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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 96 ADM-5

DIVISION: Temporary Assistance

TO: Commissioners of Social Services

DATE: February 9, 1996

SUBJECT: Article VII Changes - 1995/96 State Budget

SUGGESTED DISTRIBUTION:

- Income Maintenance Directors
- Medical Assistance Directors
- Food Stamp Directors
- Staff Development Directors
- CAP Coordinators
- Directors of Services
- Agency Attorneys

CONTACT PERSON:

1-800-343-8859 and ask for the contact persons listed or regional team for Temporary Assistance-Team 1-3-0332, Team 2-4-9344, Team 3-4-9307, Team 4-4-3231, Team 5-3-1469, Team 6-212-383-1658

ATTACHMENTS:

Attachment A - Listing of attachments (B-L) available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
see Attachment B	see Attachment B	see Attachment B	see Attachment B	see Attachment B	see Attachment B

I. PURPOSE

This directive expands upon information transmitted through a previously issued ADM, and INFs, LCMs and GIS messages. This release advises local social services districts of the provisions and requirements of the 1995/96 State Budget as they relate to public assistance programs and their impact, where applicable, on Food Stamp and Medical Assistance (MA) eligibility.

II. ORGANIZATION AND CONTENT

The changes resulting from the 1995/96 State Budget cover a variety of areas. Where possible, the Medical Assistance and Food Stamps implications are identified along with the discussion of the public assistance changes.

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III. BACKGROUND

The 1995/96 State Budget made several changes to Social Services Law which affect public assistance eligibility and State reimbursement and, where applicable, Food Stamp and Medical Assistance (MA) eligibility. These changes are described below.

IV. PROGRAM IMPLICATIONS

The implications will vary depending upon the specific change.

V. REQUIRED ACTION

A. HOME RELIEF REPAYMENT AGREEMENT AND ASSIGNMENT OF FUTURE EARNINGS

Contact Persons: (Temporary Assistance) Regional Team Representative
(Medical Assistance) Shari Niedbalec,
extension 3-5503

Applicants for Home Relief are now required, as a condition of eligibility for Home Relief, to sign an "Agreement to Repay any Home Relief Overpayments Still Owed After Case is Closed" (Attachment C). They must also sign an "Assignment of Wages, Salary, Commissions or Other Compensation for Services" (Attachment D) to allow the district to secure the repayment of any money that is determined to be owed because of overpayments. State mandated Repayment/Assignment Forms have been developed (Attachments C and D). The assignment of future earnings and its enforcement must comply with all requirements of Article 3-A of the Personal Property Law.

Only overpayments of Home Relief and Veteran's Assistance (not PG-ADC), incurred after applications made beginning July 1, 1995, are covered under this provision.

NOTE: Applicants who are only applying for emergency Home Relief pursuant to Department regulation 370.3 are not required to sign the "Agreement to Repay Any Home Relief Overpayments Still Owed After Case is Closed" or the "Assignment of Wages, Salary, Commissions or Other Compensation for Services".

All adult applicants must sign the "Agreement to Repay Any Home Relief Overpayments Still Owed After Case Is Closed" and "Assignment of Wages, Salary, Commissions or Other Compensation for Services". If one adult applicant refuses to sign these forms, the entire case is ineligible for assistance.

Social services districts must fill out and require each adult applicant of Home Relief to sign two copies of the "Agreement to Repay Any Home Relief Overpayments Still Owed After Case is Closed" and the "Assignment of Wages, Salary, Commissions or Other Compensation for Services". One signed copy of each form must be given to the applicant. The remaining signed forms must be placed in the case record or some other location where they can be retrieved if needed. Both of these forms must be signed every time a person applies for HR benefits. However, these forms do not have to be signed at the time of recertification.

When a Home Relief case, for whom the social services district (SSD) has a signed "Agreement to Repay Any Home Relief Overpayments Still Owed After Case is Closed" and an "Assignment of Wages, Salary, Commissions or Other Compensation for Services", is closed and the case has an outstanding overpayment the SSD must send the ex-recipient a copy of the "Notice of a Repayment Due Because of an Overpayment of Home Relief Benefits" (Attachment E).. This repayment notice must contain the amount of overpayment due, how the overpayment was calculated and the name, address and telephone number of the person in the district that the ex-recipient can contact to find out how to make restitution or to set up a repayment schedule and a time limit to respond to the "Notice of a Repayment Due Because of an Overpayment of Home Relief Benefits."

If the assignor fails to respond to the "Notice of Payment Due Because of an Overpayment of Home Relief Benefits" or fails to repay the money owed and/or fails to make payment on a repayment schedule agreed upon with the SSD, the SSD can begin the process to file the "Assignment of Wages, Salary, Commissions or Other Compensation for Services" with the assignor's employer.

The "Assignment of Wages, Salary, Commissions or Other Compensation for Services" cannot be filed with the assignor's employer until 20 days after a "Notice of Intent to File an Assignment of Wages, Salary, Commissions or Other Compensation for Services" (Attachment F) has been sent to the assignor. The notice must be sent return receipt requested. Since the wording on Attachment F is required by statute, Attachment F or an approved local equivalent must be used to notify the assignor that the district intends to file the assignment form with the assignor's employer.

