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Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
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Brian J. Wing
Commissioner

Administrative Directive

Section 1

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| Transmittal: | 02 ADM 2 |
| To: | Local District Commissioners |
| Issuing Division/Office: | Division of Temporary Assistance |
| Date: | March 4, 2002 |
| Subject: | Meeting the Emergency/Immediate Needs of Temporary Assistance (TA) Applicants/Recipients |
| Suggested Distribution: | Temporary Assistance Directors, Food Stamp Directors, Staff Development Coordinators, WMS Coordinators, Fair Hearing Staff, Medicaid Staff, CAP Coordinators, HEAP Coordinators |
| Contact Person(s): | Central Team (TA) at 1-800-343-8859; extension 3-9344, Eastern Team (FS); extension 3-1469, Western Team (HEAP); extension 3-0332. Medicaid contacts: Local District Liaison at (518) 474-8216, or, for New York City, (212) 268-6855. |
| Attachments: | None |
| Attachment Available On – Line: | <input type="checkbox"/> |

Filing References

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|---|----------------------------------|---|---|---|------------|
| 01 ADM-3 96 ADM-20 94 ADM-20 94 ADM-11 93 ADM-35 91 ADM-43 89 ADM-6 86 ADM-7 01 INF-23 00 INF-21 00 INF-3 99 INF-15 95 INF-7 93 INF-3 86 INF-21 94 LCM-153 | 86 ADM-7 89-ADM-6 95 INF-7 | 350.3(c)(3) 350.8(c)(3) 351.8(c)(4) 352.11 352.23 352.35 370.3 370.5 372 397 369.1(b) | SSL 133 SSL 131-s SSL 143 SSL 143-a SSL 144-a | Energy/HEAP Manual PASB Section XV Section IV-F | |

Section 2

I. Purpose

This release replaces Administrative Directive 86 ADM-7, "Meeting Immediate Needs of Applicants for Public Assistance". It provides clarification of information presented in 86 ADM-7 and information on meeting the additional needs of Temporary Assistance (TA) recipients.

II. Background

Social Services Law (SSL) 133 requires districts to grant TA pending the completion of an investigation to a person in an immediate need situation. Regulations 18 NYCRR 351.8(c)(3) and 351.8(c)(4) define what constitutes an emergency and 18 NYCRR 351.8(c)(4) reiterates the district's obligation to meet immediate needs. 18 NYCRR 350.3(c) establishes the requirement for same day interviews.

86 ADM-7 was released in 1986 and has remained the standard for meeting emergency and immediate needs. After its release, the Office held two teleconferences on this topic, which provided clarification and additional information on resources, domestic violence, processing timeframes, additional allowances and sanctions.

III. Program Implications

This new release will assist local districts in meeting their responsibility in the area of emergency and immediate needs by providing clarification and updated information.

IV. Required Action

A. Applicants

An applicant is a person who has expressed in writing on the State-prescribed form directly, or by a designated representative, to a social services official a desire to receive assistance and/or care, or to have his/her eligibility for assistance and care considered. The request may be made by the applicant, any adult member of the applicant's family or by any person acting on the applicant's behalf including a relative, friend or, other agency or institution. The completed and signed application may be submitted at any time during regular business hours, either in person or by mail.

Districts are required to respond to an applicant's declaration of an emergency situation at the time of application for TA and to provide appropriate notice to the applicant regarding the meeting of their immediate need(s). Districts are required to assess the emergency situation and if an immediate need is determined to exist, meet the immediate need the same day the applicant comes into the office. Districts must first determine if an emergency situation exists, then if the emergency constitutes an immediate need and finally how to resolve the emergency/immediate need.

An applicant may identify emergency needs on the application form or verbally at any time during the application process. The emergency may or may not constitute an immediate need. Districts must question the applicant to determine whether an immediate need exists if the applicant is unable to articulate their needs in a clear manner.

