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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 93 ADM-5

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: March 2, 1993

SUBJECT: Public Assistance Eligibility: Retroactive Payment Process
(DeAllaume v. Perales)

 SUGGESTED

DISTRIBUTION: | Directors of Income Maintenance
 | Directors of Medical Assistance
 | Staff Development Coordinators

CONTACT

PERSON: | Bureau of Energy Programs
 | 1-800-342-3715, extension 4-9321
 | Bureau of Legal Affairs - Mr. Russell Bennett,
 | 1-800-342-3715 extension 4-9783
 | Division of Health and Long Term Care - MA
 | Eligibility County Representative, 1-800-342-3715,
 | extension 3-7581; NYC Representative, (212) 417-4853

ATTACHMENTS: | Attachment I - 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. |
|-----------------------|-----------------------|-------------|---|-------------|------------|
| 87 ADM-51 | | | | | |

I. PURPOSE

This is to advise you that in the matter of DeAllaume v. Perales the United States District Court (SDNY) entered an order on June 4, 1992 which will result in the payment of a retroactive benefit(s) to certain public assistance (PA) recipients who were in receipt of a fuel for heating allowance between November 1, 1985 and June 12, 1987. As a result of the court order this Department and all local districts (excluding Albany County) are responsible for providing the mandated payments to plaintiff class members.

II. BACKGROUND

The adverse court decision in DeAllaume v. Perales essentially ruled that the Department had illegally offset public assistance entitlement benefits by the amount of the PA recipient's HEAP benefit each year between 1980-1987. The matter of retroactive payment has remained outstanding until now. The settlement and recent court order regarding retroactive payments will result in the payment of up to two years of retroactive benefits to certain HEAP eligible households which were active P.A. recipients and in receipt of a fuel for heating allowance during one or both of the following time periods:

11/01/85 - 5/30/86

11/01/86 - 6/12/87

All local districts with the exception of Albany County are affected by the retroactive payment mandates.

III. PROGRAM IMPLICATIONS

The court order provides specific timeframes for identifying, contacting, and issuing payments to the plaintiff class. (See Attachment II, DeAllaume Timeframe). The process will be broken into an inactive case phase and an active case phase.

This Department will be responsible for the following tasks:

- o Identification of inactive and active cases,
- o Mailing of initial notice to the inactive and active populations, and
- o Development of a county specific case listing of potential retroactive payment cases

The information sent to each district (outside NYC and excluding Albany County) will include all basic system required data necessary to either reopen an inactive case to make a corrective payment or to authorize a payment on currently active cases. The information provided to NYC will include basic identifying information for each potential retroactive payment case. Inactive case data will be provided to local districts by early March 1993 and active case data by early August 1993. In order for this Department to resolve edited returns it may be necessary to follow up the first potential payee listing with a supplemental listing. This will eliminate the need for local districts to complete a full manual review which would otherwise be necessary.

All individuals identified on each local district's listing of potential retroactive payment cases are deemed to be persons who received, or should have received, a fuel for heating allowance and one or more "additional fuel for heating allowances" during either or both of the two eligibility periods. Because it is now impossible to retroactively determine whether any of these individuals would not have met all of the "additional allowance" eligibility criteria in place during 1985-86 and 1986-87, no further analysis of the individual's eligibility other than that specifically required in Section IV, Required Action will be pursued.

IV. REQUIRED ACTION

Local districts will be responsible for determining the final eligibility for a retroactive benefit and the issuance of the appropriate benefit and notice to eligible individuals or denial notices to ineligible households. Payment and notice to eligible, inactive individuals must be made on or before April 30, 1993. Payment/Notice to active individuals must be made on or before September 30, 1993.

A. DeAllaume Eligibility Review

In addition to a control listing identifying potential payees, each local district will receive a case specific data sheet for each potentially eligible individual. Attachment III identifies the data sheet format. Among other things each data sheet will identify the appropriate Period I and II payment(s) for each individual, the Total Potential Payment, and where available an outstanding recoupment balance indicator. It should be noted that NYC case specific data will not include an outstanding recoupment balance indicator.