If a payment of any amount is accepted by the social services district during the 20 day notice period and is noted in writing by the district at the time of acceptance, the assignor can no longer be considered to be in default for the purpose of permitting the "Assignment of Wages, Salary, Commissions or Other Compensation for Services" to be filed with the assignor's employer.

The "Notice of Intent to File an Assignment of Wages, Salary, Commissions or Other Compensation for Services" must be accompanied by a copy of the "Assignment of Wages, Salary, Commissions or Other Compensation for Services" and any other documents related to overpayment that is still owed.

If the social services district receives the "Notice of Intent to File an Assignment of Wages, Salary, Commissions or Other Compensation for Services" with section (b) completed by the assignor, it must obtain a court order authorizing it to file the "Assignment or Wages, Salary, Commissions or Other Compensation for Services" with the employer.

Before a SSD can file an "Assignment of Wages, Salary, Commissions or Other Compensation for Services" with an assignor's employer the district must file the following in the County Clerk's Office in the county in which the assignor resides:

- a copy of the "Assignment of Wages, Salary, Commissions or Other Compensation for Services", authenticated by a notary public; and
- an itemized statement setting forth the amount currently due to the SSD and the original amount owed and the payments already made to the district.

If the assignor resides out of State, or his or her residence is unknown, the "Assignment of Wages, Salary, Commissions or Other Compensation for Services" must be filed in the county in which the assignor is employed. If the assignor resides out of State or his or her residence is unknown, and is employed out of State, the form must be filed in the county where the assignor resided at the time he or she signed the form.

The filing of the "Assignment of Wages, Salary, Commissions or Other Compensation for Services" with the County Clerk is valid for two years. It may be extended for successive additional periods of one year by filing a copy of the form authenticated by a notary public within 30 days preceding the expiration of each period, with a statement that the form is in force and setting forth the amount remaining unpaid.

After the "Assignment of Wages, Salary, Commissions or Other Compensation for Services" has been filed with the assignor's employer and the debt on which the assignment is based is paid in full, the assignor can demand that a certificate setting forth that the indebtedness has been paid or otherwise satisfied and is discharged be given to him/her. The demand must be personally delivered to the social services district or sent to the district by registered mail. The certificate must recite the date of the assignment, the names of the parties to the assignment, the amount of the original indebtedness and the date of filing of the assignment with the County Clerk and the filing number. The same information must be provided for any assignments of the assignment. If the certificate is not provided to the assignor within ten days after the date of the demand, the social services district will be liable to the assignor for \$5 and any damages suffered by the assignor resulting from the failure to provide the certificate.

These procedures are required by Article 3-A of the Personal Property Law.

Notice Requirements: See Section VI. 1

Food Stamps - "The Agreement to Repay Any Home Relief Overpayments Still Owed After Case is Closed" and the Assignment of Wages, Salary, Commissions or Other Compensation for Services" are not conditions of eligibility for food stamps. If a Home Relief/food stamp applicant is denied Home Relief for failure to sign the mandated agreement, a determination of food stamp eligibility must still be made in accordance with existing procedures.

Medical Assistance - This is not a Medical Assistance requirement. Any individual who has been denied or discontinued from public assistance as a result of this provision must be given a separate Medical Assistance determination. NOTE: In determining Medical Assistance eligibility, money that is recouped from an applicant's/recipient's earnings due to a Home Relief overpayment is counted as income.

B. REDUCTION OF STATE REIMBURSEMENT FOR SECURITY, BROKER'S/FINDER'S FEES

Contact Persons: (Temporary Assistance) Regional Team representative
(Claiming) Regions I-IV - Roland Levie, extension 4-7549; Region V-Marvin Gold, 212-383-1733
(Medical Assistance) Shari Niedbalec, extension 3-5503

The percentage of State reimbursement for cash security deposits, paid to a landlord and held in an escrow account, and broker's/finder's fees is now limited to 25% of total expenditures, after first deducting any federal reimbursement. This results in reimbursement of 50% Federal, 12.5% State and 37.5% Local for Federally Participating payments and 25% State and 75% Local for Federally Non-Participating payments.

Security agreements, in which payments are not made until damages or unpaid rent are determined, are not affected by this change. Cash paid as a result of a security agreement will still receive normal State reimbursement.

Local claiming staff in upstate districts should make the proper claiming adjustments according to payment codes and case category. To ensure that cash paid as a result of a security agreement receives normal reimbursement, Payment Type Code 67 (security deposits) should be used for cash paid as a result of a security agreement. Payment Type Code Q5 should be used only for cash security deposits held in escrow by a landlord. Payments made under Payment Type Codes Q5 and 68 (Finder's/Broker's fees) will be subject to the lower State reimbursement rate.

In New York City, Single Issue Code 42 is used for Broker's and Finder's Fees and Single Issue Code 38 is used for Security Deposit-Private Housing.

The BICS composites are being modified to segregate values Q5 and 68 (Broker's/Finder's fees) on the BICS Schedules A, C and F. Until this change is migrated to production these two payment type values must be identified manually. Expenditures for Security Deposits (Q5) and Broker's/Finder's Fees should be excluded from regular claiming and should be submitted manually on a DSS-3922 (Special Projects). The DSS-3922 "Project Name" should be identified as "Security Deposit", with the expenditures being reported on line C.11 (Other Expenses). These payments should NOT be reported on the Schedules A, C or F.

