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| ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 92 ADM-10

TO: Commissioners of
Social Services

DIVISION: Income
Maintenance

DATE: February 25, 1992

SUBJECT: Requirement for Declaration of Citizenship/Immigration
Status - Change in Food Stamp Requirement

SUGGESTED

DISTRIBUTION:

Public Assistance Staff
Food Stamp Staff
Medical Assistance Staff
Staff Development Coordinators

CONTACT

PERSON:

Call 1-800-342-3715,

- Public Assistance: Charles Giambalvo,
extension 4-3231;
- Food Stamps: County Representative,
extension 4-9225
- Medical Assistance: Eligibility County
Representative,
extension 3-7581
or for New York City: Medicaid Office,
(212) 417-4853
- Refugee Assistance: Barbara Gendron,
extension 432-2658

ATTACHMENTS:

Attachment I - Filing References - available on-line
Attachment II - Revised Sections of DSS-2921 and DSS-
2921(NYC) "Application for PA, MA, FS
and Services" - not available on-line

FILING REFERENCES

Previous | Releases | Dept. Regs. | Soc. Serv. | Manual Ref. | Misc. Ref.
ADMs/INFs | Cancelled | | Law & Other | |
| | | Legal Ref. | |
See | See | See | See | See | See Attach-
Attachment I | Attachment I | Attachment I | Attachment I | Attachment I | ment I

I. PURPOSE

This directive:

A. Informs social services districts of a provision of the Mickey Leland Memorial Domestic Hunger Relief Act (the Leland Act) which amends the Food Stamp Act to provide that one adult representative of a household may attest, under penalty of perjury, to the truth of the information in the application, including information indicating that all household members are United States citizens/nationals or aliens eligible for participation under the alien provisions of the Food Stamp Act.

B. Informs social services districts of changes to application and recertification procedures and forms to reflect this change in the Food Stamp requirement. The following forms and their Spanish equivalents are affected:

DSS-2921 and DSS-2921(NYC): "Application for PA, MA, FS, Services" (Upstate and NYC versions)

DSS-3174: "Recertification for PA, MA, FS" (Statewide)

DSS-3035 and DSS-3035(NYC): "Food Stamp Statement for SSI Recipients and Group Living Residents" (Upstate and NYC versions)

PUB-1301, PUB-1301(NYC) and PUB-1313: "How to Complete" publications

DSS-4060: "Declaration of Citizenship/Immigration Status"

C. Restates and updates requirements for declaration of citizenship/immigration status for Public Assistance and Medical Assistance originally outlined in 89 ADM-27 (now cancelled).

II. BACKGROUND

Section 121(a) of Immigration Reform and Control Act (IRCA) states that:

"The State shall require, as a condition of an individual's eligibility for benefits, a declaration in writing by the individual (or in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status."

For purposes of this requirement, satisfactory immigration status means an immigration status which does not make the individual ineligible for benefits under the applicable program.

This provision of IRCA became effective on October 1, 1988. In order to comply with section 121(a) of IRCA, the Department developed the DSS-4060: "Declaration of Citizenship/Immigration Status" in both English and Spanish and modified the application and recertification forms to require signatures of all household members to declare under penalty of perjury their individual citizenship/satisfactory immigration status. These requirements were introduced in 89 ADM-27.

The Leland Act, signed on November 28, 1990, made a number of changes to the Food Stamp Act of 1977. One change was to the requirement that all household members sign the citizenship/immigration status declaration. This amendment allows one adult representative of the household to attest, under penalty of perjury, to the truth of the information indicating that all members are citizens/nationals or aliens eligible for participation under the alien provisions of the Food Stamp Act.

III. PROGRAM IMPLICATIONS

As a result of this provision of the Leland Act, application procedures and forms for the declaration of citizenship/satisfactory immigration status have been changed. For Food Stamps one adult household member may attest to the citizenship/satisfactory immigration status of all household members. Signatures for all applying household members declaring citizenship or satisfactory immigration status for Public Assistance and Medical Assistance are still required.

