

-----  
ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 90 ADM-8

TO: Commissioners of  
 Social Services

DIVISION: Income  
 Maintenance

DATE: February 20, 1990

SUBJECT: Emergency Shelter Allowances for Persons with AIDS or HIV-  
 related Illness Faced with Homelessness

-----  
 SUGGESTED

DISTRIBUTION: | Public Assistance Staff  
 | Medical Assistance Staff  
 | Food Stamp Staff  
 | Accounting Staff  
 | Staff Development Coordinators

CONTACT

PERSON: | See Attachment A for Listing of Contact Persons  
 | (available on-line).

ATTACHMENTS: | See Attachment B for Listing of Attachments  
 | (available on- line).

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		Part 303	Chapter 53	<u>PASB</u>	88 LCM-26
		350.3	of Laws	Sections	88 LCM-43
		350.4(c)(4)	of 1988	III, V,	
		351.21(d)	Chapter 53	VI, and	
		Part 357	of Laws	XXIV-C	
		397.11	of 1989		
			Chapter 584		
			of Laws		
			of 1988		

I. PURPOSE

The purpose of this directive is to:

- A. inform local districts of the filing of new section 397.11 of the Department's regulations. Existing regulations authorize the provision of "emergency shelter allowances" funded under the emergency assistance for adults (EAA) program for persons with AIDS faced with homelessness. This regulation was effective April 1, 1988. On November 28, 1989 this regulation was amended to authorize also the provision of emergency shelter allowances to certain persons with human immunodeficiency virus (HIV) - related illness. (Copy attached, see Attachment C); and
- B. to provide local districts with instructions for implementing these emergency shelter allowances.

II. BACKGROUND

Local districts have been instructed to treat persons with AIDS or HIV-related illness in the same manner as they would any other applicant/recipient (A/R) for public assistance (PA) or emergency assistance who has a serious or debilitating disease. Nonetheless, persons with AIDS or HIV-related illness face certain unique problems which result from the social stigma and medical difficulties peculiar to AIDS and HIV infection. In particular, meeting existing shelter expenses or finding new housing when homeless can be extremely difficult for a person suffering from AIDS or HIV-related illness. All too often, the only housing alternative is homelessness or continued hospitalization.

To provide A/Rs and local districts with greater flexibility and additional resources to address the problem of homelessness faced by persons with AIDS or HIV-related illness (as defined by the AIDS Institute of the New York State Department of Health), EAA funded emergency shelter allowances were authorized by Chapter 53 of the Laws of 1988 and 1989. These laws permit the use of the hotel/motel rate as the applicable shelter maximum to determine entitlement for such allowances for persons with AIDS or HIV-related illness faced with homelessness.

III. PROGRAM IMPLICATIONS

Emergency shelter allowances will provide local districts with additional flexibility and resources to address the problems of homelessness faced by persons with AIDS or HIV-related illness by enabling certain persons with AIDS or HIV-related illness to maintain themselves in existing housing or to more easily secure housing in the community when homeless or hospitalized.

IV. REQUIRED ACTION

A. Emergency Shelter Allowances

1. General

Local districts must provide emergency shelter allowances to eligible persons with AIDS or HIV-related illness who are homeless or faced with homelessness.

2. Eligibility

In order to be eligible for an EAA funded emergency shelter allowance, an A/R for such an allowance must:

- a. apply for an emergency shelter allowance;
- b. provide medical documentation that he or she:
  - (1) has AIDS as defined by the Social Security Administration for purposes of determining whether or not a person is disabled for SSI purposes (this definition is the same definition utilized by Medicaid Disability Review Teams) or
  - (2) tests positive for the human immunodeficiency virus (HIV) and has HIV-related illness as defined by the AIDS Institute of the State Department of Health. The AIDS Institute definition of HIV-related illness is provided in Attachment E.