This provision is effective July 1, 1995 and applies to all case categories.

Food Stamps - Security deposits and broker's/finder's fees are not considered income or a resource for food stamp purposes.

Medical Assistance - There are no Medical Assistance implications.

C. INTENTIONAL PROGRAM VIOLATIONS (IPVS)

Contact Persons: (Temporary Assistance) Regional Team Representative
(Medical Assistance) Shari Niedbalec, extension 3-5505

No change was made in any provisions in the determination or imposition of IPVs, but additional penalties were added for HR-IPVs. Under the new law, in addition to considering which number IPV has been committed, the dollar value of the offense will be regarded when a HR-IPV disqualification period is determined. The new penalties for HR-IPVs are as follows:

1. 6 Months Disqualification
 - first offense, and
 - offense is less than \$1000
2. 12 Months Disqualification
 - second offense, or
 - offense is between \$1000 and \$3900
3. 18 Months Disqualification
 - third offense, or
 - offense is over \$3900

4. 5 Years Disqualification

- fourth or subsequent offense if more than four

For ADC-IPVs, the penalties remain the same: 6 months disqualification for the first ADC-IPV, 12 months for the second ADC-IPV, and permanent disqualification from the ADC program for the third ADC-IPV. The dollar value of the offense is not considered when determining the disqualification period for ADC-IPVs. Individuals permanently disqualified from the ADC program may apply for HR instead of ADC, but only after the equivalent HR disqualification period (18 months) is over.

Prior disqualifications will be counted.

For penalty purposes based on the dollar value of the HR-IPV, only the overpayments accumulated after July 1, 1995 may be counted towards the disqualification period.

Notice Requirements: See Section VI. 3.

Food Stamps - Food Stamp policy regarding IPV disqualifications remains unchanged.

Medical Assistance - The IPV provision does not apply to Medical Assistance-Only applicants/recipients. As stated in 93 ADM-8, Home Relief applicants/recipients, who are over age 21 and under age 65 and not residing with their children, and who are disqualified for public assistance because of IPVs, are also ineligible for Medical Assistance until public assistance eligibility again exists. For applicants/recipients, who are ADC, ADC-U or SSI-related, under 21 or FNP parents living with their children, and who are disqualified for public assistance for IPV, a separate Medical Assistance determination must be given. Generally, for these situations, households will continue to include the applicant/recipient who has been determined to have committed the IPV. However, if the IPV involves issues, such as income or resources, which impact Medical Assistance eligibility, the applicant/recipient should be called in for a redetermination.

D. FINGER IMAGING (AFIS) FOR PUBLIC ASSISTANCE

Contact Persons: (Temporary Assistance) Regional Team Representative
(Medical Assistance) Shari Niedbalec, extension 3-5503

AFIS was expanded from being an optional program for HR applicants and recipients to making AFIS a statewide eligibility requirement for HR and ADC. Although the State Budget Law did not address food stamps, a recent amendment to Department regulation 351.2 (a) establishes AFIS requirements for food stamp applicants and recipients applying for or receiving public assistance. See 95 LCM-88 for more details about AFIS.

1. All social services districts must participate in AFIS;
2. All social services districts must submit a plan describing how AFIS will work in their district. Districts which had previously submitted a plan that had been approved by the department for HR will be deemed to have submitted a plan. However, these districts must amend their plans to include the AFIS processing of ADC and public assistance food stamp applicants and recipients;
3. Any social services district that cannot achieve full implementation of AFIS for HR by April 1, 1996, must apply to the Department for an extension of time to implement the system. If implementation is not completed within the required time, including any approved extensions, the Department may take any action necessary to achieve implementation and charge any costs of implementation, less any state or federal share of reimbursement, to such social services district.
4. For applicants and recipients who have not received notice of the finger imaging requirement, social services districts must provide such notice. Whether social services districts schedule finger imaging of recipients by either a special call-in letter or during the standard recertification, the notice can be enclosed with the mailing;
5. Information and data collected through AFIS can not be used for any purpose other than the prevention of multiple enrollments in public assistance and food stamps programs. This information can only be used for social services purposes, which would include using AFIS information for IPV purposes or as evidence in the criminal prosecution of welfare fraud.
6. Finger imaging is not currently required for non-public assistance food stamp households. However, if a finger image match and resulting investigation for a public assistance food stamp case indicates fraudulent multiple enrollment involving both program areas, a non-public assistance food stamp application or case for the individual(s) must also be denied or closed.
7. Automated finger images for HR and ADC applicants and recipients must also be deemed as finger images for public assistance food stamp applicants/recipients.

Notice Requirements: See Section VI. 4

Medical Assistance - Refusal to Comply with Finger Imaging Requirements - There are no finger imaging requirements for Medical Assistance-Only applicants/recipients. However, as stated in 95 ADM-10, the eligibility of Home Relief singles and childless couples who have first applied for public assistance and been denied for refusal to comply with finger imaging requirements is affected. Such individuals are not eligible for Medical Assistance during the public assistance application month and the following month.

Persons determined ineligible for public assistance for failure to comply with finger imaging requirements who are SSI-related (certified disabled) applicants, under age 21, age 65 or older, ADC, pregnant or FNP parents living with their children must have a separate determination made for Medical Assistance.