This change could result in different Public Assistance and Food Stamp household composition and budgeting for Public Assistance/Food Stamp and mixed case types. This could happen if a household member fails to sign the declaration for public assistance but, has attested, or some other adult in the household has attested, to the citizenship/satisfactory immigration status of all household members for Food Stamps. We anticipate few cases where this will occur.

IV. REQUIRED ACTION

A. Signature Requirements

1. Food Stamps

For all applying households an adult member must attest, under penalty of perjury, to the citizenship or satisfactory immigration status of all household members. To facilitate this requirement, language has been added to the applications (see Attachment II). When the last page of the application has been signed by an adult member of

the household, this requirement has been met. The signature of one adult member at the time of recertification is needed to cover any new members that have been added to the household.

2. Public Assistance and Medical Assistance

a. All applicants for Public Assistance and/or Medical Assistance, (except as indicated in section IV.A.2.b. of this Directive), must sign DSS-2921, DSS-3174 or DSS-4060, under penalty of perjury, attesting to their United States citizenship or satisfactory immigration status. Also, when an individual requests to be added to an undercare case, the social services district must obtain that individual's signature, or if the individual is a minor or cannot sign, his or her signature must be obtained as outlined in section IV.A.2.c. of this Directive.

b. The following are the only situations which do not require individual signature attestation:

- (1) A person whose eligibility for Medical Assistance is being established as a result of a separate determination process, and a completed signature declaration is already on file at the social services district;
- (2) An individual in receipt of Medical Assistance based on the individual's eligibility for SSI cash payments since a written declaration of citizenship/immigration status is required by the SSA in determining eligibility for SSI;
- (3) An applicant or recipient of Medical Assistance who is pregnant, and newborns eligible for Medical Assistance under the one year extension; and
- (4) A Medical Assistance applicant who is an alien not lawfully admitted for permanent residence or who is not permanently residing in the United States under color of law, and seeking Medical Assistance coverage for treatment received as a result of an emergency medical condition.

c. Signatures must be obtained as follows:

- (1) A signature, and the date signed, for each applicant and for all recipients who have not previously attested to their citizenship/satisfactory immigration status must be obtained as follows:

- o Each adult must sign his or her name.
- o An adult household member must sign for each applying household member under 18 years of age and for any applying adult who is unable to sign due to a medical impairment or disability. This is accomplished by the adult printing the name of the household member who is under 18 years of age or unable to sign, and signing his/her own name.
- o If no household member is an adult, the applicant must sign for himself or herself and for all other applying household members.
- o If an applicant cannot sign his/her name, then the applicant must make his/her mark ("X") in the space provided. The mark must be made in front of a witness. The witness to the mark must sign in the space provided at the bottom of the form.

NOTE: For purposes of this Directive, an adult is defined as an individual 18 years of age or older.

2) Missing Signatures

A blank of the DSS-4060 may be provided to an applicant to obtain the signature of any adult in the family/household who is unable to visit the social services district; however, forms with original signatures are part of the application and must be kept in the case record. This is true even if the eligibility determination is still pending.

B. Failure or Refusal to Sign the Declaration of Citizenship/Immigration Status

1. Food Stamps

Since the declaration of citizenship/immigration status is accomplished when the last page of the application is signed, failure to sign is synonymous with failure to sign an application for assistance. The only exception to this is if the applicant had signed page one of the application establishing a filing date and then does not sign the last page of the application. In such cases the application is denied for failure to cooperate.

For Public Assistance/Food Stamps and mixed cases, individuals sanctioned from Public Assistance for failure to sign the declaration must be included in the Food Stamp household if otherwise eligible, if the general declaration on the last page of the application has been signed by any adult household member, or by an authorized representative.