Attachment F is the "DSS-4167, Physician Certification of AIDS or HIV-related Illness" which incorporates the AIDS Institute definition of HIV-related illness. The form may be used, but is not required to be used, to document that a person has AIDS or HIV-related illness and meets this condition of eligibility. Local districts may require supporting documentation to verify the diagnosis of AIDS or HIV-related illness. Local districts may also use an independent medical evaluation by health professionals employed by the district or local government or service provider under contract to the district to verify an applicant's medical condition in determining medical eligibility for an emergency shelter allowance. The DSS-4167 must be reproduced locally;

- c. apply for, be eligible for, or be in receipt of, SSI benefits. Persons who are not receiving SSI must meet the home relief income (as defined below in "3. Budgeting") and resources standards;

d. be homeless or faced with homelessness and no viable and less costly alternative housing is available. In determining the availability of viable and less costly alternative housing, the local district must consider whether alternative housing is adequate, less costly, and workable in light of the person's (and family's) social and medical (and educational) needs. This review can include addressing such concerns as:

(1) is the housing close to family, friends, formal and informal care givers, and medical providers?

(2) can home care be provided in the dwelling?

(3) is the dwelling suitable given this person's medical condition and/or need for supervision and other support?; and

e. have unmet shelter need as determined under the "3. Budgeting" section below.

3. Budgeting

a. General

A/Rs who meet the eligibility standards noted in "2. Eligibility" above, must be budgeted as described below to determine financial eligibility for, and the amount of, their emergency shelter allowance. The amount of this allowance is the difference between:

(1) the individual's (or family's) monthly net available income, including any PA and SSI grants, and

(2) the individual's (or family's) monthly PA standard of need using \$480 (30 days at the per diem hotel/motel rate of \$16) for the first person, plus \$330 (30 days at the \$11 per diem) for all other persons in the household, as the applicable shelter maximum.

b. Budgeting Steps

The following steps must be used to determine eligibility for, and amount of, an emergency shelter allowance.

(1) Determine if the A/R for an emergency shelter allowance (and family) has unmet PA needs using normal PA income and resource standards and normal PA budgeting procedures. Provide regular ADC or HR where applicable. (This includes providing HR supplementation to SSI recipients

whose available income, including their SSI grants, are less than their regular HR standards of need.)

(2) Determine the individual's (or family's) PA standard of need using actual shelter expenses capped at \$480 for the first person plus \$330 for each additional person in the household as the applicable shelter maximum.

(3) Compare:

(a) the individual's (or family's) income, including SSI benefits and the PA benefits (if any) provided in "step (1)" above with

(b) the standard of need developed in "step (2)" above.

If a deficit exists, the A/R is eligible for an EAA funded emergency shelter allowance and must be provided with an allowance equal to this deficit.

c. Budgeting examples and WMS-Upstate ABEL screens are included as Attachment D.

Note: Since many persons with AIDS who apply for SSI receive "presumptive SSI benefits", the local districts should be alert to this possible source of income. Since SSI presumptive benefits are paid directly to the person filing for SSI or his/her representative payee (notwithstanding the assignment of rights to the first SSI check as interim assistance reimbursement), the local district must secure information about the receipt of SSI presumptive benefits from the A/R or his/her representative. Generally, SSI presumptive benefits are supposed to be provided within the first three weeks following the filing of the SSI application.

#### 4. Application and Recertification

Applications and recertifications for EAA funded emergency shelter allowances must be processed in the same fashion by using the same forms as for applications and recertifications for regular PA. (See PA Source Book, especially sections III, V and VI.)

As noted below in section "D. Social Services", local districts have an affirmative responsibility to assist A/Rs in securing required documentation. Similarly, in

accordance with State regulations 350.3, 350.4(c)(4), and 351.21 (d), a designated representative may file an application and even sign an application on behalf of a person with AIDS or HIV-related illness. Recertifications can be handled similarly. Therefore, we do not expect processing such applications and recertifications to be unduly burdensome to either the client or to local districts.

5. Notice and Appeal Rights

Applicants for and recipients of emergency shelter allowances must be provided with the same notices and same appeal rights as normally provided to applicants for and recipients of regular PA.

6. Reporting Requirements

Quarterly reports on the utilization of the emergency shelter allowances for persons with AIDS or HIV-related illness faced with homelessness shall be submitted each January, April, July and October to the Division of Income Maintenance. These reports should be directed to:

Barbara Wellman, Director  
Bureau of Income Support Programs  
NYS Department of Social Services  
40 North Pearl Street, 7C  
Albany, New York 12243

These reports shall provide the following cumulative quarterly statistics:

- o number of individual cases receiving emergency shelter allowances
- o number of family cases
- o total number of cases
- o total amount expended for emergency shelter allowance during the proceeding calendar quarter.