Finger Imaging Match - Public assistance cases closed as the result of a finger imaging match are also ineligible for Medical Assistance.

E. LEARNFARE

Contact Persons: (Temporary Assistance) Regional Team Representative
(Medical Assistance) Shari Niedbalec, extension 3-5503

The Learnfare program in New York State will establish a system of incentives based on level of school attendance with the main objective of keeping children engaged in the education system. All school age children between first and sixth grade will be required to attend school with no more than four unexcused absences during a school quarter. Public assistance households that have a child who has five or more unexcused absences during a school quarter will have a pro rata share of their basic allowance removed from the public assistance grant for a three month period. Sanctioned children who have no unexcused absences in the school quarter immediately following their sanctioned semester will receive a supplement to their public assistance grant equal to the amount withheld from the public assistance grant for Learnfare non-compliance.

This program will require a waiver and federal approval prior to implementation. This waiver will make participation in the Learnfare program for each child a condition of eligibility for public assistance.

The implementation schedule is as follows:

September 1996 - 3 upstate sites
3 NYC sites

September 1997 - 9 upstate sites
6 NYC sites

September 1998 - Statewide

Food Stamps - Learnfare penalties do not apply to food stamps. Supplemental public assistance payments issued under this provision are considered excluded lump sum payments for food stamps.

Medical Assistance - This provision does not apply to Medical Assistance-Only applicants/recipients. Children are not removed from the public assistance case under the Learnfare provisions, but the amount of the public assistance grants is reduced. Therefore Medical Assistance eligibility will continue for all public assistance members.

F. LIVING ARRANGEMENT-OFFER OF A HOME

Contact Persons: (Temporary Assistance) Regional Team Representative
(Medical Assistance) Shari Niedbalec, extension
3-5503

Current:

An HR/PG-ADC individual under age 21 must live with his or her parent unless the parent will not permit the minor to live home, unless the home is not safe, or unless it is not in the interest of the minor or family to have the minor live there. That policy continues unchanged.

New:

An ADC individual, individual and child or pregnant woman under age 18 must live with a parent, legal guardian, other responsible adult relative or in an adult-supervised supportive living situation.

This living arrangement requirement applies to ADC minors unless one of the following conditions exist:

1. The minor is now married, or has ever been married, or
2. The minor parent or pregnant woman has lived apart from the parent or legal guardian for at least one year before the birth of the dependent child, or before applying for public assistance.
3. The minor has no living parent or guardian whose whereabouts is known.

4. The parent or legal guardian refuses to allow the minor (and child) to live in his/her home.
5. The physical or emotional health of the minor (or child) would be jeopardized by living in a household with the minor's parent or legal guardian.

When the minor makes a claim under this provision, the SSD must investigate the claim. AN SSD may develop a process that may be followed to rule out the home as suitable. That process may use agency staff who have the necessary background and experience to evaluate the claim and available evidence. A decision by Child Protective staff is not required to rule out a home as suitable.

However, when a case will be denied or closed because the minor's claim has been determined to be unfounded, that determination must have been the result of a Child Protective Service's investigation. No closing or denial action may be taken on the basis that the home is available until the claim is determined to be unfounded.

6. Good cause exists: Good cause exists when the parents will allow the minor to live at home but not the infant.

ALTERNATIVES: If one of the six exceptions listed above do not exist, and the minor will not return to the home of the parent or legal guardian, the minor (and child) may still be eligible for assistance if the individual resides with an adult relative or in another adult-supervised supportive living situation.

DOCUMENTATION: An ADC minor who claims that he or she is exempt from this requirement must provide verification when possible. For example, a minor who states that she has been married should be asked to provide a marriage certificate or other acceptable verification. A minor who states that she has lived apart from her parents for one year should be able to show where she has been living or her parents may verify her statement.

When the minor claims to be exempt because of health or safety concerns, the minor can be asked for documentation to aid in a decision to rule out the home. However, a minor cannot be denied for failure to provide documentation to support a health or safety claim.

DEFINITIONS:

Adult relative means a relative as defined in Department Regulation 369.1(b) who is at least 18 years of age.

Adult supervised supportive living situation means a family setting or other arrangement where responsibility is taken for the care and control of the minor (and child) or where supportive services such as counseling, guidance or supervision are provided. A family setting can be a private family setting.

A private family setting is one where an adult assumes responsibility in a parental capacity for the care and control of the minor parent (and child).

Examples of other arrangements are maternity homes and group homes. Institutions, homeless shelters and run-away youth program residences are not considered eligible adult supervised supportive living situations.

Informational Notice: The Federal Regulations at 45 CFR 233.107 require that the minor shall be informed about the requirement to live with an adult, and the rights and obligations under this requirement. Attachment H must be reproduced and provided to ADC minors when the agency believes that the minor is one who may be affected by this requirement. When the information has been added to the DSS-4148B: "What You Should Know About Social Services Programs", providing Attachment F will no longer be necessary.

Payment of the grant: When the ADC minor who is affected by this requirement is living in an approved living situation and is eligible for ADC, the ADC grant is to be paid (where possible) in the form of a protective payment to the parent, legal guardian or other relative. There is no provision in the Law to restrict a payment to a non-relative adult.