Upon receipt of case specific information from this Department, each local district must begin the determination process which will lead to the final payment and provision of notice to eligible individuals and to individuals ineligible to receive a retroactive payment. Two eligibility factors beyond the information provided on the case specific data sheet must be addressed:

1. Did the individual actually receive a HEAP benefit during the 1985-86 and/or 1986-87 program year(s)? This key information is no longer on the Welfare Management System(WMS) and Benefits Issuance and Control System (BICS) and, outside NYC, is only available locally on microfiche or through direct access of the individual case file. In NYC this information is available on PA sorted eligibility files through the Human Resources Administration (HRA) Management Information System (MIS). Identified individuals who did not receive a HEAP benefit were not harmed by this Department's policy and are not eligible to receive a retroactive payment for the appropriate Period (I or II). Local districts, where practicable, must determine an identified individual's HEAP status during the applicable period(s). Where a local district is unable to access records which would verify receipt or non-receipt of HEAP it must be assumed that the identified individual was a HEAP recipient.

2. Is there an outstanding recoupment balance attributed to an identified individual? As previously noted, where WMS was able to identify an outstanding recoupment balance, the individual's case data sheet will identify this fact. For inactive individuals, local districts must manually assess each individual for whom a recoupment balance is not indicated since such data is only held by WMS for a limited amount of time after case closure. In NYC, this information is available through the HRA MIS. Where an outstanding recoupment balance is found attributable to the identified individual the total balance must be used to reduce or eliminate the Total Potential Payment shown on the individual case data sheet.

Once these two eligibility criteria have been clarified a local district must proceed to make appropriate payments and to provide notice to both eligible and ineligible individuals.

B. Payment Procedures

It is important to note that the individuals identified on each local district's listing are the only individuals for whom a retroactive payment can ultimately be issued. Payments will not be made to any other individual who may have been part of the originally identified case name individual's public assistance case during either of the two eligibility periods.

1. Rest of State (ROS)
 - a. Inactive Cases

In order to authorize a payment in WMS on a closed case, the following steps should be followed:

- (1) Obtain blank Application Turnaround Document (APP-TAD)
- (2) Complete the following fields on Part 1 from the individual case data sheet:
 - o Case Number
 - o Reuse Indicator
 - o Case Name
 - o Address
 - oo Street
 - oo City
 - oo State
 - oo Zip Code
 - o Telephone Number
 - o Case Type
- (3) Complete the following fields on part 1 from the following instructions:
 - o Application Date - enter the report date shown on the individual case data sheet.
 - o Unit and/or Worker ID - enter the ID of the responsible unit/ worker, also Local Office, if applicable.
 - *o Transaction Type - enter "09 - OPEN/CLOSE".
 - *o Reason Code - enter "066 - OTHER".
 - o Authorization Period - enter "from" and "to" dates equal to the report date on the individual case data sheet.
- (4) Complete the following fields on Part 2 from the individual case data sheet. Note: Only the case name individual should be entered even if there were multiple people in the original case.
 - o First Name
 - o Middle Initial
 - o Last Name
 - o SSN Code
 - o SSN Number (if present)
 - o CIN Number
 - o Sex
 - o Date of Birth
- (5) Complete the following fields on Part 3 from the individual case data sheet:

- o Relationship Code
- o Categorical Code

(6) Complete the following fields on Part 5:

- o Individual Status - enter code "07 - Active".
- **o WMS Card Code - leave blank (a code will be generated).
- **o EBICS Code - enter "x" in this field which is currently labeled "FS IND" on the APP-TAD.

** Note: Plans are for issuing paper checks for the DeAllaume retroactive payment so that a permanent/temporary ID card is not required.

(7) Complete the following fields on Part 6 from the following instructions:

- *o Local Action Code - enter "2 - Prepare and Issue"
- *o Payment Type - enter "W1 - Court Ordered Retroactive Payment"
- *o Method of Payment - enter code "01 - Unrestricted"
- *o Amount - enter "Adjustment Total Amount" from the individual case data sheet
- *o Issue Code - enter "2 - Once Only"
- *o Payment Schedule - enter "0 - Other" or leave blank
- *o Pick Up Code - enter "1 - mailed"
- *o Effective Dates - enter "from" and "to" dates equal to the report date on the individual case data sheet and the Authorization Period entered in Section 1.

- *o Special Claiming Code - If the case type from the case data sheet is HR and the current case type is ADC, a special claiming code of "P" should be entered. If the case type from the case data sheet is ADC and the current case type is HR, a special claiming code of "D" should be entered.

(8) Upon completion of the APP-TAD, an application entry screen must then be completed which contains the following:

- o Center/Office, if required, and Unit/Worker
- o Application Date
- o Case Type
- o Case Number
- o Case Name
- o Address
- o First Name
- o MI
- o Last Name
- o DOB
- o Sex
- o SSN
- o CIN

(9) The Registry Number should then be added to the Application Turnaround Document and a Full Data Entry Transaction completed. The additional data on Parts 1 and 2 should be entered on Screen 01 and 02 and the additional data on Parts 3, 5, and 6 should be entered on Screen 03, 05, and 06 respectively. Upon error free completion of this transaction, normal procedures should be followed with regard to distribution of the completed documents. The APP-TAD and Clearance Report generated from this transaction are not needed unless subsequent errors are encountered. If errors are encountered, these documents must be returned to the worker responsible for resolution.

