



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

**Administrative Directive**

**Section 1**

<b>Transmittal:</b>	09-ADM-15
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Employment and Economic Supports
<b>Date:</b>	August 24, 2009
<b>Subject:</b>	Change in the Requirement to Recover Temporary Assistance (TA) Overpayments
<b>Suggested Distribution:</b>	Temporary Assistance Directors Accounting Supervisors Staff Development Coordinators Fair Hearing Staff
<b>Contact Person(s):</b>	Temporary Assistance (TA) Bureau: 1-800-343-8859, ext 4-9344  Finance: Regions 1 - 4: James Carroll 1-800-343-8859 ext. 4-7549 or (518) 474-7549, <a href="mailto:James.Carroll@otda.state.ny.us">James.Carroll@otda.state.ny.us</a> Region 5: Michael Borenstein (631) 854-9704, <a href="mailto:Michael.Borenstein@otda.state.ny.us">Michael.Borenstein@otda.state.ny.us</a> Region 6: Marian Borenstein (212) 961-8250, <a href="mailto:Marian.Borenstein@otda.state.ny.us">Marian.Borenstein@otda.state.ny.us</a>
<b>Attachments:</b>	None
<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.
09 ADM-09 04 ADM-01 07 INF-14 05 INF-24 05 INF-01 03 INF-25		352.31(d)(1) 369.2(c)	SSL 106-b		

## **Section 2**

### **I. Summary**

This Administrative Directive (ADM) informs social services districts (districts) of a regulatory change prohibiting the recovery of a temporary assistance (TA) overpayment from a child when that child is no longer a member of the case that incurred the overpayment, or when the child becomes an adult and is no longer a member of the case.

### **II. Purpose**

This ADM informs districts of a change to the Office of Temporary and Disability (OTDA) regulation, 18 NYCRR § 352.31(d)(1). The amended regulation specifies who can be held responsible for the recovery of a TA overpayment. Specifically, when a TA overpayment is incurred by an assistance unit (case) that includes a child at the time the overpayment is incurred, the overpayment does not “follow” the child, even when the child becomes an adult.

- An assistance unit (case) is defined as an individual, or number of individuals, for whom TA is provided.
- A child is defined as an individual less than 18 years of age; or under age 19 and a full-time student regularly attending a secondary school, or in the equivalent level of vocational or technical training.
- A child-only case is defined as a case where the parent(s) is ineligible because she/he is in receipt of Supplemental Security Income (SSI) or is an ineligible alien; or the child(ren) is living with a non-parent caregiver (NPC).
- Recovery methods include, but are not limited to, voluntary payments, recoupment, liens, garnishments, and the use of collection agencies.

### **III. Background**

Previously, 18 NYCRR § 352.31(d)(1) provided authority for districts to recover TA overpayments from all members of a case regardless of their age at the time the overpayment occurred. OTDA has amended 18 NYCRR § 352.31(d)(1) to relieve a child of the responsibility of a TA overpayment incurred on a case, that the child was a member of, after the child is no longer a member of the case or after the child becomes an adult and is no longer on the case.

### **IV. Program Implications**

#### **Temporary Assistance**

Effective August 25, 2009, a child who is a member of a TA case that has incurred an overpayment cannot be held liable for the overpayment when he or she is added to someone else’s case, or becomes an adult and establishes his or her own case. This does not prevent a

district from pursuing recovery from an active child-only case or from an active case in which a child is currently a member and which has incurred an overpayment.

There is no impact on recoveries that have been previously satisfied or that are in the process of being satisfied. Therefore, all currently existing overpayments may be pursued from individuals who were minors on the case when the overpayment occurred.

### **Food Stamps**

There is no change to current Food Stamp Program policy. Current Food Stamp Program claims policy provides that only individuals who were adult members of a household during the time the overpayment was received are responsible for repayment of the overpayment and remain responsible for repayment even after they leave the household or the case is closed (04 ADM-01). For purposes of claim establishment and collection, an adult is defined as:

- A household member who is 18 years of age or older when the overpayment occurs, or
- Is less than 18 years of age but is head of the household when the overpayment occurs.

### **Medicaid**

None

## **V. Required Action**

Districts must no longer pursue recovery of TA overpayments from a child when the child is removed from a case or when the child becomes an adult and is no longer on the case. The following scenarios will provide clarification.

### **Scenario 1**

Mrs. Brown has an active TA case for herself and her two children, Jack and Jill. There is currently an overpayment in the case. Jack is removed from the case because he went to live with his father and is subsequently added to his father's case. The district cannot recover the overpayment from Jack's father's case as Jack was a child on his mother's case when the overpayment occurred. However, the entire overpayment still can be collected from Mrs. Brown.

### **Scenario 2**

Sally is a child on her mother's case and there is an overpayment established for the case. Sally turns 18 and is not in school, but still wants to receive TA. Sally and her mother agree that she can be an essential person (EP) on her mother's case. The recovery of the overpayment can continue.

Six months later, Sally decides she no longer wants to be an EP and wants her own case. The district cannot pursue recovery from Sally as she was a child on her mother's case when the overpayment occurred. Likewise, if Sally becomes ineligible for TA, the district could not pursue recovery for the overpayment that occurred while she was a child on her mother's case.

### **Scenario 3**

Donald is 23 years old and applying for TA. During the time that Donald was an EP on his mother's case, the case incurred an overpayment. Since Donald was an adult at the time the

overpayment occurred, he is responsible for the overpayment and the worker opening Donald's case can pursue recovery.

#### Scenario 4

Mrs. Lee is applying for TA for her granddaughter, Lisa, who is 10 years old. When the worker prepares to open the TA case she discovers that there are overpayments on Lisa's mother's case and that Lisa had been active on that case at the time of the overpayment occurrence. The district cannot pursue recovery from Mrs. Lee's child-only case for Lisa, as Lisa was a child on her mother's case and cannot be held liable for the overpayments.

#### Scenario 5

Ms. Smith is a non-TA non-parent caregiver (NPC) receiving a grant for her two granddaughters who are eight and 10 years old. The 10-year-old returned to her mother's home. At the next recertification, the worker discovers that the child has not been in Mrs. Smith's household for two months. The worker establishes an overpayment for the two months and begins recovery of the overpayment from Ms. Smith's NPC case. The overpayment does not follow either granddaughter once they are no longer members of the NPC case.

The overpayment cannot be collected from Ms. Smith because she was not a member of the case at the time the overpayment occurred. The overpayment can only be collected on this case when the case is active for one or both of the two granddaughters. When Ms. Smith's NPC case closes because the youngest granddaughter is no longer an eligible child due to age, the overpayment claim must be terminated (suspended in NYC WMS).

## **VI. Additional Information**

This ADM supersedes information found in the following Informational Letters (INF):

- 07 INF-14; page 10, question 39
- 05 INF-01; page 8, question 7
- 03 INF-25; page 12, question 57

## **VII. Systems Implications**

None.

## **VIII. Effective Date**

August 25, 2009

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### **Issued By**

**Name:** Russell Sykes

**Title:** Deputy Commissioner

**Division/Office:** Center for Employment and Economic Supports