2. Public Assistance and Medical Assistance

An adult who does not sign the declaration, and an individual on whose behalf a signature is not obtained, is ineligible for assistance until such time as the signature is obtained. Specifically, social services districts must treat a non-complying individual(s) as follows:

a. Public Assistance

In calculating a budget for an individual(s) who does not comply, social services districts must use the following procedure:

- (1) If the social services district is unable to determine the income or resources of any household member who is required to be in the family unit, the entire applying family unit is ineligible for Public Assistance.
- (2) If the social services district is able to determine the income and resources of the entire applying family unit, but the non-complying individual is unable to sign the declaration because that individual is an illegal alien, temporary resident alien, or a documented IRCA alien in Lawful Temporary Resident (LTR) status, districts should use the budgeting method detailed in Section XXIII-C-8-All (Illegal Alien Budgeting) of the PASB.
- (3) If the social services district is able to determine the income and resources of the entire applying household, but a signature is not obtained due to an individual's refusal to sign without a good reason (examples of a good reason are provided in IV.B.2.a.(2)), the individual is treated as any Public Assistance sanctioned individual (i.e., the individual's income, but not needs, is taken into account when calculating the budget). This budgeting method is detailed in Section XII-H-9 of the PASB.

b. Medical Assistance

For individuals other than those listed in section IV.A.2.b. of this Directive, an individual who refuses to sign the declaration is ineligible for Medical Assistance until such time as the individual complies with this requirement. In the case of an adult who signs the declaration on his/her own behalf, but refuses to sign for a child under 18 years of age or for an individual who cannot sign due to medical impairment or disability, only the individual(s) for whom a signature is not obtained is ineligible for assistance.

In situations in which a legally responsible relative (LRR) is ineligible due to his/her refusal to sign the declaration, the LRR must be included in the household count, and any income or resources of the LRR must be used in determining eligibility for the remaining household members. If the ineligible individual is not legally responsible for any other applicants, the individual is not included in the household count and the individual's income and/or resources are disregarded in determining the eligibility of the remaining household members.

C. Immediate Needs Situations

1. Expedited Food Stamps

The last page of the application must be signed by an adult member of the household or authorized representative to have an expedited determination made.

2. Public Assistance

An individual who applies for immediate needs assistance per 86 ADM-7 must sign the declaration for himself/herself and for anyone in the household who is under 18 years of age. The individual may also sign it for any adult, if that adult is unable to sign due to a medical impairment or disability. Therefore, the applicant and everyone for whom the applicant signs the declaration may receive immediate needs assistance if otherwise eligible.

3. Medical Assistance

In cases of emergent medical need, when the required signature(s) cannot readily be obtained, the applicant(s) should be advised to seek medical care and to advise the provider that, if determined eligible during the period that medical services were rendered, Medical Assistance reimbursement may be available up to three months prior to the month of application.

V. SYSTEMS IMPLICATIONS

WMS

A. Upstate

There are no system implications for upstate WMS.

B. New York City

Public Assistance

For those situations where NYC/HRA is able to determine the income and resources for the entire applying household but a signature is not obtained due to an individual's refusal to sign without good reason, the income of the legally responsible relative should be input on the line of an eligible PA household member.

VI. ADDITIONAL INFORMATION

Copies of the revised sections of the DSS-2921: "Application" and the PUB-1301: "How to Complete ..." publication reflecting the necessary changes are attached as samples only. An informational letter (91 INF-69) was distributed in December 1991 detailing these required changes and other programmatic changes made to the Application (DSS-2921 and DSS-2921(NYC), the Recertification Application DSS-3174), their accompanying Publications (Pub. 1301, 1301 (NYC) and 1313) and the DSS-4060: "Declaration of Citizenship/Immigration Status". The revised forms will automatically be distributed in January 1992.

VII. EFFECTIVE DATE

This release is effective February 15, 1992 retroactive to August 1, 1991.

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

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-7	89 ADM-27		P.L. 101-624	PASB	GIS
88 ADM-22			P.L. 99-603	XII-H-9	91 IM/DC027
88 ADM-4			P.L. 100-360	XXIII-C,D&	90 IM/DC039
86 ADM-7			Social	E all	90 IM/DC011
91 INF-69			Security	iv-29.1,	89 IM/DC010
90 INF-3			Act,	31.2, 31.3	89 MA 016
88 INF-77			Section	FSSB	87 MA 0046
			1137(d)	V-B-3-all	
			Food Stamp	V-E-1-all,	
			Act of	XII-E-all,	
			1977	XIV-B-2,	
			7 USC 2011	XVI-B,	
			Section	v-7.1	
			121(a) IRCA	9.2-9.3	
				MARG	
				pp 424-434	
				Appendix	
				II	