(10) The payment for an individual whose name appears on the inactive case list but whose case is now active should be authorized in accordance with Section B (1)(b) Active Cases.

b. Active Cases

The fields listed in Section B(1)(a), Inactive Cases which are marked with a single asterisk (*) are those which must also be completed in order to authorize a payment in WMS on an active case. For active cases, a Transaction Type "05 - Change" and Reason Code "925 - OTHER" should be used to authorize the retroactive payment.

The payment for an individual whose name appears on the active case list but whose case is now closed should be authorized in accordance with Section B(1)(a), Inactive Cases.

2. New York City (NYC)

Procedures for authorizing a payment to both inactive and active individuals will be issued and implemented by the NYC Human Resources Administration (HRA).

C. Notice Procedures

The court has mandated the use of the attached NOTICE OF CORRECTIVE PAYMENT (Attachment IV) and CLAIM DENIAL NOTICE (Attachment V). These notices must be reproduced locally and no changes may be made to the text.

1. Notice of Corrective Payment

This notice must be used in all cases where either a payment is being issued to an individual or a potential payment has been identified which has been either partially offset or eliminated by the presence of an outstanding recoupment balance. The following guidelines must be followed in completing the NOTICE OF CORRECTIVE PAYMENT:

a. AMOUNT - in all cases the amount entered in this blank must be equal to the Total Potential Payment shown on the individual case data sheet.

b. METHOD OF PAYMENT - if the total entered in the "AMOUNT" blank has not been adjusted because of an outstanding recoupment balance enter "A CHECK WILL BE MAILED TO YOU DIRECTLY". If the total entered in the "AMOUNT" blank has been partially or fully offset:

(1) Partially Offset - enter the \$ amount offset and the \$ amount to be issued as a direct check. (e.g. \$100 - OUTSTANDING RECOUPMENT OFFSET; \$300 - CHECK TO BE SENT TO YOU DIRECTLY)

(2) Fully Offset - enter "PAYMENT FULLY APPLIED TO YOUR OUTSTANDING RECOUPMENT BALANCE"

D. Claim Denial Notice

This notice must be used in all cases where an individual has been determined to be ineligible for a retroactive benefit. The notice provides for various denial reasons and is self explanatory. Any reason which does not fit one of the standard denial reasons must be clearly explained in the "OTHER" (REASON CODE 6) space. A statistical report by reason code will be required (See Section F, LOCAL REPORTING REQUIREMENTS).

E. Claiming Procedures

All DeAllaume payments should be authorized and claims submitted based on the reimbursement percentage under which the case received payment during the retroactive period. The category of

assistance to be utilized should be based on the Case Type displayed on the Case Specific Data Sheet (Attachment III). For cases currently ADC, but HR during the retroactive period the use of a Special Claiming Category of P will allow BICS to display these payments as ADC-FNP on the Composite Rolls. Cases currently HR, but ADC during the retroactive period will be authorized with a Special Claiming Category of D to make the BICS Composites to display these payments as ADC-FP. The payments should be claimed, based on the BICS Composites information.

F. Local Reporting Requirements

The court order requires that this Department prepare and provide plaintiffs' attorneys with compliance reports containing specific information regarding DeAllaume eligibility and payment statistics. Since local districts are responsible for making final eligibility determinations and providing notice to identified individuals, the attached report forms (Attachment VI and Attachment VII) must be completed by ROS local districts and NYC respectively and submitted to this Department within the following timeframes:

- o on or before May 7, 1993 (Activity through 4/30/93)
- o on or before October 8, 1993 (Activity through 9/30/93)
- o on or before May 6, 1994 (Final Cumulative Report - Activity through 4/30/94)

G. Fair Hearings

All identified individuals who have returned a DeAllaume Benefits Reply form must ultimately receive either a Notice of Corrective Payment or a Claim Denial Notice. A noticee has sixty days from the date of either notice to request a Fair Hearing by calling this Department at 1-800-342-3334 or by writing to the agency at Energy Fair Hearing Section, 40 North Pearl Street, Albany, New York 12243. Local district Fair Hearing staff should be prepared to utilize local fair hearing resources and procedures to respond to scheduled fair hearings resulting from DeAllaume notices.