If the adult relative is willing to serve as the payee, the payment should be restricted to the adult relative. The agreement of the minor is not required. However, the minor who is required to be in a suitable living arrangement, and who is, cannot be denied assistance because the adult relative will not be the payee.

Nafziger V Blum: Previously, a pregnant HR woman would not be required to accept the offer of a home since she would soon be ADC eligible. Now, the ADC rules will apply to the pregnant HR woman if she is under age 18.

Child Support: Individuals under the age of 21 who live apart from their parents must still cooperate with child support enforcement. This is true even if a home is available but the minor decides to live with another adult relative or in a supportive living situation.

Implementation for undercare cases: A review of whether or not the ADC minor is subject to this requirement must be done at next contact or recertification.

Notice Requirements: See Section VI. 5. a. and b.

Medical Assistance-This is not a Medical Assistance requirement. A separate Medical Assistance determination must be made for any applicant/recipient under age 21 who is denied or discontinued from public assistance as a result of this provision. These individuals must cooperate with Child Support Enforcement requirements in pursuing parental support, unless they are pregnant or in the 60 day postpartum period.

G. ELIMINATION OF STATE CHARGE STATUS

Contact Persons: (Temporary Assistance) Regional Team Representative
(Claiming) Regions I-IV-Roland Levie, extension
4-7549; Region V-Marvin Gold-212-383-1733.
(Medical Assistance) Shari Niedbalec, extension
3-5503.

State Charge status has been eliminated for public assistance purposes. However, there are still some instances where 100% State reimbursement is provided for assistance given. Since the definition of State Charge is eliminated, any 100% State reimbursement will not be called State Charge.

The 100% State reimbursement is to be given only in cases containing needy Native Americans and members of their families residing on reservations in New York State for public assistance, burials and foster care cases. Only those districts with American Indian Reservations will have these categories of 100% State reimbursement. All other State charges under public assistance are eliminated.

This provision is effective April 1, 1995 for all case categories. See 95 LCM-92 for more details regarding the fiscal and claiming aspects of this provision, as well as the changes to other program areas affected by the SFY '95-'96 Budget."

While public assistance benefits paid to Mental Hygiene Releasees are no longer reimbursed at 100% state shares, Medical Assistance reimbursement for these cases continues at 100% state funding after applying applicable federal funding.

Food Stamps - There are no food stamps implications for these provisions.

Medical Assistance - State charges under the Medical Assistance program remain unchanged.

H. DRUG/ALCOHOL ABUSE RELATED PROVISIONS

Contact Persons: (Temporary Assistance) Regional Team Representative
(Medical Assistance) Shari Niedbalec, extension
3-5503

1. Permanent Disability Treatment Exemption

Currently, if the SSD determines that drug/alcohol abuse is a primary cause of an individual's need for HR, the applicant/recipient must participate in appropriate rehabilitation. An applicant/recipient is exempt from this requirement only if the applicant/recipient has a disability or impairment separate and apart from his/her drug/alcohol abuse.

The Law has changed so that now an HR applicant/recipient with a drug/alcohol abuse problem can only be exempt from the treatment requirement if the applicant/recipient has a permanent disability or impairment separate and apart from his/her drug/alcohol abuse.

In determining whether an HR applicant/recipient has a permanent disability separate and apart from the applicant's/recipient's drug/alcohol abuse, SSDs must use the established definition of disability found in Department Regulation 360-5.2(b). This regulation defines disability as:

...the inability to engage in any substantial gainful activity by reason of medically determinable physical or mental impairment which can be expected to result in death or has lasted or is expected to last for a continuous period of not less than 12 months.

When making this determination, the SSD must use the most current medical evidence available to the SSD at the time to determine whether the applicant/recipient with the drug/alcohol abuse problem should be exempted from required drug/alcohol treatment. When conducting the periodic review/redetermination of the recipient's status, medical information/documentation should be updated as necessary to insure that the determination(s) is based on the applicant's/recipient's current medical status. If a permanent disability separate and apart from drug/alcohol abuse cannot be established, the applicant/recipient must participate in appropriate drug/alcohol treatment as a condition of HR eligibility.

2. Applicants/Recipients Sanctioned by the Social Security Administration (SSA)

Currently, durational sanctions are imposed on HR applicants/recipients with drug/alcohol abuse problems who fail to comply with required outpatient treatment. As a result of the new Law, these same durational sanctions will now apply to HR applicants/recipients who lose their SSI or SSDI eligibility due to non-compliance with (SSA's) drug/alcohol treatment requirements.

(Information about the sanctions SSA imposes on recipients who fail to comply with required drug/alcohol treatment has been provided to SSDs in 95 INF-17 and 95 LCM-9. It is important to note that MA-SSI automatically continues during the SSI sanction period.)

The durational sanction for an HR applicant will begin on the date the individual applies for HR but in no case before the person's SSI or SSDI case is closed. For example, if an SSI recipient learns on March 8 that he is being sanctioned by SSA (making March 31 his last day of SSI eligibility) and applies for HR on March 10, the HR durational sanction will start on April 1, the day after his SSI eligibility ends.

An SSI or SSDI recipient sanctioned for non-compliance who applies for HR can only get HR benefits before the durational sanction has expired if that person enters a Congregate Care Level II facility. Of course, the normal 45 day waiting period for ongoing HR benefits would still apply (although emergency payments could be made to the facility for cost-of-care).

