

*Transference  
 Discussion*



Cesar A. Perales  
 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.: 83 ADM-30  
 [Income Maintenance]

TO: Commissioner of Social Services

SUBJECT: Deeming of a Stepparent's  
 Income to PA Dependents

DATE: June 28, 1983

SUGGESTED DISTRIBUTION: All Public Assistance Staff  
 All Medical Assistance Staff

CONTACT PERSON: Any questions concerning this release should be directed to Hallie Schroeder, Bureau of Income Support Programs at (800) 342-3715, extension 4-9343. For MA questions, contact your Medical Assistance representative, extension 3-7581, or your New York City Medical Assistance representative at (212) 488-7023.

I. Purpose

The purpose of this directive is to advise local districts of changes in the stepparent deeming procedures outlined in 81 ADM-55. In addition, this directive provides clarification of how needs and income are budgeted in public assistance cases involving a non-applying stepparent who has income.

II. Background

A. Definitions

The following definitions apply to terms used in this directive:

1. Stepparent: The non-applying spouse who is the stepparent of at least one of the children in the household who is applying for assistance.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
81 ADM-55	81 ADM-55 Parts Cancelled	352.14(a)		134	Source Book Section XVI-R

2. Spouse: The person who is married to the stepparent and is the natural or adoptive parent of the children in the household who are applying for assistance.
3. Stepchildren: The children who are the children by marriage of the stepparent and the natural/adoptive children of the spouse.
4. Dependent (of the stepparent): Any member of the stepparent's household whom the stepparent may claim as a dependent for purposes of determining his/her federal personal income tax liability.
5. Deemed Income: The amount of income (both earned and unearned) of the non-applying stepparent which is considered ("deemed") to be available to the public assistance household, after appropriate disregards have been applied.
6. Net Income: The amount of income, after appropriate deductions, that is applied against public assistance needs.
7. Standard of Need Deduction: The amount of the deduction from the stepparent's gross income allowed to meet the needs of the stepparent and his/her non-applying dependents in the household.

B. Stepparent Deeming Procedures

In the formula given in 81 ADM-55 for determining the deemed income of the stepparents, local districts were instructed to use the pre-add allowance, home energy payment and rent with heat county maximum to determine the standard of need deduction. The standard of need deduction must now be based on the actual public assistance needs of the stepparent and his/her non-applying dependents. Also in 81 ADM-55 (pages 15-19), local districts were instructed to include the spouse in the standard of need deduction, whether or not the spouse was included in the public assistance application. Now, the spouse must not be included in the standard of need deduction if he/she has applied for public assistance in his/her own right.

III. Program Implications

The fiscal impact of the changes is expected to be minor. The clarification of budgeting procedures will simplify administrative efforts in stepparent deeming situations.

IV. Required Action

A. Budgeting Implications

Local districts must use the following procedures in budgeting public assistance cases involving a non-applying stepparent who has income (see also the attached examples):

Step 1. Determine the Amount of Deemed Income.

Local districts must follow the procedures in 81 ADM-55 (pages 15-19) in determining the deemed income, except that the following procedure must be used in determining the amount of the standard of need deduction:

- a. The household size for determining the standard of need deduction consists of the stepparent and any of his/her dependents in the household (including the non-applying spouse) who are not applying for assistance.
- b. The amount of the standard of need deduction must be calculated based on actual household shelter expenses and must include the following items:
  - o Appropriate Pre-Add (Basic) Allowance.
  - o Appropriate Home Energy Allowance.
  - o Rent as paid, up to the appropriate county maximum.
  - o Appropriate Fuel for Heating Allowance (if not included in the rent).

Recurring special needs allowances, such as the pregnancy allowance or child care allowance must not be included in calculating the standard of need deduction.

Note: When a non-applying stepparent states that s/he makes an actual contribution towards the support of his/her stepchildren, and that contribution is greater than the amount of deemed income, budget the amount of the actual contribution as income available to the stepchildren.

Step 2. Determine the Public Assistance Needs of the Applying Household Members.

