

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243

BARBARA B. SLUM
Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 81 ADM-55
[Income Maintenance]

to: Commissioners of Social Services

SUBJECT: Implementation of the Applicable Provisions of
the Omnibus Budget Reconciliation Act of 1981
(Public Law 97-35)

DATE: December 9, 1981

SUGGESTED
DISTRIBUTION: All Public Assistance Staff ;
All Food Stamp Staff
All Medical Assistance Staff

CONTACT PERSON: Any Income Maintenance policy questions should be directed to the person listed under each separate item by calling (800) 342-3715 and asking for the extension separately listed. For WMS questions, contact the WMS County Representative, extension 4-8573. For MA questions, contact your Medical Assistance representative, extension 4-9141.

I. PURPOSE

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) contained numerous provisions affecting the Aid to Dependent Children Program (ADC). Interim final regulations implementing these provisions were published on September 21, 1981 by the U.S. Department of Health and Human Services effective October 1, 1981. The State Social Services Law was revised to reflect the federal changes and to make changes in the Home Relief program by Chapter 1053 of the Laws of 1981.

The purpose of this Administrative Directive is to advise local social services districts of the changes in ADC which have resulted from P.L. 97-35 and Chapter 1053, changes in the Home Relief (HR) program and to provide instructions for implementation.

II. ORGANIZATION AND CONTENT OF THIS ADMINISTRATIVE DIRECTIVE

The program and policy changes presented in this directive cover a variety of categorical and financial eligibility factors and public assistance budget considerations and computations.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
			P.L. 97-35 Chapter 1053 of the Laws of 1981		

To facilitate use of the materials, each program change is treated separately with a background statement, program implications, required action, and impact on other programs.

Please note that the issue of Earned Income Credit (EIC) is not addressed in this ADM. We expect further written clarification from the federal government on EIC and we will issue separate instructions based on the federal material.

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III. REQUIRED ACTION - GENERAL

A. Conflict with Other Materials

Whenever a conflict arises between the Source Book, Manual Bulletins, training modules or draft material previously distributed and this Administrative Directive, this Administrative Directive shall have final authority. The issuance of Source Book and Manual Bulletin replacement pages is forthcoming.

B. Notification

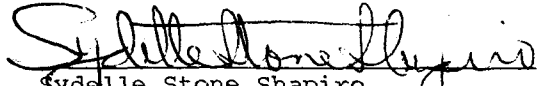
Recipients must be notified in writing of any reduction or termination of assistance. Two copies of the attached notification of reduction or termination must be provided to each recipient affected. The attached notice contains a set of instructions that must be followed. The district must clearly specify the reason for the intended action and cite the applicable regulation. These notices must be reproduced locally without change in content and must be used for all future reductions and terminations of assistance. A hard copy of the budget or local equivalent must be attached to each notice.

C. Medical Assistance

The Medical Assistance sections of this ADM apply only to MA/ADC and MA/HR cases. In all cases of MA/HR, applicants must be eligible for or in receipt of a cash grant. These persons must be advised that both their public assistance and medical assistance benefits are terminated, the specific reason for the closing, and their right to a fair hearing to contest the proposed action.

IV. EFFECTIVE DATE

As required by Chapter 1053 of the Laws of 1981, this directive is effective January 1, 1982, except for the sponsored alien provision, which is effective October 1, 1981.


Sydelle Stone Shapiro
Deputy Commissioner for Division
of Income Maintenance

Attachment

150% MAXIMUM GROSS INCOME LIMIT

Contact: Robin Ikler, extension 4-9080

I. BACKGROUND

Previously, there was no limit on the amount of gross income a family could have and still be eligible for assistance. Public Law 97-35 established a maximum allowable income limit.

II. PROGRAM IMPLICATIONS

No public assistance household is eligible for a grant in any month in which the household's total gross income exceeds 150 percent of the standard of need for a family of the same size. This determination must be made before consideration of any earned income disregards or exclusions. If the household passes the 150% test, normal budgeting, with exemptions and disregards, is followed.

III. REQUIRED ACTION

A. Public Assistance

1. Computation of the Maximum Allowable Income Limit

The maximum income limit is 150 percent of the standard of need. The standard of need, except for individuals residing in congregate care, will be the sum of:

- The statewide monthly grant and allowances for HR-VA-ADC (Schedule SA-2a),
- The statewide monthly home energy payments (Schedule SA-2b),
- The local agency maximum monthly shelter allowances, with heat as specified in 352.3.

2. Determination of Total Gross Income of the PA Household

Total income includes the gross income of all persons in the household applying for or in receipt of public assistance except:

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		352.18	131 - a P.L. 97 - 35 Chapter 1053 of the Laws of 1981	134	45 CFR 233.20 (a) (3) Source Book XVI - A - 1

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- The stepparent disregards as specified in Department Regulation 352.14;
- Sponsors of Alien disregards as specified in 352.33;
- Any income of SSI recipients;
- Educational Grants and Loans (State or Federal);
- Income specifically excluded by federal statute such as, Relocation Adjustment Payments, Loans under Title III of the Economic Opportunity Act, payments under the Older American Act, VISTA payments;
- Unavailable income from assigned property or from attached bank accounts;
- Monies received for a child boarded out in the home of the applicant/recipient by an agency or a relative of the child unless there is a profit intended;
- Income of \$1 per day for day care of a child;
- The value of food stamps, federally donated food, WIC payments, PA income and benefits; or
- HEAP payments.

3. WMS Impact

In December 1981, WMS will provide a list of all undercare cases where total income is above the 150 percent level. Appropriate action must be taken on these cases to affect the January check issuance.

All new applications and undercare cases will be subjected to the 150% test by inputting an effective date of January 1 or later into ABEL.

B. Medical Assistance

1. Public Assistance Closings

All ADC cases and all HR cases including one or more persons under 21 which are closed because their gross income exceeds the 150% maximum must have their Medicaid authorization continued until such time as the local agency can make a separate determination as to their continued Medicaid eligibility which must be done by the end of the current authorization period. HR cases which do not include any persons under age 21 shall not be continued.

2. Public Assistance Denials

All persons whose applications for cash assistance are denied because their gross income exceeds the 150% maximum shall have their eligibility for medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

3. Medical Assistance-Only Cases

Persons applying for MA only will not be affected by the 150% Cap. In determining their eligibility for MA-only, earned income will be treated as noted on page 13.

C. Food Stamp Impact

See the September 1981 distribution of Consolidated Food Stamp Correspondence.

IV. ADDITIONAL INFORMATION

A. Examples of Income Included in the 150% Test

All other earned and unearned income must be counted towards the 150% limit, including, but not limited to, the following items:

1. Court ordered support that the recipient is actually paying or any support that is actually received;
2. Garnishees;
3. Excludable income such as earned income or minors attending school, adoption subsidies, CETA training incentive payments, etc.;
4. Net boarder/lodger income (per 352.3(a)(3));
5. Income from the trust fund of any infant (not the fund itself).
6. Net profit from self-employment income (per Department Regulation 352.17(a)(2)).

B. EXAMPLE

An ADC case with a mother and three minor children receives the following income, exclusive of their public assistance grant:

Employment	\$550 Gross per/month
RSDI for the children	\$150 per/month
Support Payment from Ex-Husband (Being paid to Agency)	<u>\$ 50 per/month</u>
	\$750 Total Income

Standard of Need for four person household in County A:

Pre-Add	\$258.00
Home Energy Payment	\$ 38.70
Shelter Maximum for 4 w/Heat	<u>\$187.00</u>
	\$483.70

$$150\% \text{ of } \$483.70 = \$725.55$$

Since their income of \$750 exceeds 150% of the standard of need for a four person household, the case would be ineligible for public assistance.

RESOURCE LIMIT FOR PUBLIC ASSISTANCE APPLICANTS AND RECIPIENTS

Contact: Robin Ikler, extension 4-9080

I. BACKGROUND

Previously, New York State allowed the exclusion of specific resources based upon individual case circumstances. Public Law 97-35 now has established a limit of \$1,000 on the amount of resources a household may retain and still be eligible for assistance, except for certain specified exclusions.

II. PROGRAM IMPLICATIONS

Local districts will have to evaluate the total resources a family owns to determine if they exceed the \$1,000 limitation.

III. REQUIRED ACTION

A. Public Assistance

As a condition of eligibility or of continuing eligibility, an applicant/recipient must certify, in addition to the information provided in the application/recertification forms, the extent and value of resources that the public assistance household owns or has equity in. The client's statement of the equity value of his resources is sufficient unless there is evidence to the contrary. This does not preclude home visits at local social services district discretion.

The equity value of the resources other than those specifically excluded below, must not exceed \$1,000.

The following items are excluded from the \$1,000 limit:

1. One automobile, the equity value of which does not exceed \$1,500. If the automobile is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. If the automobile exceeds \$1,500 equity value, the amount by which it exceeds the \$1,500 must be counted toward the \$1,000 resource limit.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		352.11			
		352.15	P.L. 97-35	134	45 CFR 233.20
		352.16			(a) (3)
		352.22			Source Book
		352.23			Sections XVI-B
		352.24			XX, and XXI
		352.25			
		352.27			
		352.28			
		352.30			

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2. The value of a home owned by a member of the assistance unit and occupied by the assistance household.
3. Items of personal property essential to day to day living, such as clothing, furniture and household goods.

All other non-essential personal property and resources (including life insurance, burial reserves, income-producing property) must be evaluated to determine their equity value. Equity value is fair market value less encumbrances. If the combined equity value exceeds the \$1,000 limitation or, when there are no other resources, but the equity value of an automobile exceeds \$2,500, the entire public assistance household is ineligible for assistance.

B. Food Stamp Impact

Food Stamp resource limits and definitions of resources remain unchanged.