Applicants include those applying for ongoing assistance and those seeking emergency assistance only to meet a specific need. All identified emergencies trigger a same day interview and the issuance of a

same day notice, "Notice of Acceptance/Denial to Meet an Immediate Need or a Special Allowance" (LDSS-4002).

Emergency situations include:

- Little or no food
- No shelter
- Threat of eviction, pending eviction, homelessness
- No fuel for heating during cold weather
- Utility disconnection notice with a shut-off scheduled within 72 hours
- Utilities have already been disconnected
- Lack of items necessary for health and safety

Districts must attempt to obtain as much verification as possible from the applicant or through collateral contacts. However, at a minimum, districts must verify identity, family composition and citizenship/alien status prior to meeting an immediate need. Applicants must demonstrate a good faith effort obtaining documentation, including providing appropriate collateral contacts to verify the basic information required. Collateral contacts may include neighbors, religious leaders, shelter providers, etc. Applicants who cooperate but lack required information may be granted short-term assistance until verification can be obtained or until ineligibility is determined. Local districts must assist applicants when they are unable to obtain documentation despite their cooperation. For example, a district may contact a utility company for disconnection information, a fuel dealer for customer of record verification, a landlord for possible eviction or residence information, religious leaders to help determine marital status, etc.

Districts seeking wage verification must be aware that employers doing business in New York State may not charge a fee for providing such information (SSL 143). In addition, retail installment sellers, small loan companies, sales finance companies or banking and financial organizations are required to comply with district requests for information in specified formats if practicable (Banking Law 4).

Income and Resources

To meet an emergency/immediate need districts must explore all available resources and income, including available resources in the community, before the district can grant assistance. Emergency/immediate need financial eligibility determination is not subject to the same budgeting process by which financial eligibility is determined for ongoing cash/non-cash assistance. Financial eligibility for assistance to meet an emergency/immediate need is based on available income and resources (cash and non-cash) to meet the emergency/immediate need. The category of assistance under which the payment is authorized may include separate income or other eligibility criteria for some types of emergency situations (see Section D of this Directive).

Examples of possible resources include:

- Cash on hand (not credibly earmarked for essential items such as transportation expenses for employment/medical needs, food or necessary items of need as identified under Part 352)
- Credit cards (**not required for TA recipients**)
- Advance of wages when possible
- Family/friends
- Accessible and available community resources
- Intervention (e. g., contacting landlord to forestall eviction until wages are received)
- Expedited processing of food stamps (if eligible)
- Home Energy Assistance Program (if available and eligible)

- Deferred Payment Agreements with utility companies
- Low income programs available through some utility companies (if eligible)

The resource exemption limits (\$2,000/\$3,000) specified in 18 NYCRR 352.23(b) do not apply. All resources and income must be actually available and accessible to the applicant in time to meet the emergency/immediate need. Applicants must be required to use available liquid resources to offset or lessen the need for cash assistance (direct or indirect) granted by the district.

- Resources must be liquid or easily converted to cash. For example, a non-essential automobile is not a liquid resource if it cannot be easily converted into cash in time to meet the immediate need.
- Income or resources that are credibly earmarked to meet specific basic essential items or needs such as transportation expenses for employment/medical needs, food or other items of need identified in Part 352, must not be considered available. Income and resources may be considered credibly earmarked for such items if the applicant is able to document the actual immediate pending expense, and that there are no other means available to meet these other need(s). For example, if food may be obtained to meet the need through a community food bank, then applicants claiming that funds are earmarked for the purchase of food would not be acceptable.
- Resources or income for persons fleeing domestic violence are considered unavailable to the applicant if the income or resources belong to the batterer or if accessing them compromises the victim's safety, or that of his/her family (94 ADM-11).