- a. In determining the public assistance needs, only those persons actually included in the public assistance application are included in the household and case counts. (i.e. the stepparent and his non-applying dependents are "invisible" in determining the needs of the applying household members).
- b. To determine the rent/shelter allowance, subtract the rent allowance granted to the non-applying members in the standard of need deduction from the actual shelter cost of the household. The remainder, if any, is budgeted up to the appropriate county maximum for the number of persons included in the public assistance application. All other allowances are based on the schedules for the number of persons included in the public assistance application.

Step 3. Determine Whether the Public Assistance Household Passes the 150% Test.

The income for the 150% test consists of the sum of the deemed income from the stepparent, plus the total gross income of the spouse, plus any gross income of other applying household members. The income thus calculated is compared to 150% of the needs as determined in step 2. This calculation is the same whether or not the spouse is included in the application.

In cooperative cases, the deemed income of the stepparent plus the gross income of the spouse is applied on a pro-rata basis against 150% of the needs of the applying persons for whom the stepparent and spouse are legally responsible. (Any additional gross income of applying members of each separate cooperative case is added to that case's pro-rata share of this income from the stepparent/spouse, and this combined income is used to perform the 150% test for that cooperative case.)

Note: When the deemed income is less than zero, it is treated as zero, unless the spouse is not applying for assistance and the spouse has income of his/her own. In such cases, the actual negative amount of the deemed income is subtracted from the spouse's gross income, and the 150% test is performed against the remaining gross income of the spouse.

Step 4. Determine the Amount of Net Income Available to the Public Assistance Household .

The net income available to the public assistance household is the sum of the deemed income from the stepparent plus the total net income of the spouse (regardless of whether the spouse is applying for assistance), plus any other income available to the applying household members under standard public assistance budgeting rules.

The net income thus calculated is subtracted from the needs as calculated in step 2 to determine the budget surplus/deficit.

In cooperative cases, the deemed income of the stepparent plus the net income of the spouse is applied on a prorata basis against the needs of the applying persons for whom the stepparent and spouse are legally responsible. (Any additional net income of applying members of each separate cooperative case is added to that case's pro-rata share of the income from the stepparent/spouse, and this combined income is applied against the needs of that cooperative case.)

Note: When the deemed income is less than zero, it is treated as zero, unless the spouse is not applying for assistance and the spouse has income of his/her own. In such cases, the actual negative amount of the deemed income is subtracted from the spouse's net income, and the remaining net income of the spouse is applied against the public assistance needs.

B. WMS Implications

1. WMS/IM:

- a. A stepparent and his/her non-applying dependents, including a non-applying spouse, should be coded "8" in the Individual Application Status on page 2 of the Eligibility Workbook. This code will be redefined as "Stepparent or stepparent's dependent."
- b. For budgeting the needs of the P.A. household, the actual shelter cost input on ABEL must be equal to the actual shelter cost minus the shelter amount budgeted in the deeming process.

2. WMS/MBL (Medical Assistance)

- a. For WMS purposes a stepparent should continue to be coded 3 in the Individual Application Status of Page 2 of the Eligibility Workbook.

- b. Effective April 1, 1983, when budgeting the deemed income of a stepparent on MBL, use Unearned Income Code 75 - "Deemed Income from a Stepparent." When budgeting income from this source prior to April 1, 1983, use Unearned Income Code 99 - "Other."

C. Medical Assistance Implications

The revised budgeting procedures contained in this directive apply only to MA HR related individuals. As stated in 81 ADM-55, only that income which is actually available is considered in determining the eligibility of MA Only ADC related and under 21 individuals. Income of non-applying stepparents is not deemed available for blind or disabled children unless actually contributed.

D. Food Stamp Implications

All persons cited in each of the examples given in the attachment would constitute one food stamp household, regardless of whether or not they are applying for PA. The stepparent's total income must be counted for food stamp purposes as well as any income of other household members not specifically excluded in Section V, B, 2, d of the New York State Food Stamp Manual.


V. Effective Date

This release shall be effective August 1, 1983.

VI. Additional Information

Examples illustrating the budgeting methodologies described above are attached as an appendix to this directive.