C. Medical Assistance

1. Public Assistance Case Closing

All ADC cases and HR cases including one or more persons under 21 which are closed because their resources exceed the allowable limit must be continued on Medicaid until such time as the local agency can make a separate determination of their continued eligibility for Medicaid, which must be done by the end of the current authorization period. HR cases which do not include any persons under age 21 shall not be continued.

2. Public Assistance Denials

All persons whose applications for cash assistance are denied because their resources exceed the allowable limits shall have their eligibility for Medicaid established based on the same application plus any additional required information unless they indicate in writing that they do not request such a determination.

3. Medical Assistance-Only Cases

Implementation of this requirement will have no impact on the MA-only resource levels.

PUBLIC ASSISTANCE EARNED INCOME DISREGARDS

Contact: Robin Ikler, extension 4-9080

I. BACKGROUND

Previously, Federal statute required the exemption of the first \$30 of gross earned income plus one third of the remainder in addition to actual work expenses including day care costs for employed ADC recipients. PL 97-35 provides for a maximum monthly work expenses disregard of \$75, a maximum monthly day care limit of \$160 per child or incapacitated adult, and \$30 plus 1/3 disregard for each employed individual with a limit of four months.

II. PROGRAM IMPLICATIONS

There will no longer be a need to calculate actual expenses incident to employment. Additionally, many recipients will no longer be eligible for assistance after the four month period of \$30 plus 1/3 income disregard. The new worker expense disregards will be applied to all HR and ADC applicants and recipients. The \$30 plus 1/3 disregard will be applied only to ADC and HR family cases with children.

III. REQUIRED ACTION

A. Public Assistance

The new income disregards must be applied sequentially as listed below:

(1) \$75 Income Disregard

The first \$75 of earned income for those individuals engaged in full time employment is disregarded. For those individuals working less than full time or who are not employed throughout the month, the work expense disregard is a flat \$50.

(2) \$160 Limitation on Child/Dependent Care

An amount equal to the actual cost, but not to exceed \$160, for the care of each dependent child or incapacitated adult living in the same home and receiving public assistance is disregarded. Local social services districts may consider the use of Title XX purchase of services for day care exceeding \$160. For those individuals working less than full time, or not employed throughout the month, the amount of the day care disregard may not equal or exceed the day care maximum for full-time workers.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		352.19 352.20 388.11	SSL 131-a P.L. 97-35 Chapter 1053 of the Laws of 1981	134	45 CFR 233.20(a) (Source Book Section II-B, XVI-C, I, M and N

NOTE: For the purposes of this section, full time employment is defined as employment that is normally recognized as full time by industry wide standards for that occupation in that locality. Employed throughout the month is defined as working full time hours during each week of the month.

(3) \$30 plus 1/3 Exemption

- (a) For all ADC and HR family cases with children, eligibility for public assistance shall be determined without application of the \$30 plus 1/3 disregard unless the applicant has received ADC or HR in one of the four preceding months. If eligible, the local social services district shall disregard from each individual's earned income \$30 plus 1/3 of the remainder of earned income.
- (b) The \$30 plus 1/3 disregard is not granted to HR single individuals or childless couples.

(4) \$30 plus 1/3 Limitation

The application of the \$30 plus 1/3 disregard shall be limited to four consecutive months. The individual may not receive the disregard again until he has been off public assistance for twelve consecutive months.

(5) Sanctions

- (a) The \$75, the child/dependent care, and the \$30 plus 1/3 disregards do not apply to the earned income of an individual for any month in which one of the following situations exists:
 - (1) the applicant or recipient voluntarily terminated his employment or reduced his earnings within the period of 30 days preceding such month; or
 - (2) the applicant or recipient refused within a period of 30 days preceding such month, to accept employment in which he is able to engage, offered by the State Employment Service or any other bona fide offer of employment; or
 - (3) a recipient failed to make a timely report of income. Where the local social services district does not discover the failure to make a timely report until after a payment has been made, the agency will recover the amount of the disregard in accordance with Department Regulations.
- (b) For those individuals who do not receive the \$30 plus 1/3 disregard because they, without good cause, terminated employment, reduced earnings, refused an offer of employment,

failed to make a timely report of earnings, or terminated their case to avoid the four consecutive months, local districts must count the months that the individual did not receive the \$30 plus 1/3 disregard towards the individuals four month eligibility.

(6) Self Employment

Self employed individuals must also receive the income disregards specified in this directive. However, also excluded from their gross income are work expenses related to producing the goods or services and without which the goods and services could not be produced. Specifically not excluded are items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans.

B. Food Stamp Impact

(1) \$75 Income Disregard

Total income must be counted for food stamp purposes. This disregard is not applicable for food stamps.

(2) \$160 Limitation on Child/Dependent Care

The disregard is not applicable for food stamp purposes. Payment for child/dependent care may be deductible as is currently done. For public assistance recipients, child care payments by local districts are excluded or counted as food stamp income the same as under existing requirements.

(3) \$30 plus 1/3 exemption

Total income must be counted for food stamp purposes. This disregard is not applicable for food stamps.

C. WMS Impact

The new earned income disregards will be supported in ABEL on January 4, 1982. Instructions on the use of ABEL will be contained in ABEL Transmittal 81-5. A Mass Rebudgeting Inquiry will also be available to identify all earned income cases.

A new Anticipated Future Action Code, 204, "End of 30 plus 1/3 Eligibility - Calculate New Budget" will be available for worker input. A new AFA ABEL Report will be generated from the budget record based on the \$30 plus 1/3 Last Month Indicator.

D. Special Implementation Instructions

All cases must reflect the income disregards specified in this directive on February 1, 1982. Tracking of the four month limit on the \$30 plus 1/3

disregard must start on January 1, 1982 for ADC and on February 1, 1982 for HR.

E. Medical Assistance Implications

1. Public Assistance Case Closings

All ADC cases and all HR cases including at least one person under 21 which are closed as a result of this treatment of income (\$75 limit, \$160 limit, loss of \$30 1/3) shall be continued on Medicaid until a separate determination of Medicaid eligibility is made.

HR cases which include no persons under 21 shall not be continued.

2. Public Assistance Denials

All persons whose applications are denied because their income exceeds the allowable standard of need shall have their eligibility for Medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

3. Medical Assistance-Only Cases

In making a decision as to eligibility for Medicaid, the Medical Assistance worker should allow all work related expenses. In addition, if the individual has received the \$30 plus 1/3 exemption for four consecutive months after December 31, 1981, his or her MA eligibility will be established without consideration of the \$30 and 1/3. If he or she has not received the exemption for four consecutive months the \$30 plus 1/3 disregard must be used in the determination of Medicaid eligibility for this balance of the four months only.

IV. ADDITIONAL INFORMATION

Example

Application of New Earnings Disregards

ASSUMPTIONS

Family of four (mother and three children)
Standard of Need = \$515 (NYC)
150% of Standard = \$772
Child Care = \$160
Gross Monthly Income = \$740

DETERMINATION OF ELIGIBILITY

First Test: Gross income of \$740 is below the 150% cap of \$772 (if income was \$773, case ineligible)

\$740 Gross Income
- 75 Standard Work Expense Disregard

\$665
- 160 Child Care

\$505 Net Income (below Standard - eligible case)

COMPUTATION OF GRANT

\$740 Gross Income
- 75

\$665
- 160

\$505
- 30

\$475
- 158 One-Third of Remainder

\$317 Net Income
- 515 Standard of Need

-\$198 Deficit = \$198 Grant

Note: Thirty and one-third applied after determining that the applicant had never received thirty and one-third for four consecutive months or, if she had, that she had been off ADC for 12 consecutive months.

RECOMPUTATION OF GRANT AFTER FOUR CONSECUTIVE MONTHS

\$740 Gross Income
- 75
\$665
- 160
\$505 Net Income
- 515
-\$ 10 Deficit = \$10 Grant

ASSUMPTION OF STEPPARENT INCOME

Contact: Bob Murphy, extension 4-9356

I. BACKGROUND

Social Services Law, Section 101 requires that stepparents be responsible for the support of stepchildren under the age of twenty-one years.

For stepparents, living in the home, who are not a part of the assistance unit, you were advised in 75 ADM-21 of the decision rendered in the Uhrovick versus Lavine litigation. That decision required that an order of support from the Family Court be obtained to determine the amount of the stepparent's income which may be applied to reduce the need of the assistance unit.

New Federal legislation provides a formula for determining the amount of the stepparent's income which will be applied to reduce the needs of the assistance unit. This release deals only with the calculation of this deemable income.

The legislation does not affect the treatment of stepparents who are applying as a member of the assistance unit.

II. PROGRAM IMPLICATIONS

The provisions of the State Regulation (NYCRR 369.2(g)(3)(ii)(e)) which prescribes a petition to Family Court to obtain an order of support is being repealed as a result of this new Federal legislation. Therefore, local social services districts need not seek recourse to litigation. In addition, the Department of Health and Human Services (HHS) has advised us that a state can deny eligibility to an ADC family if the stepparent living in the home fails to provide sufficient information to establish ADC eligibility.

III. REQUIRED ACTION

A. The following definitions are used in the determination of countable income for the purpose(s) of this Administrative Directive.

