



[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.]

MAR A. PERALES
Commissioner

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 86 ADM-30
[Income Maintenance]

TO: Commissioners of Social Services

SUBJECT: Woodruff et. al. vs. Perales: Notification
to Public Assistance Applicants/Recipients
Regarding Lump Sum Payments

DATE: August 26, 1986

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

CONTACT PERSON: Questions concerning this release should be directed to Ed Hennessy, Bureau of Income Support Programs, by calling 1-800-342-3715, extension 3-8839. Any medical assistance questions should be referred to your MA County Representative at extension 3-7581. In New York City your MA representative may be reached at (212) 587-4853.

I. PURPOSE

The purpose of this directive is to advise local districts of a stipulation in the Woodruff et. al. vs. Perales litigation. As a result of this court action, local districts must now provide a standardized notice to recipients and applicants advising them of the impact the receipt of a lump sum payment would have on their continued eligibility for assistance. Further, this directive requires that recipients whose benefits were terminated after October 4, 1984 due to receipt of a lump sum payment be provided with a written notice advising them that they may be eligible for restoration of benefits or to a reduced disqualification period.

II. BACKGROUND

In 81 ADM-55 and later administrative directives, districts were advised of the proper handling of a lump sum payment received by a public assistance recipient. Recent litigation in the Woodruff et. al. vs. Perales case has resulted in the questioning of the adequacy of notice given to recipients whose benefits are to be terminated due to receipt of a lump sum. As settlement in this case, the Department has agreed to standardize both the content of the notice and the dates of mailing. This mandated notice advises individuals of their rights under the lump sum provisions.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
85 ADM-12 84 ADM-39 83 ADM-7 82 ADM-49 81 ADM-55 82 ADM-5		Section 352.29(h) Section 360.3(c) Section 360.28			Source Book Section XVI-0-1 MARG, p. 244, 250-251, 297, 311-312, 108.1- 108.2

III. PROGRAM IMPLICATIONS

This directive represents no change in the actual treatment of lump sum payments received by recipients. There is a change, however, in the notices used for lump sums and a requirement for yearly notification of the lump sum provisions.

IV. REQUIRED ACTION

A. Notices to Applicants and Recipients

Local social services districts must provide applicants with a copy of Notice Regarding Lump Sum Payment (Attachment A) at the time of their initial eligibility interview.

Additionally, all current ADC and HR recipients must be provided a copy of Notice Regarding Lump Sum Payment (see Attachment A):

1. within 60 days of the date of this administrative directive (for upstate counties WMS will produce and send notices),
2. annually for the next four years at the time of their first face-to-face recertification,
3. when the district learns that a recipient is expecting to receive lump sum income, and
4. when a closing notice is sent to a recipient whose benefits are to be terminated due to receipt of a lump sum.

B. Retroactive Eligibility

In reviewing a case that was closed previously due to receipt of a lump sum payment, the worker will be examining the case to be sure that the lump sum was correctly applied and/or the period of ineligibility was correctly calculated. Please see Administrative Directive 84 ADM-39 for more information on the DEFRA changes to the lump sum provisions.

The following actions must be taken to insure that the cases are properly reviewed.

Any individual whose benefits were terminated/denied after October 4, 1984 due to lump sum provisions must be provided a notice (Attachment B) advising them that they may be eligible for restoration of benefits, to a reduced disqualification period or to some other form of retroactive relief. (For upstate counties WMS will provide a listing of these cases.) Upon receiving a request from an individual the agency must check the case record to determine if lump sum provisions were correctly applied and, if so, if there is reason to shorten the period of ineligibility in accordance with Department regulation 352.29(h) and 84 ADM-39 and act on the information obtained.

Should the agency find during their review of the initial action that lump sum provisions were incorrectly applied, they must redetermine eligibility for

assistance based upon appropriate department regulations and make retroactive adjustments as proven necessary. It should be noted that the individual(s) seeking retroactive relief must cooperate with the agency in verifying income and resources available at the time of the adverse action and subsequent to the action.

C. Notices

Copies of the two notices attached to this ADM (Attachments A and B) must be posted in each local social services district. The posting shall be in a place where they are readily observable to applicants/recipients and shall remain for 120 days from the receipt of this ADM.

