



Eliot Spitzer
Governor

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

David A. Hansell
Commissioner

Informational Letter

Section 1

Transmittal:	07-INF-05
To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	March 13, 2007
Subject:	Revision to LDSS-4530: Assignment of Wages, Salary, Commissions or Compensation For Services
Suggested Distribution:	Temporary Assistance Staff Food Stamp Benefits Staff Medicaid Directors CAP Coordinators Employment Coordinators WMS Coordinators Staff Development Coordinators
Contact Person(s):	Forms Questions: Bob Gullie 1-800-343-8859, Extension 6-1095 Program Questions: Temporary Assistance - (518) 474-9344 Food Stamp Bureau - (518) 473-1469 HEAP - (518) 473-0332 WMS Questions: (518) 474-8749
Attachments:	LDSS-4530: Assignment of Wages, Salary, Commissions or Compensation For Services (2/07)
Attachment Available On – Line:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
01 ADM-17 01 ADM-03 97 ADM-21 96 ADM-5 95 LCM-132		18 NYCRR 370.2 (11)	SSL 158.7	TASB Chapter 10, Section A	

Section 2

I. Purpose

The purpose of this INF is to introduce the revised LDSS-4530: Assignment of Wages, Salary, Commissions or Compensation For Services (Rev. 2/07).

The primary reason for this revision is to add a section to the form for the required “Notary Public” authentication.

II. Background

Each adult applicant and adults transferred from Family Assistance into the Safety Net Assistance program must, as a condition of eligibility for Safety Net Assistance:

- a. Sign an agreement (LDSS-4529), which provides that, if it is determined that money is owed to the social services district (SSD) because of overpayments of Safety Net Assistance to the applicant while a recipient of Safety Net Assistance, the applicant agrees to repay any such money that remains due after the applicant ceases to receive Safety Net Assistance; and
- b. Sign an assignment of the individual's future earnings (LDSS-4530), to secure the repayment of any money that is determined, after providing the opportunity for a fair hearing, to be owed to the SSD because of overpayments of Safety Net Assistance to the applicant while a recipient of Safety Net Assistance.

This requirement applies whether or not there are children in the case. The conditions, procedures and forms are the same as those detailed in 96 ADM-5 and 95 LCM-132 for former Home Relief recipients.

III. Program Implications

While 96 ADM-5 stated that before a SSD can file an “Assignment of Wages, Salary, Commissions or Other Compensation for Services” with an assignor’s employer the SSD must file the following in the County Clerk’s Office in the county in which the assignor resides:

- a copy of the “Assignment of Wages, Salary, Commissions or Other Compensation for Services”, authenticated by a notary public; and
- an itemized statement setting forth the amount currently due to the SSD and the original amount owed and the payments already made to the district.

The LDSS-4530 did not contain an area for the notary authentication. The revised LDSS-4530 now contains this.

IV. Forms Ordering Information:

- We expect that the revised (2/07) LDSS-4530: Assignment of Wages, Salary, Commissions or Compensation For Services will be printed and delivered to the Albany Warehouse and available for ordering by local districts sometime in early March, 2007. The revised (2/07) LDSS-4530-SP: Assignment of Wages, Salary, Commissions or Compensation For Services (Spanish) version will follow.

Local districts will **not** automatically receive supplies of this form, therefore, any requests for printed copies of the 2/07 version of the LDSS-4530: Assignment of Wages, Salary, Commissions or Compensation For Services or a 2/07 Spanish version LDSS-4530-SP: Assignment of Wages, Salary, Commissions or Compensation For Services (Spanish) should be submitted on OTDA-876: Request For Forms or Publications, and should be sent to:

Office of Temporary and Disability Assistance
BMS Document Services and Operational Support
P.O. Box 1990
Albany, New York 12201

Questions concerning ordering forms should be directed to BMS Document Services at 1-800-343-8859, ext. 4-9522.

