

NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



[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.]

XXXXXXXXXXXXX
 Commissioner
 XXXXXXXXXXXXX
 Arthur Y. Webb
 Acting Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 82 ADM-78
 [Income Maintenance]

TO: Commissioners of Social Services

SUBJECT: Allen v. Blum: Budgeting the Income
 of a Spouse or Parent Who Fails to
 Apply for Public Assistance

DATE: December 14, 1982

SUGGESTED
 DISTRIBUTION: All Public Assistance Staff
 All Medical Assistance Staff

CONTACT PERSON: Any questions concerning this release should be directed to
 Patricia Monks, Bureau of Income Support Programs, by calling
 (800) 342-3715, extension 3-7992; or by calling your Medical
 Assistance County Representative at extension 4-9141.

I. PURPOSE

The purpose of this administrative directive is to advise local social services districts of a change in the Department's policy on budgeting the income of a spouse or parent who fails to apply for public assistance and to have his income applied against the needs of his family. This change is being made as a result of litigation in the case of Allen v. Blum.

II. BACKGROUND

Previously, Department Regulation 352.30(d) stated that when a spouse or parent failed to make application for public assistance and to have his income applied against his family's needs, his income was first applied against his own needs and any surplus against the needs

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
81 ADM-1 81 ADM-63		352.30(d)	101	134	<u>Allen v. Blum</u> Source Book: XII-D

3 (Rev. 5/78)

of his family. In accordance with this regulation, our previous policy was to prorate in all cases in which the spouse or parent failed to apply, whether or not the spouse or parent's income was sufficient to meet his own needs. As the result of Allen, the method of budgeting now depends on whether or not the income of the spouse or parent is sufficient to meet his own needs.

III. PROGRAM IMPLICATIONS

This directive will make budgeting of the income of a spouse or parent who fails to apply consistent with the current budgeting methodology applied to illegal aliens who are legally responsible for public assistance applicants/recipients (see 81 ADM-1).

NOTE: Regulation 352.30(d) and the changes outlined in this directive apply only to natural or adoptive parents who fail to apply, not to step-parents. Budgeting of step-parents' income is part of the P.L. 97-35 changes (see 81 ADM-55, page 15).

IV. REQUIRED ACTION

A. Public Assistance Budgeting

All public assistance cases with a spouse or parent living in the same household who has failed to apply for public assistance must be budgeted as follows:

1. The first step is to determine the non-applicant's needs. The non-applicant's needs are his prorated share of the total household's needs (that is, his needs plus the needs of the other persons in the public assistance household). For example, a woman and her two children apply for public assistance. Her husband who is the natural father of the children refuses to apply. The non-applicant's needs are one-fourth of the appropriate public assistance level for four persons in that district.
2. If the non-applicant's net applicable income is insufficient to meet his own needs, the public assistance budget is based solely on the persons on the application who apply for and are eligible for assistance. In the example above, the woman and her two children, if otherwise eligible, would receive a grant for three persons.
3. If the non-applicant's net income is sufficient to meet his own needs (that is, his net income is equal to or greater than his needs), he is included in the computation of the total household needs, and his excess income is applied against the needs of those applying for public assistance. In the above example, the public assistance budget would be based on a four person household. The man's total net income (see 81 ADM-63) would be applied against the needs of the four person household. Any deficit would be the amount of the public assistance grant.

B. WMS

In order for ABEL to correctly calculate needs of a family with a non-applying spouse or parent, it was necessary to change the definition of Individual Application Status "3" and "0" on page 2 of the Eligibility Workbook. "3" is now defined as: Non-applying relative/individual legally responsible for an individual in this case or in a PA cooperative case, with income sufficient to meet his needs (including legally responsible illegal alien). "0" is now defined as: Non-applying relative/individual legally responsible for an individual in this case or in a PA cooperative case, with no or insufficient income to meet his needs (including legally responsible illegal alien).

Individuals coded "3" continue to be included in the "Number in Household" but not in the "Number in Case." Their excess income is input in Abel as Other Income Source 74-Net Income of a Non-Applying Legally Responsible Relative. Individuals coded "0" continue not to be included in either the "Number in Household" or the "Number in Case."

C. Food Stamps

This release has no effect on determining a food stamp household. A food stamp household must be determined according to Section II, A of the New York State Food Stamp Manual (NYSFSM) and the changes contained in the September 1981 Food Stamp Consolidated Letter.

D. Medical Assistance

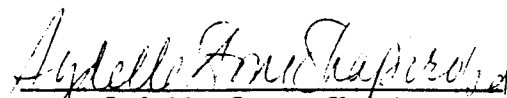
The policy change contained in this directive shall apply only to MA HR related applicants/recipients.

V. ADDITIONAL INFORMATION

Department Regulation 352.30(d) has been amended to reflect this change.

VI. EFFECTIVE DATE

The effective date of this directive is November 1, 1982. Changes to undercare cases should be made at the time of the next client contact or no later than the next regular recertification.


Sydelle Stone Shapiro
Deputy Commissioner
Division of Income Maintenance