B. Recipients

1. Additional Allowances

Districts must meet the emergency/immediate needs of recipients of TA. Districts must display the LDSS-3814, "Temporary Assistance Additional Allowances and Other Help" in client waiting areas and provide it to any local community groups upon request. When a recipient states that they have an emergency need, the district must conduct a same day interview, provide a same day notice (LDSS-4002), complete the "Request for an Additional Allowance by a Public Assistance Recipient" (LDSS-3815) and must explore available income and resources, including community resources and HEAP. Recipients may request the assistance over the phone or by mail. A face-to-face interview is not required. When a recipient requests assistance with an emergency over the telephone, a notice (LDSS-4002) must be completed and mailed to the recipient, along with a completed "Request for an Additional Allowance by a Public Assistance Recipient" (LDSS-3815). Emergency assistance for recipients of TA is generally provided through the recipient's category of assistance, i. e. FA or Safety Net Assistance (SNA). If the emergency need of a recipient does not fit into an item of need outlined in Part 352, services such as car insurance/car repairs may be authorized under Emergency Assistance to Needy Families with Children (EAF) if otherwise eligible.

Districts must address the emergency/immediate needs of recipients through additional allowances. When no emergency need is identified, the district has 30 days to make a decision on granting an additional allowance (e. g. pregnancy allowance). If the request constitutes an emergency need, the district must issue a same day notice even when no emergency is determined to exist. In either instance, the LDSS-4002 is used to notify the recipient of the acceptance or denial of the request for an additional allowance.

Examples of additional allowances include:

- restaurant allowance
- pregnancy allowance
- rent security deposit or agreement

- brokers'/finders' fees
- repair of essential household items
- storage of furniture and personal belongings
- moving expenses
- back rent
- back mortgage and/or taxes
- furniture and other household items

Income and Resources

To meet an emergency/immediate need districts must explore all available resources (cash and non-cash) and income, including available resources in the community, before the district can grant assistance. The resource exemption limits (\$2,000/\$3,000) specified in 18 NYCRR 352.23(b) do not apply. All resources and income must be actually available and accessible to the recipient in time to meet the emergency/immediate need. Recipients must be required to use available liquid resources to offset or lessen the need for cash assistance (direct or indirect) granted by the district.

- Resources must be liquid or easily converted to cash. For example, a non-essential automobile is not a liquid resource if it cannot be easily converted into cash to meet the immediate need.
- Income or resources that are credibly earmarked to meet specific basic essential items or needs such as transportation expenses for employment/medical needs, food or other items of need identified in Part 352, must not be considered available. Income and resources may be considered credibly earmarked for such items if the applicant is able to document the actual pending expense, and that there are no other means available to meet these other need(s). For example, if food may be obtained to meet the need through a community food bank, then applicants claiming that funds are earmarked for the purchase of food would not be considered acceptable.
- Resources or income for persons fleeing domestic violence are considered unavailable to the recipient if the income or resources belong to the batterer or if accessing them compromises the victim's safety, or that of his/her family (94 ADM-11).

Examples of possible resources for TA recipients include:

- Cash on hand (not credibly earmarked for essential items such as transportation expenses for employment/medical needs, food or necessary items of need identified under Part 352)
- Money in bank account (an account not exempted under SSL 131-n)
- Advance of wages when possible
- Family/friends
- Accessible and available community resources
- Intervention (e. g., contacting landlord to forestall eviction)
- Expedited processing of food stamps (if eligible)
- Home Energy Assistance Program (if available and eligible)
- Deferred Payment Agreements with utility companies
- Low income programs available through some utility companies (if eligible)

2. Advance Allowances-Shelter/Utilities/Fuel

Not all additional allowances provided to recipients to meet emergency/immediate needs of recipients of TA are provided as advance allowances and are subject to recoupment (18 NYCRR 352.11). Districts may issue an advance allowance to a recipient of FA or SNA only when the recipient makes the request in writing and agrees to the recoupment of the advance allowance in writing. When a recipient requests assistance with a utility related emergency, the district must apply the management test [Energy/HEAP Manual, Section VII, 18 NYCRR 352.5(2)] to determine if recoupment of the advance allowance and

the restriction of future payments are required. Payments made to obtain non-utility fuel deliveries for recipients of TA are not subject to the provisions of the management test, and are always subject to recoupment.