We expect that the WMS/BIC system will eventually be able to collect statistics on the utilization of emergency shelter allowances. At that time, local reporting requirements will be eliminated.

B. Medical Assistance

Most individuals who apply for EAA funded emergency shelter allowances as persons with AIDS will be in receipt of SSI or will have applied for SSI and be eligible for home relief under

the standards described in the "IV. REQUIRED ACTION" section of this ADM. These people will be eligible for Medical Assistance by virtue of their eligibility for SSI or public assistance.

Persons who apply for SSI due to AIDS or HIV-related illness and whose SSI applications are denied for medical reasons or due to excess income or resources may still be eligible for emergency shelter allowances. Medical Assistance eligibility must be determined separately from the EAA need. For persons related to ADC or SSI, eligibility will be determined by comparison to the Medical Assistance income and resource levels. Emergency shelter allowances paid as EAA are disregarded as income when determining Medical Assistance eligibility.

C. Food Stamps

For food stamps purposes, emergency shelter allowances are exempt as income. The food stamp shelter amount is the actual cost of shelter minus the amount of the emergency shelter allowance.

D. Social Services

Whenever possible and as necessary, the local district must address the social services needs of persons receiving emergency shelter allowances through the direct provision of social services or through the provision of appropriate information and referrals. Efforts should be made to ensure that A/Rs have established appropriate social and medical support networks.

When necessary, the local district must assist A/Rs in securing required documentation including the documentation required above in Section IV.A.2. and 3. of this Directive.

When necessary, the local district must arrange for required face-to-face interviews to be conducted during home visits or at other appropriate alternative sites. In accordance with the Department's regulations, designated representatives may file and sign application and recertification documents on behalf of A/Rs.

E. Confidentiality and Non-Discrimination

Part 357 of the Department's regulations makes it clear that DSS employees "... shall not reveal information obtained in the course of administering public assistance for purposes other than those directly connected with the administration of public assistance...". This concept of confidentiality applies to all DSS programs and all local and State employees. Penalties are provided for improper disclosure of information.

Because of the highly sensitive nature of AIDS and the real possibility of discrimination against persons perceived to be infected by HIV, local districts are reminded that they are

responsible to insure the confidentiality of all information secured by their employees in performance of their professional duties. Specific protections concerning the collection and disclosure of AIDS or HIV-related information were enacted by Chapter 584 of the Laws of 1988 and implemented by the Department by amendments to numerous sections of the Department's regulations in an emergency rulemaking effective February 1, 1989.

Local districts were reminded of their responsibility to avoid discrimination against fellow employees or clients in 88 LCM-43. As noted in that release, persons with AIDS, persons who test positive for HIV infection, and person perceived as susceptible to HIV infection or AIDS are covered by the Department's non-discrimination policy described in Part 303 of the Department's regulations.

V. SYSTEMS IMPLICATIONS

A. WMS-Upstate

ABEL may be used to calculate an EAA emergency shelter allowance as described above in section "IV.A.3.b. Budgeting Steps" of this ADM.

Step (1) involves calculating a normal PA budget. In family cases, this normal PA budget does not include the SSI recipient's needs, income, or resources. In single person cases, the SSI recipient's needs, income and resources should be considered in determining eligibility for HR supplementation. The applicable normal PA budget should be stored.

Steps (2) and (3) involve calculating entitlement for an emergency shelter allowance. To perform these steps, the worker should use Special Function Key 2 (SF-2) to return from the budget calculated in Step (1) to the PA Input Screen. The worker must make the following changes:

1. add the SSI recipient to the household and case counts (if not already included in the PA case),
2. change Shelter Type to Code 20,
3. enter actual shelter expenses up to the hotel/motel maximum described earlier,
4. for family cases, enter applicable SSI income as Unearned Income Source 99 (Other). If the budget stored in Step (1) was for a single individual, SSI income will already have been entered using Unearned Income Source 45.
5. enter any other earned or unearned income received by the SSI recipient,



6. enter the PA grant (if any) developed in Step (1) above as Unearned Income Source 99 (Other). (Note: this involves the unusual process of treating the normal PA budget deficit as income when determining entitlement for an emergency shelter allowance.)

When this budget is transmitted, the resulting deficit will equal the amount of the individual's (or family's) emergency shelter allowance. A printed copy of this budget MUST be kept in the EAA case record. This special EAA budget, however, should NOT be stored on WMS.