1. Stepparent: A stepparent is defined as a person who is ceremonially or legally married to the child's parent under State law.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
	75 ADM-21	352.14 369.2	SSL 101 P.L. 97-35 Chapter 1053 of the Laws of 1981	92j 134	

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2. Deeming: The process needed to determine the amount of a person's income available to reduce the needs of another individual whether or not the income is actually available to that other individual.
 3. Assistance Unit: The individual, or number of individuals, for whom assistance is provided.
- B. Local social services districts shall determine the countable income of a stepparent residing in the child's home and not applying as a member of the assistance unit in the manner described below. The following disregards, where applicable, shall be applied to the stepparent's income before it is counted in reducing the ADC grant:
(Worksheet attached)
1. The first \$75 of the stepparent's gross earned income if he/she is employed full-time; the disregard shall be \$50.00 if the stepparent is either: 1) employed less than full-time; or 2) not employed throughout the month.
 2. An amount for the support of the stepparent and other individuals who are living in the home, but whose needs are not taken into account in making the ADC eligibility determination. Those other individuals must be claimed by the stepparent as dependents for purposes of determining his or her Federal personal income tax liability. This disregarded amount shall equal the standard of need amount for a family group of the same size as the stepparent and the other individuals not in the assistance unit.
- NOTE: The standard of need amount includes the following:
- (1) Statewide Standard of Need, Schedule SA-2a;
 - (2) Monthly Home Energy Allowance, Schedule SA-2b;
 - (3) Monthly Maximum Shelter Allowance, with Heat.
3. Verified alimony and child support payments actually paid to individuals not living in the household.
 4. Amounts actually paid by the stepparent to individuals not living in the home but who are claimed by him or her as dependents for purposes of determining his or her Federal personal income tax liability.
- C. In applying the disregards described in Part B, above, should the stepparent's deductions exceed his or her income, countable income will be considered zero.
- D. The income of a stepparent receiving Supplemental Security Income (SSI) is not considered to be available to the ADC assistance unit.

E. The following examples of computing countable income are furnished to illustrate the application of the disregards described in this section:

1. Mr. Jones who is not applying for public assistance, resides in a household composed of his own natural child, his new spouse and her two natural children to whom Mr. Jones is the stepfather; further Mr. Jones pays \$100 per month to one child who resides elsewhere and is listed on Mr. Jones Federal personal income tax return; Mr. Jones must pay court-ordered alimony of \$100 per month to his ex-wife. Mr. Jones works 37.5 hours per week, earning a weekly salary of \$200. Mrs. Jones is applying for public assistance just for her two children.

Computation of Countable Income

Mr. Jones monthly gross income: $(\$200 \times 4.333) =$ \$866.67

(a) Deduct first \$75 since Mr. Jones is employed full-time -75.00

Balance \$791.67

- (b) Deduct State standard of need for stepparent and his one natural child and his wife

From Schedule SA-2a (Pre-add)	\$200.00	
Monthly Home Energy Allowance	30.00	
Shelter Maximum w/Heat	<u>179.00</u>	\$409.00

Balance \$382.67

- (c) Deduct amount actually paid to child residing outside household \$100.00

Balance \$282.67

- (d) Deduct amount of court-ordered alimony \$100.00

COUNTABLE INCOME AVAILABLE TO THE ASSISTANCE UNIT \$182.67

2. Mr. Brown who is not applying for assistance, resides in a household composed of his two natural children, his second wife and her three

natural children to whom Mr. Brown is the stepfather. Mr. Brown pays \$175 per month to one natural child who lives elsewhere and is listed on Mr. Brown's Federal personal income tax return; in addition, Mr. Brown is required to make support payments to his first wife in the amount of \$50 per month under court order. He is currently employed thirty hours per week at an hourly rate of \$5.50 per hour. Mrs. Brown is applying for public assistance for herself and her three children.

Computation of Countable Income

Mr. Brown's monthly gross income (30 x \$5.50 x 4.333) = \$715.00

(a) Deduct: First \$75.00	<u>-75.00</u>
	\$640.00

(b) Deduct State standard of need for stepparent, his wife and his two natural children		
From Schedule SA-2a	\$258.00	
Monthly Home Energy Allowance	38.70	
Shelter Maximum w/Heat	<u>187.00</u>	\$483.70
		Balance \$156.30

(c) Deduct amount actually paid to child residing outside household		\$175.00
		Balance -\$18.70

(d) Deduct mandatory support payment		<u>\$50.00</u>
		Balance -\$68.70

COUNTABLE INCOME AVAILABLE TO ASSISTANCE UNIT	ZERO
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- F. After the Countable or Deemed Income is computed the budgeting process employed to arrive at the grant determination is unchanged; budget procedures currently in effect shall be utilized.
- G. Local social services districts must deny public assistance eligibility to a family if the stepparent living in the home fails to provide sufficient information to establish eligibility.

H. WMS Impact

On ABEL, PA Other/Unearned Income Code 75, "Income from a Step-parent" is used to record the deemed income of a step-parent. The net amount is input.

I. Food Stamp Impact

Since the stepparent is a Food Stamp household member his/her total income is countable for Food Stamp Purposes.

J. Medical Assistance Implications

1. Public Assistance Case Closings

Cases which are closed on ADC or HR because the deemed income of a stepparent makes the family financially ineligible must have their Medicaid authorization continued until such time as the local district can make a separate determination as to their continued Medicaid eligibility which must be done by the end of the current authorization period.

2. Public Assistance Denials

All persons whose applications for cash assistance are denied because their income exceeds the allowable standard of need shall have their eligibility for Medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

3. Medical Assistance-Only Cases

In determining eligibility for MA-Only, a stepparent's income can only be considered if (s)he is willing to make it available to the applicants. In all other cases, eligibility must be determined without regard to the stepparent's income and a referral to family court for non-support must be made.

CALCULATION OF STEPPARENT COUNTABLE INCOME

W O R K S H E E T

GROSS EARNED INCOME

A. Income Statement

- 1. Unearned Income
- 2. Gross Earned Income

TOTAL INCOME

B. Income Disregard

- Employed Full-Time (\$75.00)
- Employed Part-Time (\$50.00)

INCOME DISREGARD

C. Computation of Standard of Need

Number of Persons

- Stepparent
- Spouse
- Other Individuals

TOTAL NUMBER

- Statewide Standard of Need (SA-2a)
- Monthly Home Energy Allowance (SA-2b)
- Maximum Shelter with Heat

TOTAL STANDARD OF NEED

D. Alimony or Child Support Payments

Purpose: _____

_____ Amount

Purpose: _____

_____ Amount

Purpose: _____

_____ Amount

TOTAL ALIMONY OR CHILD SUPPORT PAYMENTS

E. Payments to Individuals Not In Household

Purpose: _____

_____ Amount _____

Purpose: _____

_____ Amount _____

Purpose: _____

_____ Amount _____

TOTAL PAYMENTS _____

F. Computation of Countable Income

1. Total Income (Section A) _____

2. Disregards

a. Section B _____

b. Section C _____

c. Section D _____

d. Section E _____

TOTAL DISREGARDS (Subtract from Gross Earned Income) _____

3. COUNTABLE INCOME _____

COUNTABLE INCOME DERIVED IN SECTION F.3. IS THE AMOUNT DEEMED TO BE AVAILABLE TO REDUCE THE NEEDS OF THE APPLYING ASSISTANCE UNIT.

THIS AMOUNT IS CARRIED OVER TO THE BUDGET WORKSHEET AS INCOME TO THE ASSISTANCE UNIT. IT DOES NOT AFFECT CURRENT BUDGETING METHODOLOGY.

AID TO DEPENDENT CHILDREN OF UNEMPLOYED PARENTS (ADC-U)

Contact: Hallie Schroeder, extension 4-9343

I. BACKGROUND

In June, 1979, the U.S. Supreme Court extended ADC-U eligibility to families in which the children had been deprived of parental care and support as a result of the unemployment of either parent. P.L. 97-35 has again restricted ADC-U eligibility by limiting it to families in which the deprivation factor is the unemployment of the parent who was the "principal earner." In addition, the Federal regulations have limited the training programs which may be used in determining whether an ADC-U applicant/recipient meets the "quarters of work" requirement.

II. PROGRAM IMPLICATIONS

In determining that a child is eligible for ADC based on the unemployment of the parent, previous ADC-U requirements, such as the 30 day period of unemployment and the requirements regarding past attachment to the work force, remain in effect.

The new policy is expected to increase home relief costs since cases determined not eligible for ADC-U will be placed in the HR category, if otherwise eligible.

III. REQUIRED ACTION

A. Initial Eligibility for ADC-U

The worker must determine if the parent whose unemployment necessitated the application for assistance is the principal earner.

(1) Principal Earner

The "principal earner" is the parent who earned the greater amount of gross income in the 24-month period, the last month of which immediately precedes the month in which an application for ADC-U is made. This determination must be made regardless of the actual relationship of the couple during such 24-month period. If both parents earned an identical amount in that 24-month period, the local district must designate which parent is to be considered the principal earner. If actual documentation of earnings is unavailable, the couple's certification of who had the greater earnings will be sufficient.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
80 ADM-11					
79 ADM-50		369.2(g) (7)	P.L. 97-35	92j	45 CFR 233.100
76 ADM-113					
75 ADM-76					
75 ADM-56					
75 ADM-56a					Source Book
75 ADM-51A					Section VIII-L-6

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(2) Training Programs Which Satisfy the "Quarters of Work" Requirement

The worker must determine that the unemployed parent showed the requisite past attachment to the work force. Only two training programs now satisfy this requirement. They are the Work Incentive Program (WIN) and the Community Work Experience Program (CWEP).

NOTE: CWEP is a new program which is similar to Public Works Projects (PWP), but which is available only to ADC recipients. Although the State intends to participate in CWEP, the regulations allowing such participation have not been published, nor are there any CWEP programs operating in any local districts at this time.

The requirement governing the use of past employment in determining "quarters of work" has not changed, nor are there changes in the requirements governing use of the applicant's eligibility for unemployment insurance benefits in establishing past attachment to the work force.

B. Potential ADC-U Eligibility for Current Cases

At next contact or scheduled recertification of current ADC-U and HR family cases, the local district must evaluate the employment history and earnings record of the parents to determine the principal earner and to determine the appropriateness of category. The determination of the principal earner in such cases will be based on the 24-month period preceding the application month.