During the drug/alcohol sanction period the sanctioned individual is not eligible for emergency or immediate need assistance. Similarly, during the sanction period the SSD must not start the clock for the 45 day HR waiting period. The 45 day waiting period starts with the first public assistance application following the end of the sanction period. Emergency assistance can be granted during this 45 day waiting period.

Both drug/alcohol related provisions apply to all HR applicants and recipients including persons classified as PG-ADC (or HR-PG in NYC). These provisions do not apply to ADC applicants/recipients.

This provision is effective July 1, 1995.

Notice Requirements: See Section VI. 6.

Food Stamps - These provisions do not apply for food stamps.

Medical Assistance

Permanent Disability Treatment Exemption

(a) Medical Assistance-Only applicants/recipients who have a drug/alcohol dependency are required to be in treatment if they are Home Relief-related. If public assistance is denied/discontinued for noncompliance with treatment requirements, Medical Assistance should also be denied/discontinued for Home Relief-related individuals. However, durational sanctions do not apply to Medical Assistance. If a Home Relief applicant/recipient has been given a sanction for non-compliance with an outpatient treatment requirement, Medical Assistance can be authorized once the applicant/recipient complies with either inpatient or outpatient treatment, if otherwise eligible. Medical Assistance can also be authorized for Home Relief-related clients sanctioned on public assistance for non-compliance with inpatient treatment requirements, once the applicant/recipient complies with either inpatient or outpatient treatment, if otherwise eligible.

(b) There are no treatment requirements for ADC-related or SSI-related individuals. ADC-related and SSI-related individuals who have been denied/discontinued from public assistance for non-compliance should be given a separate Medical Assistance determination.

NOTE: Home Relief-related applicants/recipients whose substance abuse is material to their disability are not required to have a permanent disability or impairment separate and apart from their drug/alcohol dependence in order to be considered SSI-related or ADC-related. Therefore, such individuals should continue to be considered for a disability review.

Applicants/Recipients Sanctioned by SSA

There are no drug/alcohol treatment requirements for Medical Assistance-Only applicants/recipients whose SSI or SSDI payments are suspended. Home Relief cash applicants/recipients whose SSI benefits are suspended due to non-compliance with federal drug/alcohol treatment requirements must have their Medical Assistance continued. Home Relief cash applicants/recipients who have lost SSDI due to non-compliance with federal drug/alcohol treatment requirements should be given a separate Medical Assistance determination

NOTE: Until systems support is available to identify a previous SSI sanction and allow Medical Assistance to continue if a Home Relief sanction occurs, Medical Assistance workers should check past Medical Assistance coverage history information when doing separate Medical Assistance-Only determinations for all Home

Relief cash applicants/recipients who are sanctioned from public assistance due to non-compliance. If Medical Assistance coverage history indicates that an individual had been in receipt of SSI cash, a review of the case record must be made to determine whether such individual's benefits were suspended due to non-compliance with drug-alcohol treatment. If SSI payments were suspended, Medical Assistance coverage must be continued. In such cases, a separate Medical Assistance determination is not necessary because the Medical Assistance coverage is being continued on the SSI (Case Type 22) case.

I. MISCELLANEOUS ITEMS

Contact Persons: Temporary Assistance Regional Team Representative
(Medical Assistance) Shari Niedbalec, extension 3-5503

1. References to homemaker/housekeeper services have been eliminated from the public assistance section of the law.
2. GROSS income is used in determining whether or not an applicant for utility arrears must sign a repayment agreement.
3. Same Day Referral to IV-D

An applicant who is pregnant or who is the caretaker of a child with an absent/putative parent must be provided with a same day referral for child support services. "Same day referral" means the same day as the eligibility interview.

The requirement to provide same day referral to IV-D can be met by offering the applicant the (DSS-2521): Application for Child Support Services on the day of the eligibility interview. This will insure that applicants understand that they may apply for child support services at any time, and that they can receive those services even if they are ineligible for public assistance or if they decide to withdraw their application for public assistance.

Note that ADC applicants who are otherwise required to comply with child support requirements, must still comply.

In SSDs that currently refer applicants to the Child Support Enforcement Unit on the same day that the eligibility interview is conducted, the SSD may decide if the child support services application will be offered by the public assistance or the IV-D worker.

In SSDs that do not currently refer applicants to IV-D until the public assistance case is opened, the public assistance worker must offer the child support application on the day of the public assistance eligibility interview. When the applicant wants to apply for child support services, the SSD must send the child support services application to the Child Support Enforcement Unit that day.

An applicant or recipient cannot be sanctioned for refusing to sign the child support services application, unless they are otherwise required to sign the form. For example, an under 21 year old individual who is applying for public assistance may be required to cooperate in securing parental support. Because the individual's category of assistance is not ADC or ADC-U (or ADC-FC) he or she must sign the DSS-2521 as a condition of eligibility.

There is no change in the requirement that the DSS-2860: Child Support Enforcement Referral must be made within two working days of the issuance of the first grant to a new or reopened case.

Medical Assistance-This provision does not apply to Medical Assistance. Cooperation with IV-D requirements is not an eligibility requirement for Medical Assistance-Only pregnant women, nor do we honor any public assistance sanctions regarding IV-D requirements.