The issue of deeming of stepparent income is currently in litigation in the case of Kelly v. Webb. You will be advised of changes in the stepparent budgeting methodology, if any, once this litigation is resolved. Until that time the procedures contained in this Administrative Directive must be followed.

  
Michael J. Dowling  
Deputy Commissioner  
Division of Income Maintenance

Examples

General Facts (Examples 1 & 2)

1. No one in the family has ever received PA before.
2. There is no child care cost.
3. Mr. J's income is \$600 per month (full-time).
4. Mrs. J's income is \$400 per month (part-time); taxes are \$25/month.
5. Mr. J pays \$50 per month alimony and \$100 per month child support.
6. The rent on the apartment is \$300 per month (heat included).
7. Rent maximums are \$183 for 2 people and \$194 for 3 people.

Example 1

<u>Not Applying</u>	<u>Applying</u>
Mr. Jackson	Mrs. Jackson
Joe, Jr.	2 stepchildren of Mr. Jackson

Step 1. Deeming Calculation

<table border="0"> <tr><td>\$600.00</td><td>Mr. J's Gross Income</td></tr> <tr><td>- 75.00</td><td>Work Expenses</td></tr> <tr><td>- 355.50</td><td>Standard of Need</td></tr> <tr><td>- 50.00</td><td>Alimony</td></tr> <tr><td>- 100.00</td><td>Child Support</td></tr> <tr><td><u>\$ 19.50</u></td><td>Deemed Income</td></tr> </table>	\$600.00	Mr. J's Gross Income	- 75.00	Work Expenses	- 355.50	Standard of Need	- 50.00	Alimony	- 100.00	Child Support	<u>\$ 19.50</u>	Deemed Income	→	<table border="0"> <tr><td colspan="2" style="text-align: center;"><u>STANDARD OF NEED</u></td></tr> <tr><td colspan="2" style="text-align: center;">(2 persons)</td></tr> <tr><td>150.00</td><td>pre-add</td></tr> <tr><td>22.50</td><td>HEA</td></tr> <tr><td>183.00</td><td>Shelter</td></tr> <tr><td><u>355.50</u></td><td>Standard of Need</td></tr> </table>	<u>STANDARD OF NEED</u>		(2 persons)		150.00	pre-add	22.50	HEA	183.00	Shelter	<u>355.50</u>	Standard of Need
\$600.00	Mr. J's Gross Income																									
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183.00	Shelter																									
<u>355.50</u>	Standard of Need																									

Step 2. PA Needs Calculation  
(3 persons)

<table border="0"> <tr><td>\$200.00</td><td>Pre-add</td></tr> <tr><td>30.00</td><td>HEA</td></tr> <tr><td>117.00</td><td>Shelter</td></tr> <tr><td><u>\$347.00</u></td><td>PA Needs</td></tr> </table>	\$200.00	Pre-add	30.00	HEA	117.00	Shelter	<u>\$347.00</u>	PA Needs	→	<table border="0"> <tr><td colspan="2" style="text-align: center;"><u>Shelter</u></td></tr> <tr><td>300.00</td><td>Actual Shelter</td></tr> <tr><td>-183.00</td><td>Deeming Shelter</td></tr> <tr><td><u>117.00</u></td><td>PA Shelter</td></tr> <tr><td colspan="2" style="text-align: center;">(shelter max - 194.00)</td></tr> </table>	<u>Shelter</u>		300.00	Actual Shelter	-183.00	Deeming Shelter	<u>117.00</u>	PA Shelter	(shelter max - 194.00)	
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<u>117.00</u>	PA Shelter																			
(shelter max - 194.00)																				

Step 3. 150% Test

\$400.00	Mrs. J's Gross Income
+ 19.50	Deemed Income
<u>419.50</u>	Total Gross Income
<u>347.00</u>	PA Needs
x 150%	
<u>\$520.50</u>	> \$419.50; therefore, family passes the 150% test.