C. Continuing Eligibility for ADC-U

The parent designated as the "principal earner" shall retain that designation in each consecutive month in which the family remains in receipt of ADC-U.

D. Medical Assistance Implications

(1) Public Assistance Cases

Cases currently eligible as ADC-U will continue eligible either in that category or as HR. Medical Assistance for the entire family will continue to be provided and Federal reimbursement claimed only if they continue as ADC-U. If the family is determined eligible as HR, medical assistance for the parents will be FNP, while medical assistance for children under 21 years of age will continue to be Federally reimbursable.

(2) Public Assistance Denials

All persons whose applications for cash assistance are denied because they do not meet the financial requirements shall, if the application contains an individual under 21, have their eligibility for Medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

(3) Medical Assistance-Only Cases

Cases currently eligible as MA-ADC-U will be reviewed at the next scheduled contact. The same procedures as outlined above will be used to place the family in the correct category. If the family does not qualify as MA-ADC-U, the parents will only be eligible if they are eligible for or receiving cash assistance.

EFFECT OF PARTICIPATING IN A STRIKE ON ADC ELIGIBILITY

Contact: Chuck Klaer, extension 4-9346.

I. BACKGROUND

Previously the ADC program did not specifically prohibit ADC benefits to persons who were engaged in a strike.

P.L. 97-35 now contains a provision which requires that ADC benefits be denied to families whose parents are participating in a strike on the last day of the month.

In addition, the Federal regulation formerly allowed participation in a strike to constitute good cause to leave, or not to seek or accept employment. The new regulations state that participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment.

II. PROGRAM IMPLICATIONS

Any individual or family who is denied eligibility for ADC benefits (ADC-FP) due to these changes in the ADC eligibility criteria, will, if otherwise eligible, receive ADC without federal financial participation as an ADC FNP expenditure (see III, D. Reimbursement Claim Adjustment).

III. REQUIRED ACTION

A. Definitions

1. Strike: As defined in Federal law (29 USC 142(2)) "The term 'strike' includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slow down or other concerted interruption of operations by employees."
2. Caretaker Relative: The term "caretaker relative" means natural or adoptive parent for purposes of making a determination of strike participation.
3. Participating in a Strike: The term "participating in a strike" means concerted cooperation and support for a strike action

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		369.5 352.20	SSL 349 P.L. 97-35 Chapter 1053 of the Laws of 1981	92j 134	45 CFR 233.106

which results in a reduction of income, but does not include in its meaning concurrent work stoppage due to illness, approved vacation, firing, lock-out, lay-off related to the strike, intimidation or threats by strikers, acceptance of other full time employment or any other reason consistent with Department Regulations.

B. Determination of Strike Participation

Local districts must evaluate each potential striker related action to determine whether ADC FP eligibility can be justified.

1. (a) The applicant or recipient shall not be considered to be participating in a strike if, in the opinion of the local social services district, the ADC applicant or recipient stopped work due to any of the following:

- illness
- approved vacation
- firing
- lock-out
- intimidation or threats
- acceptance of other full time employment, or
- any other reason consistent with Department Regulation.

(b) The case record should include all documentation necessary to justify the agency's decision that the individual is not participating in a strike and therefore continues to be eligible for ADC-FP.

2. For those applicants or recipients found to be participating in a strike, budgeting shall be done as directed in the following section.

C. Case Budgeting of Those Determined to have Participated in a Strike

1. Continued ADC Eligibility

In accordance with Department Regulations 352.19 and 352.20, if the caretaker relative or an individual ADC applicant or recipient participates in a strike within the 30 days preceding any month in which the caretaker relative or individual is eligible for ADC benefits, the \$75, \$160 and \$30 and 1/3 disregards shall not apply.

2. Denial of ADC Eligibility

If the caretaker relative with whom the child is living is

participating in a strike on the last day of a month, the family shall be ineligible for ADC benefits for such month. If the family is otherwise eligible for ADC-FNP, ADC-FNP shall be provided.

3. If an ADC recipient other than a caretaker relative, is participating in a strike on the last day of a month, such individual shall be ineligible for ADC-FP benefits for such month. Such individual, if otherwise eligible, shall have needs met with ADC-FNP in accordance with Department Regulations for cooperative cases.

D. Reimbursement Claim Adjustment

When the caretaker relative has been determined ineligible for ADC due to participation in a strike, the grant for that month must be identified as Federally Non-Participating (FNP) in the month following the month in which the ineligible status is determined. An adjustment must be made to reflect the FNP amount on Schedule A (DSS 187) line 21. For other than the caretaker relative who has been determined ineligible for ADC due to participation in a strike, a proportional share of the grant must be identified as FNP on the Schedule A, (DSS-187) as computed on line 21. These FNP adjustments should be supported by a completed Schedule of Adjustments (DSS-1318).

E. Medical Assistance Implications

1. Public Assistance Cases

Public Assistance cases in which a parent is participating in a strike will be treated as follows: a) If a deprivation factor other than the unemployment of the striking parent exists, the entire family will continue to be FP for purposes of MA. b) If no other deprivation factor exists, persons under 21 shall be FP, and persons 21 and over, FNP.

2. Medical Assistance - Only Cases

MA - only cases will be treated exactly as are PA cases, except that if no deprivation factor other than the unemployment of the striking parent exists, all persons 21 and over must be eligible for or receiving a cash grant in order to be eligible for Medicaid.

F. Food Stamp Impact

Households containing a member who is on strike or participating in a concerted stoppage of work are generally ineligible for food stamps except for certain circumstances as outlined in the September 1981 Consolidated Food Stamp Correspondence.

G. WMS Impact

Sanctioned/Ineligible Reason Code, 07, "Striker Sanction - not Eligible for AFDC", is to be used for purposes of tracking the striker. It is not necessary to transfer the case type from ADC to HR.

ASSISTANCE FOR PREGNANT WOMEN

Contact: Hallie Schroeder, Extension 4-9343

I. BACKGROUND

Prior to PL 97-35, the pregnancy of a public assistance applicant/recipient could affect her categorical and financial eligibility for public assistance in two ways:

- the household of a woman with no other children was considered eligible for ADC when pregnancy was medically verified and as long as one of the ADC deprivation factors were met.
- the basic needs allowance and home energy allowance were increased by one person to account for the needs of the unborn child from the fourth month of the mother's medically verified pregnancy.

Under PL 97-35, a pregnant woman with no other children must not be considered eligible for ADC until the sixth month of her medically verified pregnancy. In addition, public assistance grants may no longer be increased to include the needs of an unborn child. However, Chapter 1053 of the Laws of 1981 provides for an allowance to meet the additional needs of a pregnant woman from the fourth month of pregnancy.

II. PROGRAM IMPLICATIONS

Categorical eligibility for ADC and EAF no longer exists for a pregnant woman with no other children, until the sixth month of the medically verified pregnancy. For applicants/recipients otherwise eligible, HR shall be granted.

III. REQUIRED ACTION

- A. In cases in which an applicant/recipient is pregnant and such pregnancy has been medically verified, the following actions must be taken:

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
80 ADM-47 79 ADM-15		352.3(b) 352.7(k) 369.1(a) 369.2(a) 369.5(c)	PL 97-35 Chapter 1053 of the Laws of 1981 SSL 131-a	134 92j	Source Book Sections: XII-D-2 VIII-E VIII-F 45 CFR 233.90 (c) (2) (1r)

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- Prior to the beginning of the sixth month of pregnancy, the case must be evaluated for HR eligibility if the woman has no other children.
- Beginning with the sixth month of pregnancy, the case must be evaluated to determine eligibility for ADC based on the existence of a deprivation factor.
- An allowance of \$50 per month to meet the special needs occasioned by or resulting from the pregnancy shall be budgeted prospectively from the beginning of the fourth month of a medically verified pregnancy in determining the eligibility for and degree of need for public assistance.

NOTE: Since unborn children are no longer eligible for assistance in their own right, a pregnant woman whose needs are being fully met, will not be eligible for assistance.

B. Claiming 4th and 5th month (Federally non-Participating)

The additional allowance paid for pregnancy in an active ADC case must be identified as FNP on Schedule A, as computed on line 21. This is the case whether the district opts to issue separate checks or not.

The following procedures are recommended:

- (1) A special grant should be issued for the 4th and 5th month, so that payment can be clearly identified as FNP on the composite payment roll. The 6th month pregnancy allowance and thereafter should be added to the regular recurring grant of assistance; or
- (2) If a special grant cannot be utilized, a Schedule of Adjustment (DSS-1318) must be prepared in order to properly identify the 4th and 5th months not eligible for federal participation.

C. Work Registration Impact

Pregnancy, in and of itself, is not an exemption from work requirements.

D. Food Stamp Impact

A pregnancy allowance which is part of the cash grant is considered income for Food Stamp purposes.

E. WMS Impact

Additional Allowance Code 18, "Expenses Incident to Pregnancy" is now supported on ABEL for budgets with an effective date of January 1 or later.

Anticipated Future Action Code 206, "Begin Sixth Month of Pregnancy" and Payment Type Code 01, "Expenses Incident to Pregnancy" will be supported by the WMS system. A Special Claiming Code is being developed to indicate FNP claiming in an ADC case.

This Special Claiming Code can be used in those ADC cases in which the Additional allowance for Pregnancy is being issued in the fourth and/or fifth month of pregnancy to indicate FNP claiming. The local district has the option of utilizing this Special Claiming Code with a payment line written for the time period in which FNP claiming is appropriate.

F. Medical Assistance Implications

1. Public Assistance Cases

- a) If a family including a pregnant woman is receiving an HR grant and if the family would be eligible for ADC if the child were born (i.e. a deprivation factor is present), the medical expenses of the entire family will be Federally Participating.
- b) If a family including a pregnant woman is receiving an HR grant and would not be eligible for ADC if the child were born (i.e. no deprivation factor) the medical expenses of the pregnant woman and any persons under age 21 will be Federally Participating.