Additional allowances made to recipients of TA to forestall an eviction or foreclosure are advance allowances made in accordance with 18 NYCRR 352.7(g)(4). Recipients must agree to use all available liquid resources necessary to meet the eviction or foreclosure; demonstrate an ability to pay shelter expenses in the future even in excess of their shelter allowance; agree to the future restriction of rent or mortgage payments; and must not have requested a discontinuance of a shelter restriction due to previous payments for threats of eviction or foreclosure as a recipient.

C. Sanctioned Persons

The purpose of a sanction is to impose a penalty when an individual or family member will not comply with TA program rules. Providing assistance to an otherwise eligible person to cover a period during which the person was sanctioned would violate the intent of the sanctioning process. For multi-person households where a member is, or was sanctioned for non-compliance with TA program rules, assistance provided to meet an emergency cannot include the share of the person to cover a period during which he/she was sanctioned (except for emergencies met under SSL 131-s). Individuals or households that failed previously to comply with initial eligibility requirements (prior to case opening) for ongoing assistance are not considered sanctioned for the purpose of determining amount of emergency assistance that may be granted. A case that is opened with a grant reduction or denied because of a voluntary job quit is considered in sanction status for the purpose of granting emergency assistance (except for emergencies met under SSL 131-s).

The amount of assistance granted to meet an emergency/immediate need of an applicant or a recipient who is either subject to a sanction or was subject to a sanction for the period for which assistance is requested must be adjusted accordingly. Districts must first determine if the sanction caused an incremental reduction, a prorata reduction or a 25% reduction in needs (IV-D sanction). The calculated amount of assistance that can be paid must meet the emergency/immediate need, or the assistance may not be granted. This process does not apply to utility related emergencies/immediate needs met under SSL 131-s. For further information on this topic, please see 99 INF-15, "Emergency Assistance and Sanctioned Persons".

D. Authorization of Payments

Prior to authorizing payments under TA or TA emergency programs, districts must first determine if other funds or mechanisms are available to meet the emergency/immediate need. For example, if there is a declared energy related emergency/immediate need, districts must explore the availability of HEAP. HEAP is not subject to repayment or recovery and may be used to meet the energy-related need for both applicants and recipients.

1. Diversion Payments

Districts should consider using diversion payments to meet certain emergencies. Diversion payments are issued to divert applicants from the need for ongoing assistance by meeting a specified once only or short-term item of need. These types of payments are important since they are considered "non-assistance" and do not impact a person's time limit count. These payments may be made to families who are categorically eligible for Family Assistance (FA) and the federal component of Safety Net Assistance (SNA-FP, Case Type 12), or to persons categorically eligible for FA or SNA-FP, but

ineligible to receive federally funded benefits due to time limit restrictions. There are three types (four payment types) of diversion payments.

First, there are payments (D7-Transitional Services Payments) used to authorize employment-related expenditures to households who are no longer in receipt of FA or SNA-FP whose case closed because of employment (earnings).

Second, there are payments (D9-Diversion Transportation Payment) for employment-related transportation for employed applicants who may or may not have received FA or SNA-FP in the past.

Third, there are payments (F5-Diversion Payment) to deal with a specific crisis situation or episode of immediate need to avoid the need for ongoing assistance. These payments may not be used for transportation expenses, childcare expenses, costs associated with applicant job search, or for work-related items. This pay type should be used for payments to forestall foreclosure (not eviction), moving expenses, storage fees or household structural or equipment repairs. Another payment type (F6 – Diversion Rental Payment) must be used to deal specifically when authorizing short-term diversion payments for rent including eviction.

These pay types cannot be used to authorize payments on Safety Net Assistance federally non-participating case types (SNA-FNP), utility shut-offs or to pay a security deposit or broker's fees.

Diversion payments should be made through Emergency Assistance to Needy Families with Children (EAF) or closed FA or SNA-FP cases. In addition, these payments may be issued through "application status" FA cases when the issuance has the potential to prevent the need for the opening of the ongoing FA case. More information regarding diversion payments may be found in 00 INF-3, "TA Diversion Payments: Clarification of the Purpose and Use" and 01 INF-23, " TA Diversion Payment Type F6-Diversion Rental Payment".