- Documents may also be ordered through Outlook. To order the forms, you must obtain an OTDA-876 electronically by going to the OTDA Intranet Website at <http://otda.state.nyenet/>, then to Division of Program Support & Quality Improvement page and then to PSQI E-Forms page to Bureau of Management Services section (this section contains the electronic OTDA-876). For those who do not have Outlook but who have Internet access for sending and receiving email, the Internet email address is: gg7359@dfa.state.ny.us. For a complete list of available forms, please refer to the OTDA Intranet site: http://otda.state.nyenet/ldss_eforms/default.htm.

Issued By:

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

ASSIGNMENT OF WAGES, SALARY, COMMISSIONS OR OTHER COMPENSATION FOR SERVICES

NOTE: THIS AGREEMENT AUTHORIZES THE SOCIAL SERVICES DISTRICT TO RECOVER ANY OVERPAYMENT OF YOUR TEMPORARY ASSISTANCE BENEFITS BY COLLECTING THE AMOUNT OF THE OVERPAYMENT DIRECTLY FROM YOUR FUTURE WAGES. IF YOU FAIL TO MAKE THE PAYMENTS REQUIRED BY A REPAYMENT AGREEMENT BETWEEN YOU AND THE SOCIAL SERVICES DISTRICT, THE SOCIAL SERVICES DISTRICT WILL FILE THIS AGREEMENT WITH YOUR EMPLOYER AND RECOVER THE OVERPAYMENT DIRECTLY FROM YOUR WAGES.

For a good and valuable consideration, I, _____ of _____, City of _____, County of _____, State of New York, hereby assign to the _____ Department of Social Services, located at _____ in the City of _____, County of _____, and State of New York, hereinafter designated as the "social services district", its successors and assigns, a ten percent (10%) interest in all my wages, salaries, commissions and other compensation for services. This assignment is made to secure the repayment of any overpayments of Safety Net Assistance made to me by the social services district while I am receiving Safety Net Assistance which I have not repaid to the social services district at the time of closing of my Safety Net Assistance case. Repayments of any overpayments which have not been repaid at the time of closing of my Safety Net Assistance case must be made at the address of the social services district set forth above the first day of the second month I cease to receive Safety Net Assistance or another date agreed to by the social services district.

I authorize and direct any future employer to pay ten percent (10%) of my earnings, or such proportion thereof as may be legally collectible by the social services district under this assignment, such payment to be made directly to the social services district.

I expressly release and discharge my employer from all liability to me on account of any and all moneys paid in accordance with this assignment.

This assignment is executed as security for the payment to me of any Safety Net Assistance benefits by the social services district or its successors and assigns pursuant to Title 3 of Article 5 of the Social Services Law of the State of New York.

No other assignment of wages by me exists in connection with the above described transaction or series of transactions.

Receipt is hereby acknowledged of a copy of this assignment and a summary of sections 46-c, 46-e, 46-f, 47-e, 48, 48-a, 48-b, 48-c and 49 of the Personal Property Law of the State of New York.

THIS IS AN ASSIGNMENT OF WAGES, SALARY COMMISSIONS OR OTHER COMPENSATION FOR SERVICES.

ASSIGNOR

DATE

A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING

State of _____ County of _____ ss:

On this _____ day of _____, 20_____, before me personally

appeared _____ to me known and known to me to be the same person described in and who executed the foregoing instrument, and s/he duly acknowledged to me that s/he executed the same.

Notary Public, State of _____
(Please affix stamp)

SUMMARY OF PROVISIONS OF THE PERSONAL PROPERTY LAW

Section 46-c includes requirements for assignments of future earnings involving less than one thousand dollars. It requires that such assignments must be written instruments in at least eight point type. The assignments must describe fully the transactions to which they relate, including the name and address of the assignee, the basis of the consideration given for the assignment, and the date on and place at which payments are to be made. It provides that the assignment is security only for the transaction or series of transactions described in it.

Note: Section 46-c applies to assignments of less than \$1,000. All the remaining sections apply to assignments of any amount.