2. Public Assistance Denials

If a family including a pregnant woman is denied cash assistance, that family will have their eligibility for Medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

3. Medical Assistance - Only Cases

If a family including a pregnant woman applies for Medicaid only, the unborn child should be considered an individual under 21, and the household size increased by one as of the month in which the pregnancy is medically verified. The pregnant woman and any persons under age 21 will always be Federally Participating. Another adult would only be Federally Participating if a deprivation factor exists.

AGE LIMIT OF DEPENDENT CHILD

Contact: Pat Chmielewski, Extension 4-9359

I. BACKGROUND

Department Regulation 369.2(c) defined a "child" for the purpose of establishing categorical eligibility for ADC as follows:

A child or minor is eligible if under the age of 18; a minor between 18 and 21 years of age is eligible if he is regularly attending high school, a college or university, or a course of vocational or technical training. PL 97-35 limits ADC eligibility to children under 18 or to children under age 19 who are full-time students expected to complete a program of secondary school or the equivalent level of vocational or technical training before reaching age 19.

II. PROGRAM IMPLICATIONS

Individuals between 18 and 21 years of age currently in receipt of ADC who do not meet the new age limitations and who cannot be categorized as an "essential person", if otherwise eligible, must be granted assistance under the HR program. Persons transferred to HR will be exempt from work rules if they are full-time students under age 21, in any type or level of schooling.

III. REQUIRED ACTION

A. Definitions

1. "Child" for ADC Purposes

A child or minor is categorically eligible for ADC if he/she is under 18 years of age or if he/she is 18 years of age and a full-time student in a secondary school, or in the equivalent level of vocational or technical training and expected to complete the program before age 19.

2. School for ADC Purposes

A secondary school or the equivalent level of vocational or technical training refers to a public, private, or parochial school with a course of study leading to a high school diploma, or its equivalent, whose curriculum is approved by the State Education Department.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		369.2(c)	SSL 345 PL 97-35 Chapter 1053 of the Laws of 1981	92j	45 CFR 233.10 (6) (2) (ii) (1) and 233.90 (b) (3)

Equivalent level is not community college level programs or any other post-secondary education but is high school level or high school equivalency programs offered by community colleges.

3. Full-time Attendance

For academic institutions, the determination of what constitutes full-time attendance at academic institutions is based on the institution's definition of full-time. For trade schools and other non-academic institutions, a minimum schedule of 25 hours per week shall constitute full-time enrollment. "Full-time" attendance also includes:

- resident pupils while temporarily absent from home, when the primary purpose is to secure educational, vocational or technical training and the parent retains full responsibility for and control of such minor;
- enrolled in school, but on vacation, or
- instruction in the home conducted by the board of education or enrolled in any course leading to a high school equivalency certificate.

B. Determination of Individuals Expected to Complete Program

The local social services district must obtain verification from the school district that the recipient is enrolled and is scheduled to graduate or complete the program on or before the last day of the month in which the recipient's 19th birthday occurs. Students who reach their 19th birthday during the same month in which they are expected to graduate from secondary school or the equivalent level of vocational or technical training will be eligible for ADC. However, any student whose 19th birthday is in any month preceding the month of expected graduation will become ineligible for ADC upon attaining his 18th birthday.

C. Implementation

In December, 1981, WMS districts will receive a mass listing of all ADC recipients between the ages of 18 and 21 years of age.

The local social services district should initiate contact with the recipient identified on the mass list to explore eligibility for ADC based on school attendance or "essential person" status (81 ADM-26). If the recipient is not eligible for ADC, the local district must make a determination of eligibility for HR, whenever the recipient makes a separate application for HR assistance.

Local social services districts are reminded that, per section 101 of the Social Services Law, parents are responsible for the support of their children under the age of 21. Furthermore, the resource limits detailed in this ADM apply to students applying for public assistance.

Local social services districts must keep track of the number of college students receiving public assistance and provide such information to this Department upon request.

D. Food Stamp Impact

1. If, in a currently certified PA/FS case, a child is deleted from the PA grant or the PA case is closed due to loss of ADC eligibility as a result of this change in eligibility requirements, the Food Stamp case must be continued through the existing certification period. The food stamp allotment must be adjusted to reflect the decreased/terminated PA grant.
2. If eligibility for HR is subsequently established, food stamp eligibility and allotment must be redetermined.

E. WMS Impact

Employability Code 35, (ADC), will now be defined as "Person 16 to 19 in school full-time." The definition of Employability Code 53, (HR), will remain the same. A new Anticipated Future Action Code, 113, "Individual Turning 19," has been added to the system. The code is system-generated and individuals turning 19 will automatically be reported on the AFA report.

F. Medical Assistance Implications

1. Public Assistance Category Changes

- a. If a child in an ADC household is transferred to HR because (s)he no longer meets age/school attendance requirements, that child shall continue to be eligible for Medicaid with Federal Participation until age 21.
- b. If a household is transferred to HR because the only child no longer meets age/school attendance requirements, the child only will continue eligible as FP until he or she reaches age 21. The caretaker relative will be FNP for medical care and services.

2. Public Assistance Closings/Reductions

If a person is removed from the case or a case is closed, the reduction or closing notice shall advise the client that MA shall be continued until a separate determination of continued MA eligibility is made.

3. Public Assistance Denials

All persons whose applications for cash assistance are denied because the only child does not meet age and school attendance requirements shall have their eligibility for Medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

4. Medical Assistance-Only Cases

The change in the age limit of dependent children in the ADC program will have no effect on the way MA-only cases are treated, except that parents of children 18(or 19) may be eligible as FNP.

G. Services Cases (ADC-FC)

ADC-FC cases are subject to this new age limit. Local districts must ascertain, based on the WMS printouts and/or review of local district records, those ADC-FC recipients aged 18 to 20. Districts shall determine which of these persons age 18 may continue eligible for ADC based on the school attendance criteria. The districts should then review all other 18-20 year old ADC-FC cases to determine whether and in what status the district will continue to provide foster care services.

For those whom districts wish to continue to provide care and maintenance as part of the district's foster care services program, the district may transfer these recipients to Child Welfare status. Districts must take care to take into account the court status of these persons in making these determinations. Under Child Welfare status, there is no Federal Financial Participation and costs of foster care are borne 50% local and 50% State. Districts must also take into account Utilization Review requirements in making a determination to continue an 18 to 20 year old in foster care.

EXCESS INCOME AND LUMP SUM PAYMENTS

Contact: Pat Chmielewski, extension 4-9359

I. BACKGROUND

Department regulations required that any payments received by a public assistance unit be utilized to eliminate or reduce the need for public assistance.

PL 97-35 now requires that any lump sum payment be considered available to meet the needs of the public assistance household.

II. PROGRAM IMPLICATIONS

When income in excess of the household's needs is received by a public assistance household, and not voluntarily assigned to the local social services district as a recovery of assistance granted, the public assistance household will be ineligible to receive assistance for a calculated period of time. This provision applies to both ADC and HR cases.

III. REQUIRED ACTION

A. Recovery of Lump Sum Payments

In those instances where as a result of a lump sum payment the recipient's income, after application of applicable disregards, exceeds the standard of need for the family, the recipient may voluntarily transfer the lump sum payment to the local district or the case shall be closed for a calculated number of months.

1. Voluntary Transfer of a Lump Sum Payment

The budgeting procedure described below does not apply in those instances where the local social services district is able to fully recover non-recurring payments and apply them against past assistance. Thus, the public assistance case remains unchanged in those instances where the recipient assigns the lump sum payment to the local social services district to be applied against past assistance. In those instances where the lump sum payment is greater than past assistance, then the excess amount must be budgeted as described below.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		352.29 (h)	PL 97-35	134	45 CFR 233.20 (a) (3) (ii) (d)

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2. Budgeting Lump Sum Payments

When a recipient has not voluntarily transferred a lump sum payment or when the lump sum payment exceeds the amount of past assistance, the local district must close the case for a calculated period of time. To determine the number of months during which the case will be ineligible, the local social services district must, starting with the month of receipt of the lump sum payment:

- o add all lump sum payments to any other non-disregarded income, and
- o divide this total income by the household's needs. The period resulting from this calculation is the period for which the case is ineligible for public assistance. Future changes in family composition or other relevant circumstances do not change or alter the period of ineligibility. Any income remaining after this calculation must be treated as if it is income received in the first month following the period of ineligibility and must be considered for use at that time.

NOTE: Household needs include the same items currently considered when computing the amount of recoupment. Household needs do not include special nonrecurring vendor payments for items such as heating fuel. Under such circumstances, use the scheduled fuel maximum to figure the household needs.

Case Example #1: Effect of Receipt of Lump Sum Payment on a Public Assistance Case with Earnings.

Mrs. Anderson and her three children are recipients of ADC. Their household needs total \$515 per month. Her gross income from employment is \$600 and there are no child care expenses. In June, Mrs. Anderson received an RSDI lump sum payment for \$2,500 which she did not wish to transfer to the local district. The number of months she will be ineligible for aid is determined as follows: (rounded)

Compute Net Income

\$	600	Gross Income
-	<u>75</u>	Standard Work Expense Disregard
\$	525	
-	<u>30</u>	
\$	495	
-	<u>165</u>	1/3 of the Remainder
\$	330	Net Income (\$185 Monthly Grant)

Calculate Months Off Assistance

\$ 2,500 Lump Sum Payment
+ 330

2,830 Total Income
÷ 515 Total Needs

= 5 Months of Ineligibility
+ \$ 255 Extra Income in 1st month following
period of ineligibility

Case Example #2: Effect of Lump Sum Payment When Discovered
After the Month of Receipt

Martha Jackson and her two children who are ADC recipients, received a lump sum payment of \$2000 in August which she didn't report to the local district until October 20. Martha's gross monthly income is \$500 from employment and she has no child care expenses. Their household needs total \$424.