2. Categories of Emergency Assistance

Emergency assistance for recipients of TA is generally provided through the recipient's category of assistance, i. e. FA or Safety Net Assistance (SNA). If the emergency need of a recipient does not fit into an item of need covered under Part 352, services such as car insurance/car repairs may be authorized under Emergency Assistance to Needy Families with Children (EAF) if otherwise eligible. The emergency/immediate needs of applicants not yet determined eligible to receive FA or SNA, are met through one of the emergency categories of assistance described below.

a. Emergency Assistance To Needy Families with Children (EAF)(18 NYCRR 372)

EAF is a federally funded program available in districts to meet the emergency needs of families with children to deal with emergency/immediate needs resulting from a sudden occurrence or set of circumstances demanding immediate attention. EAF must be provided to or on behalf of a needy child under the age of 18 or under the age of 19 and a full-time student providing:

- the child is currently living with an adult related by blood, marriage or adoption;
- the child is without resources immediately accessible to meet his or her needs and those needs cannot be met under Part 352 by an advance allowance;
- emergency assistance is necessary to avoid destitution of the child or to provide living arrangements for him or her in a home;

- the child's destitution or need for living arrangements did not arise because the child or a relative with whom he or she lives refused without good cause to accept employment or training for employment;
- for a recipient of TA, such destitution did not arise from the mismanagement of a TA grant, or the emergency grant being applied for will not replace or duplicate a TA grant already made under Part 352; and
- assistance provided must not duplicate TA for which a person is eligible or would be eligible but for an employment (Part 1300 of Title 12 NYCRR) or other program sanction.

Financial eligibility for EAF is not based on financial eligibility for TA, but upon income and resources actually available to meet the emergency/immediate need. EAF is generally provided as a non-recoverable grant. However, shelter payments made above the agency maximum are recoverable. Additionally, some households are required to sign a repayment agreement for utility arrears assistance granted under EAF. Households not categorized as TA or as Supplemental Security Income (SSI) households, and whose households' gross income on the date of application exceeds the TA standard of need for that size household, must sign a repayment agreement for utility arrears assistance granted under EAF.

Frequent re-applications for EAF to meet emergency needs other than fuel/utility related emergencies and those needs met as diversion payments under EAF, must be carefully reviewed. If it is determined that an individual has repeatedly applied for relief under EAF to meet what appears to be on-going basic needs, the application for emergency assistance only may be denied and the person may be required to apply and comply with recurring TA in order to receive any assistance including emergency assistance.

Districts may require a deed, mortgage or lien on real property as a condition of receiving EAF.

Families who are no longer receiving TANF-funded assistance because an adult family member has reached the State sixty-month time limit can receive federally reimbursed EAF because such EAF payments meet the federal definition of non-assistance. There is no limit on the number of TANF-funded non-assistance payments. These payments may be used to address a need that is not expected to last beyond four months. Non-assistance payments address one-time or short-term needs.

EAF cannot be authorized as a recurring payment and cannot be used to meet ongoing needs.

b. Emergency Safety Net Assistance (ESNA)(18 NYCRR 370.5)

ESNA is available in districts to meet emergency/immediate needs of households not eligible for EAF, recurring TA, Emergency Assistance for Adults (EAA) or HEAP. Financial eligibility for ESNA is not based upon financial eligibility for ongoing TA but upon income and resources actually available to meet the emergency/immediate need and upon the 125% Gross Income Test. As with EAF, utility repayment agreements may be required of applicants receiving assistance to meet a utility related emergency/immediate need payment. To receive assistance with shelter arrears under ESNA, applicants must sign a repayment agreement.

