



**NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE**

40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Andrew M. Cuomo
Governor

Administrative Directive

Section 1

Transmittal:	11-ADM-01
To:	Local District Commissioners
Issuing Division/Office:	Center for Employment and Economic Supports (CEES)
Date:	March 1, 2011
Subject:	Penalty for Failure to Comply with Temporary Assistance (TA) Program Requirement to Pursue Supplemental Security Income (SSI)
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors Employment Coordinators Medicaid Directors Staff Development Coordinators Finance Staff Fair Hearing Officers
Contact Person(s):	Center for Employment and Economic Supports Bureau of TA at (518) 474-9344 TA New York City Representatives at (212) 417-4500 For Employment related questions contact an Employment Services Advisor or the Employment and Advancement Services Bureau at (518) 486-6106
Attachments:	Attachment A – Guidelines for SSI Referrals
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 INF 12 08 ADM 5 07 ADM 6 06 ADM 6 94 ADM 10 04 ADM-05 01INF 12 07 LCM 04		18 NYCRR 351.2(e) 352.23(a) 351.26(a) 352.2(b) 352.30(f) 369.2(h) 370.2 (b) (5) 352.30 (a) 352.30 (f) 370.2(b)(5)	Social Services Law § 131-c, 131(7)(b) and 131-a	TASB Chapters 10 and 13	GIS 07 TA/DC011

Section 2

I. Summary

Any Temporary Assistance (TA) applicant or recipient, who in accordance with *08 ADM-05 SSI-Screening/Identification, Referral and Tracking Requirements*, is determined to be potentially eligible to qualify for Supplemental Security Income (SSI), must pursue SSI as a condition of initial and continued TA eligibility.

18 NYCRR 352.30(f) states that an SSD must impose an incremental sanction when any applicant for or recipient of TA refuses to cooperate in applying for or accepting SSI benefits for himself or herself, or for a member of the public assistance household, the needs of such individual shall be eliminated from the grant. If, however such individual is physically or emotionally unable to complete the SSI application process, DSS shall provide any services which are necessary to insure that the individual is assisted in making the SSI application. In such instance, that individual shall not be denied public assistance and care. In addition, an applicant for or recipient of public assistance is exempt from complying with any requirement concerning eligibility for TA if the applicant or recipient establishes that good cause exists for failing to comply with the requirement, in accordance with 18 NYCRR 351.26 (a).

II. Purpose

The purpose of this Administrative Directive (ADM) is to notify SSDs of the penalty that must be imposed when any TA applicant or recipient fails to comply with the TA eligibility requirement to pursue SSI.

III. Background

18 NYCRR 369.2 (h) and 370.2 (b) (5), require that applicants for and recipients of Family Assistance (FA) and Safety Net Assistance (SNA) who are identified as potentially eligible for SSI must, as a condition of initial and ongoing TA eligibility, pursue SSI. The pursuit of SSI benefits includes applying for SSI, cooperating in the SSI application process, appealing an SSI eligibility denial when the SSD requires an appeal and if determined eligible for SSI, accepting SSI benefits.

Historically, (as reflected in 01 INF-12) the penalty for failing to pursue SSI benefits was either an incremental or prorata sanction. Effective July 7, 2004, the penalty for Family Assistance or Safety Net families was changed to a prorata sanction to support prorated SSI budgeting. An unfavorable appellate court decision with respect to the SSI proration policy (as communicated in 07 ADM-06 *Doe v. Doar- Unfavorable Appellate Court Decision on the Proration Policy Transmitted in 04 ADM-05 Temporary Assistance and Non-Temporary Assistance Mixed Households – Budgeting When the Family Includes an SSI Member*) reversed the SSI proration policy and reinstated the penalty for a family's failure to pursue SSI to an incremental sanction. Reflective of the *Doe v. Doar* decision OTDA amended 18 NYCRR 352.30(f) so as to instruct SSDs to impose an incremental sanction when any TA applicant or recipient fails to pursue SSI, without good cause, regardless of category, or budgeting methodology.

IV. Program Implications

Amended 18 NYCRR 352.30(f), requires that a SSD must impose an incremental sanction when any applicant for or recipient of TA refuses, without good cause, to cooperate in pursuing SSI for himself or herself, required filing unit members, or any person (s) the applicant, recipient, or representative indicates wishes to receive TA and who reside(s) in the same dwelling unit.

If, however, the TA applicant or recipient is determined physically or mentally unable to complete the SSI application process, the SSD must provide any necessary services required to assist the individual in meeting all of the SSA's application requirements. The SSD must also assist the individual in appealing an SSI eligibility denial when the district determines such appeal is required, and if approved for SSI, assist the individual in accepting the benefits.

