monthly Countable Income (From 2 above)	<u>-588.30</u>
Monthly PA Deficit	\$8846.00 (Rounded down)
Divide by Number of Days in the Month (31)	
Daily PA Deficit	\$ 285.35

4. DSS Pays Residential Program

Daily PA Deficit	\$ 285.35
Number of days Family in Shelter	<u> x 20</u>
DSS Payment to Shelter	\$5707.00

5. Recipient's Fee

Residential Program Bill (\$300 x 20 days)	\$ 6000.00
Minus DSS Payment (From 4 above)	<u>- 5707.00</u>
Recipient's fee	\$ 293.00

Out of a monthly gross income of \$1200, the recipient's fee is \$293.00 towards a bill of \$6000.

1. Monthly Standard of Need in Apartment

Basic Allowance	\$ 238.00
Home Energy Allowance	30.00
Supplemental Home Energy Allowance	23.00
Shelter Allowance with Children	<u>309.00</u>
Monthly Standard of Need	\$ 600.00

The family is ineligible for cash Public Assistance when they leave the residential program because the family's gross monthly income of \$1,200 exceeds 185% (\$1,110) of the \$600 standard of need. However, depending upon the circumstances this family may also be eligible for other supportive programs and services such as Medicaid, Child Health Plus, Family Health Plus, Child Care Subsidies, Food Stamps, the Earned Income Tax Credit, etc.