Step 4. Spouse's Net Income and PA Grant Calculation

a.	\$400.00	Mrs. J's Gross Income
	- 50.00	Work Expenses
	- 25.00	Taxes
	<u>325.00</u>	Mrs. J's Net Income
	+ 19.50	Deemed Income
	<u>\$344.50</u>	Total Net Income available to assistance unit

Because the total net income is less than the PA Needs (347.00), Mrs. J is eligible for the \$30 and 1/3 incentive.

b. \$400.00 Mrs. J's Gross Income  
 - 50.00 Work Expenses  
 - 136.67 30 & 1/3 Incentive  
 - 25.00 Taxes  
\$188.33 Mrs. J's Net Income  
 + 19.50 Deemed Income  
\$207.83 Total Net Income

c. \$347.00 PA Needs  
 - 207.83 Total Net Income  
\$139.17 PA Grant

Example 2

<u>Not Applying</u>	<u>Applying</u>
Mr. Jackson	2 stepchildren of
Mrs. Jackson	Mr. Jackson
Joe, Jr.	

Step 1. Deeming Calculation

\$600.00 Gross Income - 75.00 Work Expenses - 424.00 Standard of Need → - 50.00 Alimony - 100.00 Child Support - 49.00 Deemed Income	<u>STANDARD OF NEED</u> (3 persons) 200.00 Pre-add 30.00 HEA <u>194.00</u> Shelter <u>424.00</u> Standard of Need
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Step 2. PA Needs Calculation  
(2 persons)

\$150.00 Pre-add 22.50 HEA <u>106.00</u> Shelter → <u>\$278.50</u> Total Needs	<u>Shelter</u> 300.00 Actual Shelter -194.00 Deeming Shelter <u>106.00</u> PA Shelter (shelter max. = \$183)
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Step 3. 150% Test

\$400.00 Mrs. J's Gross Income - 49.00 Negative Deemed Income <u>351.00</u> Total Gross Income <u>\$278.50</u> PA Needs x 150% <u>\$417.75</u> > \$351; therefore, family passes the 150% Test
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Step 4. Spouse's Net Income and PA Grant Calculation

a. \$400.00 Mrs. J's Gross Income  
 - 50.00 Work Expenses  
 - 25.00 Taxes  
\$325.00 Mrs. J's Net Income  
 - 49.00 Negative Deemed Income  
\$276.00 Total Net Income available to assistance unit

Because the total net income is less than the PA Needs (\$279.50), Mrs. J is entitled to the \$30 and 1/3 incentive.

b. \$400.00 Gross Income  
- 50.00 Work Expenses  
- 136.67 30 & 1/3 Incentive  
- 25.00 Taxes  
\$188.33 Mrs. J's Net Income  
- 49.00 Negative Deemed Income  
\$139.33 Total Net Income

c. \$278.50 PA Needs  
- 139.33 Total Net Income  
\$139.17 PA Grant

NOTE: This example illustrates the only circumstances in which a negative deemed income is used in the 150% test & the public assistance calculation, i.e., the spouse is not applying, and the spouse has income. In all other circumstances, a negative deemed income is treated as zero.