D. WMS Implications (Except New York City)

1. WMS will produce a listing of individuals which will assist local districts in identifying cases that have been terminated due to receipt of a lump sum payment since October 4, 1984.
2. WMS will centrally produce and send a copy of "Notice Regarding Lump Sum Payment" (Attachment A) to all ADC and HR recipients shortly after the release of this administrative directive. The local districts will be notified of the exact dates of this mailing via the General Information System (GIS).

E. Food Stamp Implications


Lump sum payments for recipients of Food Stamps are not considered income for Food Stamp determinations. Such payments are only used in determining the resources of the household. Therefore, the requirements concerning the issuances of notices as contained in this ADM do not affect Food Stamps.

F. Medical Assistance Implications

The provisions of this ADM have no impact on applicants/recipients of medical assistance except that the requirements of 82 ADM-5 (Rosenberg v. Blum) shall be followed in certain cases being terminated from cash assistance.

V. EFFECTIVE DATE

This directive is effective September 2, 1986, retroactive to October 4, 1984 as ordered and adjudged by the court.



Michael J. Dowling
Deputy Commissioner
Division of Income Maintenance

NOTICE REGARDING LUMP SUM PAYMENTS

This is to inform you that the New York State Social Services Law Section 131-a(12) and New York State Social Services Department Regulation 352.29(h) require that a lump sum payment be used to eliminate or reduce the need for public assistance. A lump sum payment is a one time only payment such as insurance settlements, an inheritance or lottery winnings. If you or any member of your household receives or expects to receive a lump sum payment, you must notify your worker immediately. If the amount of the lump sum is less than your household's public assistance needs for one month, it will be treated as income only for the month received. If the amount is more than enough to meet your household's needs for one month, you will have the following two options concerning the lump sum payment:

1. You may choose to turn over the lump sum to your local Department of Social Services to be applied against past assistance. If you choose to do this, the portion of the sum which is applied against past assistance will not be budgeted against your needs, and your public assistance case may remain open. Any portion that cannot be applied to past assistance will be budgeted as described in the next paragraph.
2. You may choose to keep the lump sum payment. In this case, the lump sum payment will be budgeted against your needs and your case will be closed for a specific period of time. This period of time is figured by dividing the lump sum and income available in the month you received the lump sum by your household's public assistance monthly needs. For example, if you received a lump sum of \$4,750 and income of \$250 (total \$5,000) and if your public assistance needs are \$500 your household would be ineligible for 10 months. You and anyone who is in your case during the month of lump sum receipt will not be eligible to receive assistance during the period, even if the money is spent, unless one of the following happens to shorten the period:
 - An event occurs which, if you were receiving assistance, would change the amount of public assistance you would be entitled to receive. For instance, the amount of assistance you would be entitled to receive may change if your rent increases or you become eligible for a special needs item such as the pregnancy allowance;
 - The lump sum or a portion of the lump sum becomes unavailable to you for a reason that is beyond your control. Some examples are: the money is stolen, your family is faced with a life threatening circumstance, or you have unusually high household expenses such as fuel or shelter; or
 - A family member incurs and pays for approved medical expenses in a month during the period of ineligibility caused by receipt of the lump sum payment.

If you have any questions you should contact the local social services office.

If the lump sum rules and regulations are applied to your household and you believe that such action should not be taken, you may request a fair hearing. The phone number, address, and instructions on how to request a fair hearing are located on the Notice of Intent to Change the Public Assistance Grant.

ATTACHMENT B

Dear Recipient:

As settlement in a recent court suit, our Department has agreed to review, upon request, any case that has been closed due to enactment of lump sum provisions. A review of our records indicates that your public assistance benefits were terminated due to receipt of lump sum income.

If your case is closed and you wish to have the lump sum disqualification re-evaluated, it will be necessary to file a new application. Individuals who are currently in receipt of assistance, but believe that they should have been entitled to a reduced disqualification period or that the lump sum provisions were incorrectly applied, may have the original determination reviewed by requesting a consultation with an undercare income maintenance worker.

Each case will be evaluated on its own merit. The agency will determine if the lump sum closing was in accord with Department regulations, and if so, if there is (was) reason to reduce the disqualification period. Reasons for shortening the disqualification period would include events occurring which made the lump sum unavailable due to reasons beyond your control or utilizing the money to pay medical bills incurred by a family member.

Questions concerning this notice should be addressed to your local social services office.

If after the local agency has acted on this matter you remain dissatisfied, you may request a State mediated Fair Hearing by calling _____.