The local district must first calculate the number of months Martha and her children will be ineligible for assistance, beginning with the month of receipt of the lump sum.

Calculate Net Income

\$ 500 Gross Income
- 75 Standard Work Expense Disregard

425
- 30

395
- 132 1/3 of the Remainder

\$ 263 Net Income

Calculate Months Off Assistance

\$ 2000 Lump Sum Payment
+263 Net Income

\$ 2263 Total Income
÷424 Total Needs

5 months Ineligibility for Assistance,
beginning in month of receipt of lump sum
(August - December)

+ \$143 extra income in 1st month following ineli-
gibility (January)

Calculate Amount to be Recouped

The case will be closed for 2 months (November and December) since Martha did not report the lump sum for 3 months. The local district must recover as an overpayment the assistance for the 3 month period prior to discovery. (August - October)

B. Food Stamp Impact

1. Lump sum payments are excluded as Food Stamp income.
2. However, Lump Sums must be considered Food Stamp resource.
3. If the public assistance case is closed, a currently certified Food Stamp case must be continued if still eligible with allotment adjusted after removal of the PA grant income.

C. WMS Impact

WMS Closing Reason Code 130, "Other (Material Change in Income or Resources - Includes Lump Sum Payments)" and Denial Reason Code 205, "Excess Resources (Includes Lump Sum Payments)" will be used to track cases closed or denied due to receipt of lump sum payments.

D. Medical Assistance Implications

1. Public Assistance Closings

All ADC cases and all HR cases including one or more persons under 21 which are closed due to excess income or lump sum benefits must have their Medicaid authorization continued until such time as the local agency can make a separate determination as to their continued Medicaid eligibility. HR cases which do not include any persons under age 21 shall not be continued.

2. Medical Assistance - Only Cases

For purposes of medical assistance eligibility determination, lump sum payments are considered as income in the month received and a resource thereafter, unless they are considered "windfalls" and are used directly against the resource level.

ELIMINATION OF PAYMENTS OF LESS THAN \$10

Contact: Michael Edward Pomodoro
Extension 4-4063

I. BACKGROUND

Department Regulation 352.29(c) states that a local social services district shall not be required to provide assistance when the budget deficit is less than one dollar per month. New Federal statute and regulations provide that no payment of aid, for an ADC applicant/re-cipient can be made in any month in which the amount of need less any available income results in a budget deficit of less than \$10 for the month.

II. PROGRAM IMPLICATION

This change applies to both ADC and HR cases. Cases not receiving a cash grant because of this change will remain eligible for Medicaid, social services, and where appropriate, be required to register for Work Incentive Program. Department Regulation 352.29 has been amended to reflect this change.

III. REQUIRED ACTION

A. Public Assistance

1. Local districts must determine which ADC and HR cases have a deficit of less than \$10 in a month. In WMS counties, these cases must be reauthorized for "zero" aid. Such action is to apply to the total undercare caseload and to each new or reopened case where the deficit is less than \$10 in any month.
2. The following examples are circumstances where a cash grant of less than \$10 must be made:
 - a. A PA family is determined eligible to receive a benefit of \$16 per month, and the District issues semi-monthly checks of \$8 each. These payments would be permitted since the assistance for the month totals more than \$10.
 - b. A public assistance individual/family has a budget deficit of \$28 per month. The local district recovers an overpayment of \$20. Since the budget deficit for the month prior to any adjustment is more than \$10, the client would

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		352.29 (c)	SSL 131-a PL 97-35 Chapter 1053 of the Laws of 1981	134	Source Book XII-A

receive the \$8 check.

- c. A public assistance recipient has a budget deficit of \$100 of which \$95 is restricted and sent directly to a vendor. Since the assistance for the month totals ~~more~~ than \$10, the client would receive a \$5 check.

B. WMS Impact

In January, 1982, WMS will provide a list of cases in which the budget deficit is less than \$10. Each district will take appropriate action on the list.

ABEL will support the change in the treatment of deficits of less than \$10 for Food Stamp income calculations with budgets effective February 1, 1982.

C. Food Stamp Impact

Any amount of the unissued grant is not to be counted as income for purposes of Food Stamp calculations.

D. Medical Assistance Implications

In the event that the recipient does not receive a grant because the total monthly amount due is less than \$10, the family is deemed to be a PA recipient and MA shall be continued. Since the case is deemed to remain eligible for PA, necessary case maintenance shall be handled by Income Maintenance.

CORRECTION OF OVERPAYMENTS/UNDERPAYMENTS

Contact: Pat Chmielewski, extension 4-9359

I. BACKGROUND

Previously, local social services districts were required to:

- limit corrections of overpayments/underpayments to 12 months preceding the month in which the error was discovered;
- give recipients periodic notification to report changes in income or resources;
- to recoup no more than 10% for one recoupment, and 15% for two or more recoupments;
- recoup from any income and the assistance payment in cases where the overpayment was caused by a recipient's willfull withholding of information; and recoup only from available income and resources in cases where the recipient did not willfully withhold information.

In addition, local social services districts were permitted to waive recoupments if the overpayment was a minimal amount. PL 97-35 repeals these limitations and requires that all public assistance overpayments and underpayments be corrected. However, Chapter 1053 of the Laws of 1981 requires that recoupment procedures, to the extent possible, avoid undue hardship.

II. PROGRAM IMPLICATIONS

Local social services districts are now required to take all reasonable steps necessary to recover any overpayments from current and former recipients. Local social services districts are also required to correct any underpayments to current recipients and to those who would be current recipients if the error causing the underpayment had not occurred.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
80 ADM-39		352.7(g) 352.31(d),(e)	SSL 350 SSL 159 PL 97-35 Chapter 1053 of the Laws of 1981	134	45 CFR 233.20 (a) (12)

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III. REQUIRED ACTION

A. Public Assistance

1. Recoupment of Overpayments from Current Recipients

Local social services districts must take all reasonable steps necessary to promptly correct any overpayment, including overpayments resulting from aid continuing hearing decisions. The local social services district must recover an overpayment to a current assistance unit through repayment or by reducing the amount of any future aid payable to the assistance unit.

2. Recoupment of Overpayments from Former Recipients

In order for the local social services district to recover from individuals who are no longer recipients, appropriate legal action must be initiated. When such action is unsuccessful, the local social services districts must recoup the amount of the overpayment if the person reapplies and is found eligible.

3. Recoupment of Overpayments from Recipients Who Have Moved

When a recipient who is subject to recoupment moves from one social services district to another, the new district of residence must recoup overpayments made by the social services district of original residence.

4. Budgeting of Recoupments (Without Undue Hardship Claim)

The portion of the current assistance grant that must be deducted for recoupment must be 10% of the household needs. In those cases where the cash grant is less than 10% of the household needs, the local social services district must recoup the full grant. If, through recoupment, the amount of the cash grant is reduced to zero, members of the assistance unit are still considered recipients of public assistance.

In cases which have both an underpayment and an overpayment, the local social services district must offset one against the other and make the appropriate adjustment.

In cases where there is currently active recoupment(s), such recoupment must continue under current procedures until such time as the recoupment ends or a new recoupment begins. At that point procedures outlined here must be followed.

Case Example: Mrs. Smith and her three children are recipients of public assistance. Her gross monthly income from employment is \$600. The district notified her that she was overpaid by \$350, due to agency error. The amount to be recouped each month and the new cash grant are determined as follows:

Determine Household Needs and Amount of Recoupment

\$258.00	Pre-Add Allowance
38.70	Home Energy Allowance
218.00	Shelter with Heat
<u>\$514.70</u>	Household Needs
51.47	Amount to be Recouped (10% of Household Needs)

Determine New Grant

\$600.00	Gross Income
<u>- 75.00</u>	Work Expenses
525.00	
<u>- 30.00</u>	
495.00	
<u>-165.00</u>	1/3 of Remainder
330.00	Net Income
<u>-514.70</u>	
184.70	Deficit = (\$184.70 Previous Grant)
<u>- 51.47</u>	Recoupment
\$133.23	New Grant

5. Undue Hardship

Whenever a local social services district intends to recoup from the public assistance grant, the recipient must be notified of his right to claim undue hardship. When undue hardship is claimed and substantiated, the local social services district must reduce the recoupment using the guidelines set forth in 80 ADM-39. However, in any case, the local social services district must recoup no less than 5% of the household needs. In those cases where the cash grant is less than 5% of the household needs, the local district must recoup the full grant.

6. Correction of Underpayments

Local social services districts must correct any underpayments to current recipients, and to those who would be current recipients if the error causing the underpayment had not occurred, by making appropriate payments in each case within 30 days after discovery of the underpayments. The local social services district must make corrective payments to a former recipient who has an outstanding underpayment, who reapplies and is found to be eligible. Such retroactive payments must not be considered as income or as a resource in the month paid nor in the next following month.

B. Food Stamp Impact

1. The amount of public assistance grant reduction to recover prior OVERPAYMENT is excluded as Food Stamp Income - i.e. the reduced grant currently received is that which is counted for Food Stamp income.
2. Unless excludable as a lump sum payment, payments made to correct UNDERPAYMENTS are countable as Food Stamp Income if date and amount of such payments can be anticipated.

C. Medical Assistance Implications

In the event that the recipient does not receive a grant because the recoupment reduces the grant to zero, the family is deemed to be a PA recipient and MA shall be continued. Since the case is deemed to remain eligible for PA, necessary case maintainance shall be handled by Income Maintenance.

D. WMS Impact

ABEL will be modified to take agency error recoupments regardless of available income.