Section 46-e requires that an assignment of future earnings be signed by the assignor and that a copy of the assignment and any papers pertaining to the transaction described in the assignment be given to the assignor.

Section 46-f provides that any assignment made for any advance or loan with interest greater than 18 percent is invalid for any purpose.

Section 47-e sets forth requirements for vacating an assignment of earnings. It requires that a proceeding may be brought by order to show cause and petition which specifies the grounds upon which the assignment should be vacated. It sets forth the method for serving the order to show cause and petition which may be by personal service, leaving the papers at the assignee's place of business with a person of suitable age with directions to deliver them to the assignee and mailing a copy by certified mail to the address of the assignee specified on the assignment, or as directed by the court. It provides that if the assignment is vacated the judgment vacating it must be presented to the county clerk where the assignment is filed and the clerk must mark on the assignment "Vacated by order of the court." It further sets forth that this section does not extend the territorial limits of the jurisdiction of the court, no assignment shown to have been made in compliance with the direction of a family court in a matrimonial action may be vacated by an order authorized in this section and the court shall have jurisdiction to consider all defenses to the assignment and debt secured by the assignment.

Section 48 requires that a 20 days written notice accompanied by the papers required by section 46-e be sent to the assignor by certified mail, return receipt requested before an assignment of future earnings can be filed with the assignor's employer. The notice cannot be sent until 21 days after the payment which is the subject of the assignment is due. If a payment of any amount is accepted by the assignee before the 20 days notice has elapsed the assignment cannot be filed with the assignor's employer. However, if there is a subsequent default the assignment can be filed with the employer with no notice to the assignor. The written notice must notify the assignor that if the assignor has a defense to the wage assignment or the debt on which it is based, the assignor may either request a hearing before a court in accordance with the provisions of section 47-e above or send to the assignee within ten days of receipt of the notice, by certified mail return receipt requested, a written notice containing the assignor's name and address which contains the following statement: I (insert name), residing at (insert address), hereby affirm that I have a bona fide defense to the claim in your notice dated (insert date of notice) and to the wage assignment given as security therefor, based upon the following facts (state the facts constituting the basis of your defense). If the assignor sends the above notice, the assignee cannot file the wage assignment with the assignor's employer without an order of a court authorizing the filing.

Section 48-a provides that, after filing with the assignor's employer payments shall begin to the assignee, beginning with the first salary payment to the assignor after ten days after the filing of the assignment with the employer. A copy of the assignment that is filed with the employer must be authenticated by a notary public or commissioner of deeds and must be accompanied by a statement which sets forth the amount due to the assignee, the date and amount of any payments already made to the assignee on the debt which is the subject of the assignment and the date on which the assignment was filed with the county clerk. The amount that can be paid to the assignee by the employer of assignor cannot exceed ten percent of the assignor's future earnings for the month. If at the time of filing of the assignment with the employer there is any other assignment of future earnings of assignor subject to payment or any garnishment against assignor's earnings or order against the assignor for installment payments to a judgment creditor no amount shall be collectible by the assignee while such other assignment is subject to payment or such other garnishment or order is in force. No portion of assignor's earnings can be withheld or paid to pay any subsequent garnishment while any portion of the debt of less than one thousand dollars secured by an assignment previously filed with the employer remains unpaid.

Section 48-b provides that the assignor's earnings cannot be withheld pursuant to an assignment of future earnings unless the assignor's earnings exceed \$85 per week.

Section 48-c provides that if an assignor is not employed at the time of signing the assignment of future earnings, the assignment will be collectible from any future employer of the assignor. If the assignor ceases employment while his or her earnings are subject to an assignment, the assignment can be applied to any future employment of the assignor until the debt secured by the assignment is paid in full. If the assignor is re-employed by the same employer after the expiration of ninety days the assignee must file the assignment with the employer once again.

Section 49 provides that a bank, trust company or credit union doing business in New York State is not required to file an assignment of future earnings with a county clerk. This section also exempts such businesses from the notice requirements contained in section 48 above in certain circumstances.