VI. NOTICE REQUIREMENTS

The reason language paragraphs below are for use when an applicant/recipient is affected by that change. Districts that produce public assistance closing and denial notices through the CNS will, by using the appropriate reason code, produce the required reason language.

Districts that use manual notices for denials and closings must use the appropriate State mandated (or approved local equivalent) notice:

- DSS-4013: "Action Taken on Your Application: Public Assistance, Food Stamps and Medical Assistance Coverage".
- DSS-4015: "Notice of Intent to Change Benefits: Public Assistance, Food Stamps, Medical Assistance and Services (Timely and Adequate)".

When a full explanation of the action will not fit on the notice, an attachment will be needed. Include enough information on the notice to identify the reason for the action and refer the applicant/recipient to the attachment for a full explanation. When an attachment is needed, the regulatory citation must appear on the notice.

NOTE - The Medical Assistance language that would accompany the following public assistance denial/closing reason paragraphs will be sent to districts under separate cover.

1. Home Relief Repayment Agreements (See Section V. A) Reason Code M15.

This is because applicants, whose category of assistance would be Home Relief (HR), must sign an agreement to repay public assistance overpayments and an assignment of future earnings to secure the repayment of any overpayments.

This requirement applies only to persons in the Home Relief category of assistance. Generally, adults without children are in the Home Relief category of assistance.

We asked (you/name) to sign both a repayment agreement and an assignment of future earnings. We explained that these forms would allow us to recover only public assistance that was overpaid. (You/name) would not sign the repayment agreement or the assignment of future earnings or both.

This decision is based on Social Services Law 158 (g) and Department Regulation 370.2.

2. Intentional Program Violations (See Section V.D.)

The Intentional Program Violation Notice for public assistance and food stamps has been revised to reflect the changes. The revised notice, Attachment J (pages 1-8), must be reproduced locally and used to notify affected households about the agency action.

3. Fingerimaging (See Section V.E.)

- a. Refusal to Comply With Finger Imaging Requirements Reason Code M88.

This is because (you/name), without cause, did not comply with a requirement that finger images be provided.

All adults and heads of households must have their finger images taken as a condition of receiving public assistance and public assistance food stamps. We told you that this agency had to be allowed to take finger images. You did not comply.

A case is not eligible when any adult member in the case refuses to allow finger images to be taken.

This decision is based on Department Regulation 351.2.

b. Finger Imaging Match Reason Code M99.

This is because we believe that (you are/(name is) already receiving public assistance and public assistance food stamps.

(Your/name's) finger images were matched against those of a person who is already receiving public assistance and public assistance food stamps. Because the finger images match that person, we believe that (you/name) and that person are the same person.

When the finger images of a case member match those of a person who is already receiving public assistance and public assistance food stamps, the case is not eligible.

This decision is based on Department Regulations 351.8(a)(2)(i), 351.1(b)(2)(ii) and 351.2.

4. Living Arrangements-Offer of a Home (See Section V.G.)

a. ADC Denial/Closing (Health/Safety Claim Unfounded)

When the ADC minor is denied assistance, after a health/safety claim has been determined to be unfounded, the individual is entitled to a fair hearing within 30 days of a timely fair hearing request. To allow the Office of Administrative Hearings to identify these cases and insure that the hearings are held within the statutory timeframes, the following language must be used:

An individual, under the age of 18, cannot get public assistance for himself or herself or for his or her dependent child unless the individual (and child) reside in one of the following living situations:

- the individual's parent's home, or
- the individual's legal guardian's home, or
- the home of an adult relative, or another adult supportive living situation (when a suitable home of a parent or guardian is available, but the individual will not go there).

This is true except when the individual has been married or has lived apart from the parent or guardian for at least one year before the birth of a child in his or her care, or before the application for public assistance.

This agency has investigated the claim that the home offered by (SPECIFY PARENT OR GUARDIAN) is not suitable. The agency found that living in that home will not jeopardize the health or safety of (NAME). (NAME) does not reside in an eligible living situation and cannot receive public assistance.

This decision is based on Social Services Law 131.6 and Department Regulations 369.2 and 370.2.

b. ADC Denial/Closing Reason - (No Health/Safety Claim) Reason Code N49.

An individual, under the age of 18, cannot get assistance for himself or herself or for his or her dependent child unless the individual (and child) reside in one of the following living situations:

- the individual's parent's home, or
- the individual's legal guardian's home, or
- the home of an adult relative, or another adult supportive living situation (when a suitable home of a parent or guardian is available, but the individual will not go there).

These requirements must be met unless:

- the individual has been married, or
- the individual's parent(s) or legal guardian cannot be located, or refuses to allow the individual (and child) to live in their home, or
- the individual has lived outside the home of the parent or guardian for at least one year before the birth of his or her child, or before applying for public assistance.

A suitable living arrangement is available with (SPECIFY THE NAME OF THE PARENT/GUARDIAN). (NAME) does not reside in an eligible living situation and cannot get public assistance.

This decision is based on Social Services Law 131.6 and Department Regulations 369.2 and 370.2.

5. Applicants/Recipients Sanctioned by the Social Security Administration.

First/Denial

You cannot get public assistance for 45 days beginning =(Date)=.