EMPLOYMENT RELATED CHANGES

Contact: Stanley Burzynski, Extension 4-9090

I. BACKGROUND

A. Applicable Statewide

- 1. Current policy and regulation automatically exempts all mothers, expectant mothers and other caretaker relatives from WIN or 131.5 reporting because they have a child under the age of 6. In order to comply and conform with the ADC changes in P.L. 97-35, it is now required that 'in ADC cases this exemption be limited to a parent or other caretaker relative of a child under 6 who personally provides full-time care to the child with only very brief and infrequent absences from that child.

Note that in HR cases the current policy continues, i.e. a parent of a child under 6 is exempt from Home Relief work requirements as long as he or she is providing care for the child.

- 2. Current regulation exempts from WIN and 131.5 reporting all individuals aged 16 to 21 who are in school full-time, including post-secondary. In order to comply and conform with the ADC changes in P.L. 97-35, it is now required that this exemption be applied only to those who are in full-time attendance in an elementary or secondary school, or a vocational or technical school that is equivalent to a secondary school. It is also now required that this exemption be limited to those aged 16 to 18 or to age 19 if expected to complete the schooling before reaching age 19.

It is important to note that the age limit and the definition of schooling have not changed for HR. The current HR exemption remains as is. (See the "Age Limit of Dependent Child" section of this ADM for detailed definitions.)

- 3. Current policy exempts any female from WIN and 131.5 reporting when there is a non-exempt adult male relative in the home who is in compliance with WIN or work rules. In order to comply with Califano v. Westcott and to conform to the ADC changes in P.L. 97-35, it is now required that this exemption be expanded and applied to any parent or other caretaker of a child when there is another adult relative in the home who is in compliance with WIN or work rules. In ADC-U cases this applies to the parent who is not the principal earner when the principal

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		Part 385 Part 388	SSL 131.5 SSL 350(e) P.L. 97-35 Chapter 1053 of the Laws of 1981		45 CFR 224

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earner is non-exempt. It should be noted that this exemption has been expanded to apply to HR individuals; it is no longer an exclusively ADC exemption.

B. Applicable for WIN Districts Only

1. Current regulation requires that only unemployed fathers determined eligible for ADC be appraised within two weeks (and before being certified) and that his certification be completed within 30 days. In order to comply with Califano v. Westcott and to conform with the ADC-U changes in P.L. 97-35, it is now required that all unemployed parents who are principal earners be appraised within two weeks of the determination of eligibility for ADC benefits, and that appraisal occur prior to certification. Certification must be completed no later than 30 days from the receipt of ADC benefits.
2. Current regulation permits the other parent (if qualified) to apply as the qualifying parent when the parent whose unemployment had originally qualified the family for ADC-U is not registered for WIN. Only the latter's needs are to be removed from the grant. In order to comply with the ADC-U changes in P.L. 97-35 and to clarify the existing regulation, it is now required that when a non-exempt unemployed parent who is the principal earner fails or refuses without good cause, to register, to appear for joint appraisal, or to participate in the WIN Program, assistance for all members of the family is denied.

II. PROGRAM IMPLICATIONS

A. Statewide

1. The limitation of the provision of child care exemption should increase the number of ADC recipients required to register for WIN and comply with work rules. It should be noted that a woman is no longer exempt solely on the basis of her pregnancy.
2. The reduction of the age limit to 19 for ADC and the redefinition of schooling to mean elementary, secondary or the equivalent to secondary should marginally decrease the number required to register for WIN and increase the number of those required to comply with work rules. It should be noted that this change does not affect the current usage of the exemption because of full time approved training or rehabilitation.
3. The expansion of the exemption to a parent or other caretaker when another adult relative is in compliance, should minimally reduce the number of those required to register for WIN or comply with work rules.

B. WIN Districts

1. The appraisal and certification change, since it changes only the ADC-U definition of the qualifying parent from father to principal

earner, should have no implications because the qualifying parent remains the first priority for appraisal and certification.

2. The strengthened ADC-U sanction should minimally reduce the ADC caseload with a corresponding decrease in federal/state/local funds.

III. REQUIRED ACTION

A. Statewide

1. In determining an ADC individual's employability status, local social services districts shall exempt only a parent or other caretaker relative of a child under age 6 who personally provides full-time care of the child with only very brief and infrequent absences from the child (e.g., shopping, errands, doctor's visits, etc.)
2. In determining an ADC individual's employability status, local social services districts shall exempt only those who are attending an elementary or secondary school, or a program in a vocational or technical school that is equivalent to a secondary school and are aged 16 to 18 (or to age 19 if expected to complete such school or program before reaching age 19.)
3. In determining an individual's employability status, local social services districts shall exempt from WIN or 131.5 reporting any parent or other caretaker of a child if there is another adult relative in the home who is registered for WIN or in compliance with work rules.

B. WIN Districts

1. In appraising and certifying for WIN, local social services districts shall give first priority to the principal earners in ADC-U cases.
2. When the principal earner in an ADC-U case fails or refuses, without good cause, to register, to appear for joint appraisal, or to participate in the WIN program, the local social services districts shall deny ADC-U benefits to all members of the family. The principal wage earner shall be ineligible for HR.
3. Medical Assistance Implications

ADC-U cases which are closed or denied due to failure to comply with WIN registration should have Medicaid continued for any children under 21 until a separate decision can be made of their eligibility, which must be done by the end of the current authorization period. These children remain FP as needy individuals under 21, if they are determined still to be financially eligible for assistance.

C. WMS Impact

1. Employability Code 31 will now be defined as "ADC parent or other caretaker relative of a child under 6 exempt from WIN or 131.5 reporting because they personally provide full-time care for the child with only very brief and infrequent absences from the child." The definition of Employability Code 61 (HR) will remain the same.
2. Employability Code 35 (ADC) will now be defined as "Person 16 to 19 in school full time." The definition of Employability Code 53 (HR) will remain the same.
3. Employability Code 33 (ADC), will now have as its counterpart Employability Code 51 (HR), defined as "Parent or other caretaker with adult relative in compliance - parent or other caretaker exempt from WIN or 131.5 reporting because another adult relative in the home is registered with WIN or in compliance with Work Rules."

DEEMING SPONSOR'S INCOME AND RESOURCES TO AN ALIEN

Contact: Michael Edward Pomodoro, Extension 4-4063

I. BACKGROUND

Currently there are no provisions which would require local social services districts to determine if any income or resources of a sponsor are available to meet the needs of a sponsored alien who is applying for public assistance.

New Federal and State legislation provides that a portion of the earned and unearned income and resources of the sponsor and the sponsor's spouse will be counted as available to the alien for three years from date of entry into the United States.

II. PROGRAM IMPLICATIONS

For a period of three years following the date of entry into the U.S., a sponsored alien shall provide the local district with any information and documentation necessary to determine the income and resources of the sponsor that can be deemed available to the alien and obtain any cooperation necessary from the sponsor.

Aliens who are unable to or do not obtain this cooperation of the sponsor or do not supply the information needed will not be eligible for public assistance (Aid to Dependent Children/Home Relief).

There is no change in the requirements for the denial of assistance and care to an illegal alien who is unlawfully residing in the United States.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
77 ADM-26		349.3	P.L. 97-35		
77 ADM-26A		351	Chapter 1053		
77 ADM-26B		352.33	of the Laws		
80 ADM-37			of 1981		
80 ADM-61			P.L. 96-212		
81 ADM-1					

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III. REQUIRED ACTION

A. Definitions

1. Alien

An alien is an individual lawfully admitted for permanent residence or otherwise permanently residing in the United States (U.S.) under color of law. Aliens also include those lawfully present in the U.S. as a result of the application of the following provisions of the Immigration and Nationality Act:

- a. Aliens admitted or paroled into the U.S. as refugees (see 81 ADM-32 for detailed definition).
- b. After March 31, 1981, aliens granted status as conditional entrant refugees prior to April 1, 1980.
- c. Aliens granted political asylum by the U.S. Attorney General; and
- d. Aliens granted temporary parole status by the U.S. Attorney General.

2. Sponsor

A sponsor is any person who executed an Affidavit(s) of Support (I-134) or similar agreement on behalf of an alien as a condition of the alien's entry into the U.S.

3. Deeming of Income/Resources of the Sponsor

Deeming is the process used to determine the amount of the sponsor's income/resources to be used to reduce the needs of the alien. Deemed income and resources are used for purposes of determining eligibility of the sponsored alien applying for public assistance whether or not the income and resources are actually available to the alien.

The deemed portion of the earned and unearned income and resources of the sponsor and the sponsor's spouse (if they are living together) will be counted as income to the applicant alien. The spouse's deemable income and resources will be counted even if the sponsor and spouse have married since the sponsor signed an agreement.

4. Limit of Sponsor's Responsibility

The sponsor's responsibility continues for a period of three years following the date of entry of the alien into the U.S. If the sponsor revokes the sponsorship agreement before the three year period has expired, the deeming requirements of considering the sponsor's income/resources are not waived.

5. Aliens Date of Admission or Date of Entry

The date established by the Immigration and Naturalization Service (INS) as the date the alien was admitted for permanent residence is the alien's date of entry.

6. Aliens EXEMPTED from this New Eligibility Requirement are Those Who:

- a. were admitted as a conditional entrant refugee to the U.S. under Section 203(a) (7) of the Immigration and Nationality Act after March 31, 1980;
- b. were admitted as a refugee to the U.S. under Section 207(c) of the Immigration and Nationality Act after March 31, 1980;
- c. were paroled into the U.S. as a refugee under Section 212(d) (5) of the Immigration and Nationality Act;
- d. were granted political asylum by the Attorney General under Section 208 of the Immigration and Nationality Act;

NOTE: Any questions regarding alien date of entry, status of alien and existence of sponsor agreement may be clarified by contacting your regional INS District. 80 ADM-61 lists INS District Offices, their address and phone number.