For emergencies other than fuel/utility related and catastrophes, districts must determine if the applicant's gross income exceeds 125% of federal poverty guidelines as published in the Federal Register each February. This Office issues guidelines effective April 1st of each year reflecting this income level via a General Information System (GIS) release. To be eligible for assistance under ESNA, applicants must have income at or below the appropriate income standard unless the emergency is fuel or utility related (18 NYCRR 352.5(c-e) or the emergency resulted from fire, flood or other like catastrophe.

Frequent re-applications for ESNA to meet emergency needs other than fuel/utility related emergencies must be carefully reviewed. If it is determined that an individual has repeatedly applied for relief under ESNA to meet what appear to be on-going basic needs, the application for emergency assistance only may be denied and the person required to apply and comply with recurring TA in order to receive any assistance including emergency assistance.

c. Emergency Assistance for Adults (EAA)(18 NYCRR 397)

EAA is available to meet certain specified emergency/immediate needs of applicants who have been determined eligible for or are receiving SSI. Resources under EAA are exempted up to the resource limits under the SSI program. Districts must consider only resources above the SSI limit as available to meet or reduce the need for EAA when granting assistance under EAA to meet emergency/immediate needs. Needs specifically allowed under EAA are outlined in 18 NYCRR 397.5. If the need is not one listed in these regulations, meeting the need under ESNA must be explored.

V. Systems Implications

Additional diversion payment codes not currently available in New York City are under development. Further details will be transmitted under a different release when they become available. There are no Upstate systems issues.

VI. Additional Information (Optional)

A. Medicaid Implications

Questions concerning immediate needs for Medicaid applicants should be directed to your Local District Representative as noted on the first page of this directive.

B. Food Stamp Implications

TANF-funded diversion payments are excluded from income as non-recurring lump sums when calculating Food Stamp Benefits. These payments are intended to alleviate an emergency situation and preclude the need for on-going cash assistance. An Emergency Safety Net Assistance (ESNA) payment may be excluded as a reimbursement, to the extent that the payment does not exceed actual expenses and is not a net gain or benefit to the household. Reimbursements for ordinary household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit, and therefore, are not excluded as reimbursements. To be excluded, these payments must be provided specifically for an identified expense other than normal living expenses. An ESNA payment to forestall eviction, for example, cannot be excluded as a reimbursement, but would be excluded as a lump sum.

When a household notifies a district that it has little or no food or expresses concerns about having insufficient funds to purchase food (food insecurity), districts must encourage an application for Food Stamp benefits, and explore the possibility that the household may be eligible for expedited processing. Applying for or utilizing available resources is not a Food Stamp eligibility requirement.

C. Home Energy Assistance Program (HEAP) Implications

HEAP is a federally funded energy assistance program designed to assist low-income persons in meeting residential energy needs. Benefits are based on the availability of federal funds and are issued on a first come, first served basis.

Specific information on program operation dates, eligibility and benefits is found in the HEAP section of the Energy/HEAP Manual.

D. Notices

All identified emergencies require districts to issue a same day notice, "Notice of Acceptance/Denial to Meet an Immediate Need or a Special Allowance" (LDSS-4002). The notice must clearly explain to the applicant or recipient how the emergency/immediate need will be met. This must be completed and provided to the applicant or the recipient even if no direct relief is to be provided by the district. For example, the declared "no food" emergency need of an applicant may be met through a referral to an available food pantry. The LDSS-4002 must state that the referral is available and meets this need. If assistance is denied, the notice must inform the applicant/recipient if the emergency is not an immediate need, noting the reasons for the decision.

Districts must provide the LDSS-3814, "Temporary Assistance Additional Allowances and Other Help" at application, display it client waiting areas and provide it to any local community groups upon request.

When a recipient requests assistance with an emergency over the telephone, an LDSS-4002 must be completed and mailed along with a completed "Request for an Additional Allowance by a Public Assistance Recipient" (LDSS-3815). This process is used to notify the recipient of the acceptance or denial.

VII. Effective Date

Immediately

Issued By

Name: Patricia A. Stevens

Title: Deputy Commissioner

Division/Office: Division of Temporary Assistance