If an HR supplementation case is opened for the individual, the EAA funded emergency shelter allowance should be authorized on a recurring basis on the PA case as a separate payment. Payment Type Code E5 - "Emergency Shelter Allowance" must be used along with Special Claiming Code A to authorize this EAA payment.

If no normal PA case is opened for the individual with AIDS or HIV-related illness applying for an emergency shelter allowance (even if the remainder of the household receives normal PA), an EAA case must be established on WMS for the individual. The EAA funded emergency shelter allowance should be authorized on a recurring basis using Payment Type Code E5 and Special Claiming Code A. As noted above, no budget supporting this payment will be stored on WMS.

B. Upstate - Food Stamps (FS)

Normal FS case procedures should be followed when determining and issuing FS benefits. One of three possible situations will result:

1. For individuals with AIDS or HIV-related illness eligible for HR supplementation, a normal PA/FS case should be opened.
2. For individuals with AIDS or HIV-related illness eligible for only an EAA emergency shelter allowance, an NPA-FS case should be opened.
3. For family households containing an individual with AIDS or HIV-related illness who is not eligible for HR supplementation, a FS-MIX case should be opened.

In any of these three possibilities, the worker should reduce the actual shelter expense by the amount of the EAA emergency shelter allowance and enter the remainder as the FS shelter expense.

C. WMS-NYC

As WMS procedures are developed for NYC, they will be communicated to HRA via ABEL transmittals.

D. Claiming Procedures

Emergency shelter allowances will be identified in the BICS system as E-5 payments. These payments may be authorized in WMS as either a direct or an indirect payment. Indirect payments must have a commodity code of Shelter (06) for the related vendor within the BICS vendor file.

These payments will be funded through the Emergency Assistance for Adults (EAA) Appropriate A6142 and Revenues will be recorded in Revenue Account A3642. These costs will be claimed for reimbursement on Line 9 - Emergency Assistance for Adults of the Schedule C Assistance and Care, All Other - Schedule of Costs (Rev. 10/89) of the Schedule RF-2 claim package submitted to the State on a monthly basis.

Expenditures incurred prior to October 1989 should be claimed for reimbursement on Line 7 - Maintenance of a Home of the Schedule J - Monthly Report - Emergency Assistance for Adults (DSS-2289) as part of the Schedule RF-2 claim package.

VI. ADDITIONAL INFORMATION

Local districts are reminded that certain EAA benefits are also available to SSI recipients, including persons with AIDS or HIV-related illness faced with homelessness. In accordance with part 397 of the Department's regulations, EAA benefits can include:

- the provision of moving expenses,
- the maintenance of a private home while in a medical facility,
- the provision of a rent security deposit,
- the provision of brokers' fees,
- the payment of heating or utility costs when faced with a shut-off, and
- the payment of rent arrearages when faced with eviction.

Section XXIV-C of the Public Assistance Source Book describes the EAA program in detail.

VII. EFFECTIVE DATE

This Directive is effective upon receipt and retroactive to April 1, 1988 for persons with AIDS and to November 28, 1989 for persons with HIV-related illness.

---

Oscar R. Best, Jr.  
Deputy Commissioner  
Division of Income Maintenance

Contact Person:

Call 1-800-342-3715 and:

for PA, SSI, and EAA -	Abe Anolik, extension 4-7218
for MA -	County Representative, ext. 3-7581 in NYC, (212) 587-4853
for Food Stamps -	County Liaison, extension 4-9225
for WMS/ABEL-Upstate -	Gene Reilly, extension 6-3591
for WMS - NYC -	Jay Meketansky (212) 587-4750
for Accounting/Claiming -	Bureau of Local Financial Operations Upstate - Irid Gordon, ext. 4-7549 Metropolitan - Marvin Gold (212) 804-1108

Attachment A - Listing of Contact Persons  
(available on-line)

Attachment B - Listing of Attachments  
(available on-line)

Attachment C - Department Regulation - 397.11  
(not available on-line)

Attachment D - Budgeting Examples  
(not available on-line)

Attachment E - Definition of HIV-related Illness  
(not available on-line)

Attachment F - DSS - 4167, Physician Certification of AIDS or HIV-  
related Illness  
(not available on-line)