- e. are Cuban and Haitian entrants as defined in Section 501(e) of the Refugee Assistance Act of 1980 (P.L. 96-422); or
- f. are the dependent child of the sponsor or the sponsor's spouse;
- g. applied for public assistance prior to October 1, 1981.

B. Instructions for Cases First Applying after October 1, 1981

1. The local district must determine if the alien has a sponsor and if that sponsor signed an agreement to guarantee the alien's support.
2. The local district shall determine if the sponsor or sponsor's spouse are receiving Aid to Dependent Children/Home Relief or Supplemental Security Income. If such payments are being received by these individuals, no income is considered to be available to the alien.
3. For the sponsor and the sponsor's spouse not receiving Aid to Dependent Children/Home Relief or Supplemental Security Income the local district shall determine the deenable monthly income of a sponsor or sponsor's spouse that is available to the alien in the following manner.

a. Unearned Income

Determine monthly unearned income of the sponsor.

b. Earned Income from Wages/Salary

Determine the total monthly gross earned income of the sponsor(s), reduce that amount by 20% (the 20% cannot exceed \$175).

c. Earned Income from Self-Employment

Determine the total monthly gross self-employment income of the sponsor(s), subtract the full amount of any costs incurred in producing self-employment income. Then reduce that amount by 20% (the 20% cannot exceed \$175).

d. Determining an Amount for the Support of the Sponsor(s) and Those Other People Living in the Same Household as the Sponsor and Claimed by the Sponsor as Dependents (Federal Personal Income Tax Liability) Whose Needs are not Part of the Assistance Unit.

This amount shall be the equal of the standard of need amount for a similar size family as applying for public assistance. The standard of need amount includes the following:

- Statewide Standard of Need exclusive of the Home Energy Allowance - Schedule SA-2a
- Statewide Monthly Home Energy Allowance - Schedule SA-2b
- Monthly Maximum Shelter Allowance, with heat

NOTE: When a sponsor(s) is living outside the district where the alien is applying or the sponsor is living outside New York State, the local district shall use the schedules applicable to that district where the public assistance application is being made.

e. Actual payments of alimony or child support with respect to individuals not living in the sponsor's household; and

f. Any amounts actually paid by the sponsor to people not living in his/her household and who are claimed by the sponsor as dependents to determine his/her Federal personal income tax liability.

The sponsor's deernable income is computed by totaling any amounts computed in a, b, and c and subtracting any amounts computed in d, e, and f.

If after computing the sponsor's deernable income, should the deductions exceed his/her income, the deernable income will be considered zero.

If the sponsor's contribution is more than is needed to meet the alien's needs, the actual amount of the contribution will be budgeted. If the alien has children, any such excess will be deemed available for the support of these children.

4. Retroactive Review of ADC/HR Sponsored Alien Applicant's/Recipient's First Applying on or After October 1, 1981

Local social services districts must identify those applicants/recipients that have first applied after October 1, 1981 and investigate the sponsor's income/resources in accordance with instructions in this Administrative Directive.

5. Resource Determination

Resources deemed available to the applying alien will not be counted if the sponsor(s) is receiving SSI, HR or ADC. In all other situations, deemable resources of the sponsor shall be determined as if the sponsor was applying for public assistance in the sponsor's state of residence, less \$1,500. Any excess is counted as a resource available to the alien.

6. Un-sponsored Aliens in the Assistance Unit

Income and resources which are deemed available to a sponsored alien shall not be considered in determining the need of any un-sponsored members of the alien's family, unless the income or resources are actually available to the un-sponsored members of the applying assistance unit.

7. Budgeting Methodology When a Person Sponsors Two or More Aliens

In any case where an individual agrees to sponsor a number of aliens living together or apart, the deemable income/resources of the sponsor available to the applying alien(s) will be divided equally among the applying aliens.

Therefore, if a person sponsors four aliens and only one applies for assistance, the sponsor's total deemable income and resources would be applied to the needs of that one alien individual/family.

8. Recovery of Overpayments to Aliens When Sponsor(s) Provide Income/Resources Information Which is not Correct

Where the sponsor fails to provide correct information, the sponsor and applying alien are liable for any overpayment except where such sponsor was without fault or where good cause existed. Recovery of the overpayment will be made by the local districts in accordance with normal recovery procedures.

C. WMS Implications

On ABEL, PA Other/Unearned income Code 76, "Income from a Sponsor" is used to record the deemed income from a sponsor. The net amount is input.

D. Medical Assistance

a. Public Assistance Cases

ADC and HR cases with children under 21 denied due to the available income and resources of a sponsor shall have their eligibility for Medicaid established based on that same application plus any additional required information unless they indicate in writing that they do not request such a determination.

b. Medical Assistance Only Cases

Eligibility for MA-only will be determined without consideration of the sponsor's income and resources, unless such income and resources are actually contributed to the applicant/recipient.

E. Food Stamps

Deemed income not actually received cannot be counted for Food Stamp purposes.

NOTICE OF INTENT

The following notice of intent must be sent to recipients at least 10 days prior to the effective date of any changes in the public assistance grant due to implementation of the Federal Omnibus Budget Reconciliation Act of 1981, and Chapter 1053 of the Laws of 1981. This notice is also to be used for any subsequent changes in public assistance grants occasioned by any changes in circumstances, and it replaces any notices previously mandated or approved for use for this purpose.

This notice form has been devised after extensive analysis of litigation on notices, input from local agencies and legal groups and analyses of Federal and State requirements.

The notice must be reproduced in large, easily readable print, and two (2) copies must be sent to the recipients, along with hard copies of the budgets.

The actual structure of the notice need not be identical to that of the sample, but the box with identifying information in it must, for systems reasons, appear at the top of the notice (it may be moved to the side and/or down slightly so that the client's name and address will appear in the window of a window envelope). The dates listed in the box must be identical to the corresponding dates in the notice.

Sufficient space must be allowed for the "reason" for the action so that requirements for adequacy of notices will be met. With respect to the current changes, the following items must be contained in the "reason" section:

- 1) A brief statement of the rule involved, and that it results from a change in Federal and/or State law.
- 2) A brief explanation of how the rule applies to each particular recipient's circumstances.

An example of an acceptable "reason" is as follows:

"As a result of recent changes in Federal and State Law, no public assistance household may be eligible for assistance if its total gross income (before any deductions) exceeds 150% of the "standard of need". The standard of need for your household is \$400, but your gross income is \$680, which is more than 150% of the standard of need. Accordingly, you are no longer eligible for assistance.

This action is being taken pursuant to: 18 NYCRR 352.18(a)."

In addition, these notices must contain specific information as to the effects of the PA changes (including effective dates) upon MA, FS and Services.

Any questions about these notices should be addressed to:

Stephen Fry

New York State Department of Social Services
P.O. Box 1930, Albany, NY 12201

518-473-4729

County	Local Office #	
Notice Date	Effective Date	
Date of Birth	SEX	Soc.Sec.#
Case Name (L, F, MI)		
Street		
City	State	Zip

Name of Agency; Center or District Office

Address

NOTICE OF INTENT TO CHANGE
THE PUBLIC ASSISTANCE GRANT

This is to advise you that this agency intends to

- REDUCE your public assistance grant from \$ _____ to \$ _____ effective _____.
- DISCONTINUE your public assistance grant effective _____.

The reason for this action is as follows:

This action is being taken pursuant to: [legal or regulatory citation]

If you have any questions about how your budget was computed, please contact your worker. Also, you may have a conference to review this action. If you want a conference, you should request it as soon as possible. A conference may resolve any questions you have about this action. You may request a conference by calling this agency at _____. This number is for the purpose of requesting a conference only, and not to request a fair hearing. The right to a conference is separate from the right to a fair hearing, and does not affect your right to a fair hearing, which is described below. If you want to have your benefits continued unchanged until the fair hearing decision is issued, you must request a fair hearing (a request for a conference alone will not result in a continuation of your benefits).

MEDICAL ASSISTANCE - This action will have the following effect upon your medical assistance:

FOOD STAMPS - This action will have the following effect upon your food stamps:

SOCIAL SERVICES - This action will have the following effect(s) upon any Social Services you may be receiving:

NOTICE OF INTENT TO CHANGE
THE PUBLIC ASSISTANCE GRANT

RIGHT TO A FAIR HEARING IF YOU DON'T AGREE WITH THESE ACTIONS

If you believe that the above action(s) should not be taken, you may request a State fair hearing:

- (1) By telephoning _____, or;
- (2) By writing to the Fair Hearing Section, New York State Department of Social Services, P.O. Box 1930, Albany, New York, 12201, and including one copy of this notice with your letter.

Your request for a fair hearing must be made within 60 days of the date of this notice, except that you have 90 days to request a hearing as to your food stamps.

If you request a fair hearing, a notice will be sent to you informing you of the time and place of the hearing. You have the right to be represented by an attorney or other representative. At the hearing, you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing and present evidence against you. You also have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as paystubs, rent receipts, medical bills, heating bills, childcare expenses, etc., that may be helpful in presenting your case.

If you request a fair hearing before the effective date of this notice, you will continue to receive your public assistance, food stamps, medical assistance and social services unchanged until the fair hearing decision is issued. However, if you lose the fair hearing, you will owe any public assistance money or food stamps that you should not have received. We are required by federal law to recover any such public assistance overpayments from future grants, or we may recover this by legal action against you, and we must make a claim against you for any food stamps you receive that you were not entitled to. If you want to avoid this possibility, you can check the box below on one copy of this notice and send it with your hearing request (you can also indicate over the phone or in a letter that you do not want "aid-continuing"). If you check the box, we will take the action(s) described above on the effective date listed above.

I do not want my benefits continued unchanged until the hearing decision is issued.

In addition, if you need legal assistance for your conference or fair hearing, you may be able to obtain it free if you cannot afford a lawyer, by contacting

Signature of Worker _____ Telephone Number _____

Date _____