

GENERAL INFORMATION SYSTEM
DIVISION: Employment & Transitional Supports

September 14, 2007

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TO: Commissioners; TA Directors; Staff Development Coordinators; Legal Staff

FROM: Russell Sykes, Deputy Commissioner, Division of Employment & Transitional Supports

SUBJECT: Doe v. Doar: Court Decision Invalidates Policy in 18 NYCRR 352.2(b) and 04 ADM-5 “Temporary Assistance and Non-Temporary Assistance Mixed Households – Budgeting When the Family Includes an SSI Member”

EFFECTIVE DATE: Immediately

CONTACT PERSON: Temporary Assistance Bureau (518) 474-9344

As a result of litigation in Doe, et al v. Doar, effective immediately, districts must cease application of the policy in 18 NYCRR 352.2(b) and 04 ADM-5, “Temporary Assistance and Non-Temporary Assistance Mixed Households – Budgeting When the Family Includes an SSI Member” to new applicants and to recipients’ cases in which a filing unit member becomes an SSI recipient on or after the date of this GIS.

For example, if a mother is applying for herself and her child and has a second child who is in receipt of SSI and for whom she is not applying, the TA household’s standard of need would be based on the needs of two rather than two-thirds of the needs of three.

For a recipient household in which a filing unit member starts to receive SSI on or after the date of issuance of this GIS, the worker must delete the SSI individual from the TA household and case count, and base the TA standard of need on the remaining members.

In NYC, this means using an “N” rather than a “Y” in the Rel field on the ABEL budget.

For Safety Net Assistance (SNA) cases (case types 16 and 17) that are not eligible to be claimed for Maintenance of Effort (MOE) because there is no child in the case who meets the definition of a TANF age child, Rice budgeting (94 ADM-10) still will apply when the SSI recipient living with such an SNA household is a legally responsible relative of the SNA household member(s).

Office of Administrative Hearings

Effective immediately, the Office of Administrative Hearings (OAH) will decide cases consistent with the Doe decision and the Court approved Remedial Plan.

This means that OAH will find for the appellant if the local district seeks to apply the Doe proration to an applying case, or to an under care case in which a family member begins to receive SSI, at any time on or after the date of the issuance of this GIS message. If the decision was rendered in favor of the district prior to this GIS but has not been acted on by the district, the district must not implement the favorable hearing decision.

OAH will follow the Court approved remediation plan as it applies to cases that already have the Doe proration in place. This means that OAH will find for the appellant in a district outside NYC on issues related to the current or past application of the Doe proration if the hearing is held on or after the date that the ADM, which will provide instructions about the treatment of these cases, has been issued.

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In NYC, a series of mass rebudgets will be conducted. If the issue related to the Doe proration is to be remediated in the scheduled MRB, OAH will not find for the appellant until the MRB has been conducted and the appellant still wishes to challenge the district action.

Cases already affected by the SSI proration policy

Instructions about the treatment of cases that already have had a reduction in the standard of need, or been closed due to the proration of the TA needs will be provided in an ADM that will follow this GIS. Districts will be required to follow the directions in that ADM but should not take action on already affected cases prior to receiving the ADM.

Reporting Requirements

There are extensive reporting requirements as part of the remedial plan. In order to meet these reporting requirements, OTDA has developed CNS codes. Therefore, it is vital that districts wait for information about the CNS codes and their usage before taking any action on cases already affected by the overturned policy.

List of Local Social Services Districts' Doe Contacts for Advocates

OTDA has agreed to provide a list of one LSSD contact person for each district outside NYC and two for NYC. The contact person will be the Temporary Assistance Director unless the district designates a different person. Any district that wishes to designate a different contact individual should call Ms. Pat Augle, the Temporary Assistance Bureau secretary at (518) 474-9344 or e-mail her at Patricia.Augle@OTDA.state.ny.us no later than **September 28, 2007**.

Conference Calls

OTDA will schedule conference calls to assist districts with the issues that arise as the implications of this policy reversal moves forward. Notification about the conference calls will be provided at a later date.