An SSD must not deny any TA applicant or reduce or discontinue a recipient's TA benefits on the basis of failing to pursue SSI if the individual is physically or mentally unable to pursue SSI benefits for himself or herself, required filing unit members, and any person (s) the applicant, recipient, or representative indicates wishes to receive TA and who reside(s) in the same dwelling unit.

V. Required Action

1. As a condition of initial and continuing TA eligibility, an SSD must require all TA applicants and recipients who are identified as potentially eligible to qualify for SSI to pursue SSI benefits. SSDs must continue to utilize 08 ADM-05 "*SSI-Screening/Identification, Referral and Tracking Requirements*" to determine the SSD's and TA applicant/recipient's responsibilities in the identification and tracking of individuals who may qualify for SSI.
 - Note: Consistent with 06 ADM-06, individuals who are required by the SSD to pursue SSI benefits as a condition of TA eligibility are to be coded as exempt and cannot be required to participate in either TA or FS work activities until the SSD 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 TA. For TA purposes, individuals who are required to apply for SSI as a condition of TA eligibility would generally be assigned an employability code of "43—Incapacitated/Disabled (SSI application filed)-Exempt", unless the district determines that another employability code is more appropriate based on case specific circumstances.
2. An SSD must impose an incremental sanction when any applicant for or recipient of TA refuses without good cause to pursue SSI benefits for himself or herself, required filing unit members, or any persons the applicant, recipient ,or representative indicates wishes to receive TA and who reside in the same dwelling unit. An incremental sanction imposed against a single individual will result in a denial or discontinuance of TA. An incremental sanction imposed against a multi-person household will remove the ineligible individual from both the TA household (HH) and case (CA) count which reduces the amount of the TA benefit.

3. An SSD must not impose any sanction when a Non-Parent Caregiver (NPC) who does not want to apply for TA or is not in receipt of TA refuses to pursue SSI benefits for himself or herself.
4. SSDs must continue to monitor a TA applicant and recipient's compliance with the requirement to pursue SSI at application and recertification as prescribed in 08 ADM-05 *SSI – Screening/Identification, Referral and Tracking Requirement*.
5. An SSD must not deny an applicant or reduce or discontinue a recipient's TA benefits for failure to comply with pursuing SSI, if the individual is physically or mentally unable to pursue SSI benefits for himself or herself, required filing unit members, or any persons the applicant, recipient, or representative indicates wishes to receive TA and who reside in the same dwelling unit.
6. An SSD must not deny a TA applicant for failure to pursue SSI if the individual's failure occurred prior to applying for TA.

VI. Additional Information

08 ADM-5 *SSI – Screening/Identification, Referral and Tracking Requirements* includes an attachment "Guidelines for SSI Referrals". The penalty section of the attachment has been revised to conform to 18 NYCRR 352.30(f) and can be found in attachment A of this document.

VII. Effective Date

Immediately

Issued By:

Name:

Title:

Division/Office:

Guidelines for SSI Referrals (front)

Individuals who are unable to work because of age, blindness or disability may be eligible to receive Supplemental Security Income (SSI) and/or Social Security Disability (SSD) benefits. Individuals are considered disabled if they cannot perform substantial gainful activity (work) because of a medically determinable physical and/or mental impairment which is expected to last for 12 months or more, or result in death.