Old Requirement	New Requirement	Worker Actions
<p>In calculating the Standard of Need Deduction, the following requirements applied:</p> <ol style="list-style-type: none"> <li>1. The appropriate Pre-added Allowance, Home Energy Payment and Rent with Heat maximum were used without regard to the actual needs of the non-applying household members.</li> <li>2. The Spouse was included in the Standard of Need Deduction regardless of whether the Spouse had applied for assistance.</li> </ol>	<p>In calculating the Standard of Need Deduction, the following requirements apply:</p> <ol style="list-style-type: none"> <li>1. The needs of the non-applying household members are determined using normal PA budgeting procedures, except that recurring special needs of the non-applying persons are not taken into account.</li> <li>2. Only the Stepparent and his dependents in the household who are <u>not</u> included in the PA application are included in the Standard of Need Deduction.</li> </ol>	<p><u>PA Grant Calculation</u></p> <ol style="list-style-type: none"> <li>1. Determine the amount of Deemed Income, calculating the Standard of Need Deduction as described under New Requirements.</li> <li>2. Determine the PA needs of the applying household members.                     <ol style="list-style-type: none"> <li>a) Include only those persons who are actually included in the PA application in determining the household and case counts.</li> <li>b) Rent/shelter cost to the PA unit is calculated by subtracting the Standard of Need Deduction rent from the actual shelter cost to the household.</li> </ol> </li> <li>3. Perform the 150% test for the PA households using:                     <ol style="list-style-type: none"> <li>a) the Deemed Income;</li> <li>b) the gross income of the Spouse, whether or not the Spouse is applying for PA; and</li> <li>c) and other non-excluded income available to the persons included in the PA application.</li> </ol> </li> </ol>
<p><u>Definition of Terms Used in this Training Module</u></p> <ol style="list-style-type: none"> <li>1. <u>Stepparent</u>: The non-applying spouse who is the stepparent of at least one of the children in the household who is applying for assistance.</li> <li>2. <u>Spouse</u>: The person who is married to the stepparent and is the natural or adoptive parent of the children.</li> <li>3. <u>Stepchildren</u>: Those who are the children by marriage of the stepparent and the natural/adoptive children of the spouse.</li> <li>4. <u>Deemed Income</u>: The amount of income of the non-applying stepparent which is deemed to be available to the public assistance household, after appropriate disregards have been applied.</li> <li>5. <u>Net Income</u>: The amount of income, after appropriate deductions that is applied against public assistance needs.</li> <li>6. <u>Standard of Need Deduction</u>: The amount of the deduction from the stepparent's gross income allowed to meet the needs of the stepparent and his/her non-applying dependents in the household.</li> </ol>		<p><u>NOTE</u>: If the Deemed Income is less than zero, and the Spouse has income, and the Spouse is not included in the PA application, the negative Deemed Income is applied against the Spouse's gross income and the remainder of the Spouse's income is used for the 150% test. In all other instances, Deemed Income which is less than zero is treated as zero.</p> <ol style="list-style-type: none"> <li>4. Determine the amount of Net Income available to the PA household by adding:                     <ol style="list-style-type: none"> <li>a) the Deemed Income; and</li> <li>b) the total Net Income of the Spouse, whether or not the Spouse is included in the PA application, and</li> <li>c) any other net income available to persons included in the PA application.</li> </ol> </li> </ol> <p><u>NOTE</u>: If the Deemed Income is less than zero and the Spouse has income, and the Spouse is not included in the PA application, the negative deemed income is applied against the Spouse's Net Income and the remainder is considered available to the PA household. In all other instances, Deemed Income which is less than zero is treated as zero.</p>
<p><u>Medical Assistance Implications</u></p> <p>The revised budgeting procedures contained in this module apply only to MA HR related individuals. As stated in 81 ADM-55, only that income which is actually available is considered in determining the eligibility of MA Only ADC related and under 21 individuals. Income of non-applying stepparents is not deemed available for blind or disabled children unless actually contributed.</p>		<p><u>WMS Implications</u></p> <ol style="list-style-type: none"> <li>1. A stepparent and his/her non-applying dependents, including a non-applying spouse, should be coded "8" in the Individual Application Status on page 2 of the Eligibility Workbook. This code will be redefined as "non-legally responsible individual not applying and not contributing/stepparent or stepparent's dependent."</li> <li>2. For budgeting the needs of the PA household the actual shelter cost input on ABEL must be equal to the actual shelter cost minus the shelter amount budgeted in the deeming process.</li> </ol>
<p><u>Effective Date</u></p> <p>April 1, 1983</p>		<p><u>NOTE</u>: Other Income Source Code 75 - "Income from a stepparent should continue to be used for entry of the Stepparent's Deemed Income on ABEL.</p>
<p><u>Regulations</u></p> <p>352.14(a)</p>		

Examples

General Facts (Examples A & B)

1. No one in the family has ever received PA before.
2. There is no child care cost.
3. Mr. J's income is \$600 per month (full-time).
4. Mrs. J's income is \$400 per month (part-time); taxes are \$25/month.
5. Mr. J pays \$50 per month alimony and \$100 per month child support.
6. The rent on the apartment is \$300 per month (heat included).
7. Rent maximums are \$183 for 2 people and \$194 for 3 people.