This is because you lost your Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits for failure to comply with the Social Security Administration's drug/alcohol treatment requirements. The beginning date of your sanction period is the date your SSI or SSDI benefits end or the date of your public assistance application, whichever is later.

If you take part in an outpatient rehabilitation program before the sanction ends, you still cannot get public assistance. If it was SSI which you lost, your Medical Assistance will be continued. If it was SSDI which you lost, your Medical Assistance will continue until a separate Medical Assistance determination is made.

You may be able to get public assistance before the sanction period ends only by going into an inpatient rehabilitation program.

This decision is based on Department Regulation 370.2.

First/Closing or Reduction:

You cannot get public assistance for 45 days from (Effective date of closing/reduction).

This is because you lost your Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits for failure to comply with the Social Security Administration's drug/alcohol treatment requirements.

If you take part in an outpatient rehabilitation program before the sanction ends, you still cannot get public assistance. If it was SSI which you lost, your Medical Assistance will be continued. If it was SSDI which you lost, your Medical Assistance will continue until a separate Medical Assistance determination is made.

You may be able to get public assistance before the sanction period ends only by going into an inpatient rehabilitation program.

This decision is based on Department Regulation 370.2.

Second/Denial:

You cannot get public assistance for 120 days beginning (Date).

This is because you lost your Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits for failure to comply with the Social Security Administration's drug/alcohol treatment requirements. The beginning date of your sanction period is the date your SSI or SSDI benefits end or the date of your public assistance application, whichever is later.

This is the second time that you are being sanctioned for this reason or because you failed to take part in or complete an outpatient drug/alcohol treatment program.

If you take part in an outpatient rehabilitation program before the sanction ends, you still cannot get public assistance. If it was SSI which you lost, your Medical Assistance will be continued. If it was SSDI which you lost, your Medical Assistance will continue until a separate Medical Assistance determination is made.

You may be able to get public assistance before the sanction period ends only by going into an inpatient rehabilitation program.

This decision is based on Department Regulation 370.2.

Second/Closing or Reduction:

You cannot get public assistance for 120 days beginning (Date).

This is because you lost your Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits for failure to comply with the Social Security Administration's drug/alcohol treatment requirements.

This is the second time that you are being sanctioned for this reason or because you failed to take part in or complete an outpatient drug/alcohol treatment program.

If you take part in an outpatient rehabilitation program before the sanction ends, you still cannot get public assistance. If it was SSI which you lost, your Medical Assistance will be continued. If it was SSDI which you lost, your Medical Assistance will continue until a separate Medical Assistance determination is made.

You may be able to get public assistance before the sanction period ends only by going into an inpatient rehabilitation program.

This decision is based on Department Regulation 370.2.

Third/Denial:

You cannot get public assistance for 180 days beginning (Date).

This is because you lost your Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits for failure to comply with the Social Security Administration's drug/alcohol treatment requirements. The beginning date of your sanction period is the date your SSI or SSDI benefits end or the date of your public assistance application, whichever is later.

This is the third time that you are being sanctioned for this reason or because you failed to take part in or complete an outpatient drug/alcohol treatment program.

If you take part in an outpatient rehabilitation program before the sanction ends, you still cannot get public assistance. If it was SSI which you lost, your Medical Assistance will be continued. If it was SSDI which you lost, your Medical Assistance will continue until a separate Medical Assistance determination is made.

You may be able to get public assistance before the sanction period ends only by going into an inpatient rehabilitation program.

This decision is based on Department Regulation 370.2.

Third/Closing or Reduction:

You cannot get public assistance for 180 days beginning (Date).

This is because you lost your Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits for failure to comply with the Social Security Administration's drug/alcohol treatment requirements.

This is the third time that you are being sanctioned for this reason or because you failed to take part in or complete an outpatient drug/alcohol treatment program.

If you take part in the outpatient rehabilitation program before the sanction ends, you still cannot get public assistance. If it was SSI which you lost, your Medical Assistance will be continued. If it was SSDI which you lost, your Medical Assistance will continue until a separate Medical Assistance determination is made.

You may be able to get public assistance before the sanction period ends only by going into an inpatient rehabilitation program.

This decision is based on Department Regulation 370.2.

VII. SYSTEMS IMPLICATIONS

Medical Assistance Systems Implications will be sent under separate cover.

WMS Upstate - systems implications, if applicable, have been included in each of the sections of Section V, Required Action.

WMS Downstate - ABEL Transmittal PA-B-95-2 dated July 26, 1995, provides workers with instructions for the use of the new Additional Needs Type Codes used to budget cases subject to the residency requirements. The new Codes will be included in the 95.3 version of software which migrated in the Production environment on September 18, 1995.

VIII. ADDITIONAL INFORMATION

When a person is ineligible for recurring or emergency public assistance because of the new limitations on Home Relief, employment, drug/alcohol abuse related, or other sanctions, lump sum or any other reason, it is State policy that the local district is not responsible for using public assistance for meeting any homeless or emergency needs which may result. This has been clearly outlined in 94 ADM-20 "Preventing Homelessness and Providing Assistance to Homeless Persons" in sections V. D. 1. and V. F. 2.

IX. EFFECTIVE DATE

Varies with specific sections of Article VII.

Patricia A. Stevens
Deputy Commissioner
Division of Economic Security