Social Service District Responsibility	Applicant/Recipient Responsibility
<ol style="list-style-type: none"> 1. Evaluate an individual’s potential to qualify for SSI by (Also, see Reverse): <ul style="list-style-type: none"> ❑ Reviewing medical history for diagnosed and/or treated chronic diseases ❑ Observing behavioral/mental characteristics ❑ Reviewing vocational factors and work history 2. If appropriate, refer applicant/recipient (A/R) to apply for SSI benefits and complete LDSS-2474 “SSI Referral and Certification of Contact” form 3. If necessary, assist applicants or recipients who have trouble navigating or lack the motivation to cooperate with the SSI benefits application or appeals process with the following: <ul style="list-style-type: none"> ❑ Obtain signatures for medical release ❑ Obtain medical and/or supporting documentation ❑ Assure that A/R attends medical appointments ❑ Assist in representing A/R in SSA appeals process 4. Enter the appropriate SSI Status code Example: “2-Pending” for an individual whose SSI application is pending 5. Utilize appropriate employability code <ul style="list-style-type: none"> ❑ Example: Employability code 43 –Incapacitated (SSI application filed), unless the district determines that another employability code is more appropriate based on case circumstances 6. Track and monitor referrals submitted to SSA 7. Maintain security and confidentiality of SSA data 	<p>Any Temporary Assistance (TA) applicant or recipient who appears to qualify for Supplemental Security Income (SSI) benefits must, as a condition of eligibility or continued eligibility, pursue SSI benefits. The pursuit of SSI benefits includes the following:</p> <ol style="list-style-type: none"> 1. Applying for SSI 2. Cooperating in the SSI application process 3. Appealing an SSI eligibility denial when the district determines such appeal is required 3. Accepting SSI benefits <p><u>Failure to Comply with Requirement to Pursue SSI Benefits</u></p> <ul style="list-style-type: none"> • An incremental sanction must be imposed when any TA applicant or recipient refuses without good cause to pursue SSI benefits for himself or herself or for a member of the TA household • For single households. Deny or discontinue assistance • Adult caretaker - If the adult caretaker is not in receipt of TA, no sanction is imposed <p style="text-align: center;">References</p> <ul style="list-style-type: none"> • 08-ADM- 04 • 07-LCM-04 • 06-ADM-06 • 18 NYCRR 369.5 • 18 NYCRR 370.2 (b) (5) • 18 NYCRR 352.30 (f)

Guidelines for SSI Referrals (back)

To appropriately refer an individual to apply for Supplemental Security Income (SSI) benefits it is important to review an applicant's or recipient's age (65 or older), medical history and work history. Also, observations about the individual's behavior and mental characteristics must be evaluated. An appropriate SSI referral may ultimately reduce or eliminate an applicant or recipient's need for Temporary Assistance (TA) benefits.

Observe Behavioral/Mental Characteristics	Review medical history for diagnosed and/or treated chronic diseases
<ul style="list-style-type: none"> <input type="checkbox"/> Disorientation/confusion <input type="checkbox"/> Inappropriate responses/reactions <input type="checkbox"/> Non-responsiveness <input type="checkbox"/> Poor personal hygiene habits/unkept appearance <input type="checkbox"/> Marked difficulty in sitting, standing, lifting, bending, kneeling, pushing, pulling <input type="checkbox"/> Use of, or dependency on, prosthesis or medical appliances such as walker, crutch, artificial limb, cane, body brace, magnification device or pacemaker <input type="checkbox"/> Complaints of constant or periodic pain <input type="checkbox"/> Poor concentration or attention span <input type="checkbox"/> Poor memory for recent or remote events <input type="checkbox"/> Amputation/paralysis of limbs <input type="checkbox"/> Unusual or inappropriate mood/depression/anger <input type="checkbox"/> Unusual mannerism <input type="checkbox"/> Unusual fears or inhibitions <input type="checkbox"/> Agitated, disruptive or hostile behavior <input type="checkbox"/> Bizarre appearance / inappropriate dress <input type="checkbox"/> Acting out/hallucinations <input type="checkbox"/> Severe anxiety/nervousness 	<ul style="list-style-type: none"> <input type="checkbox"/> Heart Disease/chronic chest pain <input type="checkbox"/> Cancer <input type="checkbox"/> Alzheimer's <input type="checkbox"/> Emphysema/cystic fibrosis/lung disease <input type="checkbox"/> AIDS (Acquired Immune Deficiency Syndrome) <input type="checkbox"/> HIV with related illnesses <input type="checkbox"/> Hepatitis/liver disease <input type="checkbox"/> Leukemia/blood disease <input type="checkbox"/> Uncontrolled asthma <input type="checkbox"/> Brain injuries that prevent employment <input type="checkbox"/> Schizophrenia <input type="checkbox"/> Uncontrolled diabetes <input type="checkbox"/> Kidney disease <input type="checkbox"/> Liver disease/cirrhosis <input type="checkbox"/> Alcohol/drug addiction <input type="checkbox"/> Multiple/extended hospitalizations <input type="checkbox"/> Periodic confinement in mental institution <input type="checkbox"/> History of treatment in mental health clinic <input type="checkbox"/> High medication usage <input type="checkbox"/> High drug expenditures <input type="checkbox"/> Deafness/poor hearing <input type="checkbox"/> Blind/poor vision

Review vocational factors and work history
<ul style="list-style-type: none"> <input type="checkbox"/> Poor /inconsistent work history <input type="checkbox"/> Age 55 or over and lacking work skills <input type="checkbox"/> Attendance in special education classes <input type="checkbox"/> Learning disability with poor or inconsistent work history <input type="checkbox"/> Previous participation in sheltered work shop/rehabilitation facility