Example A

Not Applying	Applying
Mr. Jackson	Mrs. Jackson
Joe, Jr.	2 Stepchildren of Mr. Jackson

1. Deeming Calculation

\$600.00	Mr. J's Gross Income	<u>STANDARD OF NEED</u>
- 75.00	Work Expenses	(2 persons)
- 355.50	Standard of Need	150.00 Pre-add
- 50.00	Alimony	22.50 HEA
- 100.00	Child Support	183.00 Shelter
\$ 19.50	Deemed Income	355.50 Standard of Need

2. PA Needs Calculation

(3 Persons)	<u>Shelter</u>
\$200.00 Pre-add	300.00 Actual Shelter
30.00 HEA	-183.00 Deeming Shelter
117.00 Shelter	117.00 PA Shelter
\$347.00 PA Needs	(shelter max - 194.00)

3. 150% Test

\$400.00	Mrs. J's Gross Income
+ 19.50	Deemed Income
<u>419.50</u>	Total Gross Income
347.00	PA Needs
x 150%	
\$520.50	> \$419.50; therefore, family passes the 150% test.

4. Spouse's Net Income and PA Grant Calculation

a. \$400.00	Mrs. J's Gross Income
- 50.00	Work Expenses
- 25.00	Taxes
<u>325.00</u>	Mrs. J's Net Income
+ 19.50	Deemed Income
\$344.50	Total Net Income available to assistance unit

Because the total net income is less than the PA Needs (347.00), Mrs. J is eligible for the \$30 and 1/3 incentive.

b. \$400.00	Mrs. J's Gross Income
- 50.00	Work Expenses
- 136.67	30 & 1/3 Incentive
- 25.00	Taxes
<u>\$188.33</u>	Mrs. J's Net Income
+ 19.50	Deemed Income
\$207.83	Total Net Income
c. \$347.00	PA Needs
- 207.83	Total Net Income
\$139.17	PA Grant

Example B

Not Applying	Applying
Mr. Jackson	2 Stepchildren of
Mrs. Jackson	Mr. Jackson
Joe, Jr.	

1. Deeming Calculation

\$600.00	Gross Income	<u>STANDARD OF NEED</u>
- 75.00	Work Expenses	(3 Persons)
- 424.00	Standard of Need	200.00 Pre-add
- 50.00	Alimony	30.00 HEA
- 100.00	Child Support	194.00 Shelter
- 49.00	Deemed Income	424.00 Standard of Need

2. PA Needs Calculation

(2 Persons)	<u>Shelter</u>
\$150.00 Pre-add	300.00 Actual Shelter
22.50 HEA	-194.00 Deeming Shelter
106.00 Shelter	106.00 PA Shelter
\$278.50 Total Needs	(shelter max. = \$183)

3. 150% Test

\$400.00	Mrs. J's Gross Income
- 49.00	Negative Deemed Income
<u>351.00</u>	Total Gross Income
\$278.50	PA Needs
x 150%	
\$417.75	> \$351; therefore, family passes the 150% Test

4. Spouse's Net Income and PA Grant Calculation

a. \$400.00	Mrs. J's Gross Income
- 50.00	Work Expenses
- 25.00	Taxes
<u>\$325.00</u>	Mrs. J's Net Income
- 49.00	Negative Deemed Income
\$276.00	Total Net Income available to Assistance Unit

Because the total net income is less than the PA needs (\$279.50), Mrs. J is entitled to the \$30 and 1/3 incentive.

b. \$400.00	Gross Income
- 50.00	Work Expenses
- 136.67	30 & 1/3 Incentive
- 25.00	Taxes
<u>\$188.33</u>	Mrs. J's Net Income
- 49.00	Negative Deemed Income
\$139.33	Total Net Income
c. \$278.50	PA Needs
- 139.33	Total Net Income
\$139.17	PA Income

**NOTE:** This example illustrates the only circumstances in which a negative deemed income is used in the 150% test & the public assistance calculation, i.e., the spouse is not applying, and the spouse has income. In all other circumstances, a negative deemed income is treated as zero.