V. ADDITIONAL INFORMATION

DeAllaume related retroactive payments made to both "inactive" and "active" class individuals must be excluded from the calculation of income for the purposes of determining eligibility and benefit levels under all public assistance, medical assistance and food stamp programs and from being considered as a resource in the month paid and in the following month. When assessing eligibility for non-public assistance programs of assistance, normal procedures for determining income and resources must be followed.

Date March 2, 1993

Trans. No. 93 ADM-5

Page No. 10

VI. EFFECTIVE DATE

This release is effective immediately.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

- Attachment I - List of Attachments - available on-line
- Attachment II - DeAllaume Timeframe - available on-line
- Attachment III - Case Data Sheet Specifications - not available on-line
- Attachment IV - Notice of Corrective Payment (English Version) - not available on-line
- Attachment IV - S - Notice of Corrective Payment (Spanish Version) - not available on-line
- Attachment V - Claim Denial Notice (English version) - not available on-line
- Attachment V - S - Notice of Corrective Payment (Spanish Version) - not available on-line
- Attachment VI - DeAllaume Compliance Report - Rest of State - available on-line
- Attachment VII - DeAllaume Compliance Report - New York City - available on-line

DeAllaume Time Frame

| <u>TASK</u> | <u>Responsible Group</u> |
|---|--------------------------|
| 1. <u>July 1, 1992</u> | |
| o Effective date of settlement. DeAllaume clock starts. | |
| 2. <u>September 1, 1992</u> (on or before) | |
| o New York City (NYC) file prepared and transmitted NYSDSS to be merged with "outside NYC files". | NYC |
| 3. <u>October 1, 1992</u> (on or before) | |
| o Merged file compiled identifying NYS public assistance households (excluding Albany County) which were in receipt of a fuel for heating allowance at any point during either or both of the following time periods: | NYSDSS |
| oo Period 1 - Nov. 1, 1985 - May 30, 1986 | |
| oo Period 2 - Nov. 1, 1986 - June 12, 1987 | |
| o Produce a report which shows by county (excluding Albany) | NYSDSS |
| oo the total number of individuals identified as no longer in receipt of Public Assistance | |
| 4. <u>November 1, 1992</u> (on or before) | |
| o Mail flash notices to all "closed" PA cases | NYSDSS |
| Note: November 1, 1992 is a Sunday. Notices should be <u>dated</u> and <u>postmarked</u> October 30, 1992 | |
| 5. <u>January 30, 1993</u> (on or before) | |
| o All "closed case" notice returns must be postmarked | Plaintiff Class |
| 6. <u>April 30, 1993</u> | |
| o All corrective payments to closed cases must be made and all notices to ineligible individuals must be sent. | NYSDSS/Local Districts |

7. May 1, 1993 (on or before)

- o Mail flash notices to all "active" PA recipients. NYSDSS

Note: May 1 is a Saturday. Notices should be dated and postmarked April 30, 1993.

8. June 30, 1993 (on or before)

- o All "active" case notice returns must be postmarked Plaintiff Class

9. September 30, 1993 (on or before)

- o All corrective payments to active cases must be made and all notices to ineligible individuals must be sent. NYSDSS/Local Districts

Rest of State (ROS)

DeAllaume Compliance Report

Report Date _____

County _____

Total number of persons sent a "Claim Denial Notice" broken by the following two denial categories:

- 1. Our files document that you did not receive HEAP, or that you were ineligible to receive HEAP, during the applicable period.
- 2. Other

SUMMARY OF DENIALS

o Inactive Cases

o Active Cases

Reason: #

Reason: #

1. _____

1. _____

2. * _____

2. * _____

* NOTE: OTHER reasons should be separated and an individual count by specific "OTHER" reason provided.

New York City (NYC)

DeAllaume Compliance Report

Report Date _____

County _____

1. Total number of persons sent a "Notice of Corrective Payment".

a. "Inactive" cases _____

b. "Active" cases _____

1. Total number of persons who were sent corrective payment.

a. "Inactive" cases _____

b. "Active" cases _____

2. Total dollar amount of payments.

a. "Inactive" cases \$ _____

b. "Active" cases \$ _____

Total number of persons sent a "Claim Denial Notice" broken by the following two denial categories:

1. Our files document that you did not receive HEAP, or that you were ineligible to receive HEAP, during the applicable period.

2. Other

SUMMARY OF DENIALS

o Inactive Cases

o Active Cases

Reason: #

Reason: #

1. _____

1. _____

2. * _____

2. * _____

* NOTE: OTHER reasons should be separated and an individual count by specific "OTHER" reason provided.