

Office of Temporary and Disability Assistance

Pursuant to the State Administrative Procedure Act (SAPA) § 207, the Office of Temporary and Disability Assistance (OTDA) must review at regular intervals those regulations that were adopted on or after January 1, 1997. The purpose of the review is to determine whether the regulations should be retained as written or modified. On January 16, 2013, OTDA published in the New York State Register a list of regulations from Title 18 of the New York Codes, Rules and Regulations (NYCRR) that OTDA adopted in 2008, 2003, and 1998. Those regulations are set forth below:

Rules Adopted in 2008

A. TDA-02-08-00002 Recertification of Public Assistance Recipients*

Amended 18 NYCRR § 351.21(b), (c) and (f)(5) and 351.22(a), (b), (c)(1), and (f), and added 18 NYCRR § 351.22(b)(3) to provide for a waiver, by the social services districts (SSDs), of face-to-face recertification requirements, subject to OTDA approval.

Analysis of the need for the rule: The amendments were developed to provide SSDs the opportunity to request waivers from the OTDA of certain face-to-face recertification interviews for public assistance recipients.

Legal basis for the rule: Social Services Law (SSL) §§ 20(3)(d), 34(3)(f), 131(1), 134-a(3), and 355(3).

B. TDA-28-08-00002 Home Energy Assistance Program (HEAP)*

Amended 18 NYCRR § 393.4(c)(3), (5); renumbered 18 NYCRR § 393.4(c)(4) to be § 393.4(c)(5) and added 18 NYCRR § 393.4(c)(4) to establish a new HEAP benefit level for low-income households in certain living arrangements.

Analysis of the need for the rule: The amendments were developed to establish a new HEAP benefit level for low-income households in certain living arrangements in order to enhance participation and benefits for certain Food Stamp Program applicants and recipients. By federal regulation, receipt of a HEAP benefit, regardless of the amount of the HEAP benefit, enables food stamp applicants or recipients to maximize the Food Stamp Standard Utility Allowance. (Note: the Food Stamp Program was renamed the “Supplemental Nutrition Assistance Program” [SNAP] on August 29, 2012. In order to maintain temporal consistency with the language of the regulations reviewed herein, the program is hereinafter referred to as the “Food Stamp” Program).

Legal basis for the rule: Chapter 94 of Title 42 of the United States Code (U.S.C.); 42 U.S.C. § 8624(c), (b)(12); SSL § 97(1), (2).

C. TDA-28-08-00003 Food Stamp Program*

Amended 18 NYCRR § 387.16(e) and (f) and added 18 NYCRR § 387.16(e)(1)-(2) and (f)(1)-(2) to establish a new food stamp budgeting methodology for certain residents in group living arrangements.

Analysis of the need for the rule: The amendments were developed to establish a new, equitable method of calculating the food stamp benefits for residents of group living facilities and drug or alcoholic treatment facilities. It eliminated the differences between the food stamp benefit calculations done for residents who receive public assistance and those who receive Supplemental Security Income (SSI) by basing the calculations on the pertinent SSI rates.

Legal basis for the rule: Chapter 51 of Title 7 of the U.S.C.; 7 U.S.C. §§ 2011 and 2013; SSL §§ 95 and 95-a.

Rules Adopted in 2003

D. TDA-32-02-00004 Shelter Allowance*

Amended 18 NYCRR Part 352 and § 381.3(c) to establish new provisions concerning the shelter allowance.

Analysis of the need for the rule: The amendments were developed in order to provide a shelter allowance that reflected the cost of acceptable quality housing; provide for a supplement to ensure that family units facing special circumstances may be kept together in a home-type setting; maintain strong incentives to work; increase fairness and equity in the provision of public benefits; affect household composition; and simplify grant administration.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-a(2), 158, 349, and 355(3).

E. TDA-49-02-00006 Adjustment of Public Assistance Grants*

Amended 18 NYCRR § 352.17(e) to establish a reasonable administrative processing period within which a social services official was required to adjust a public assistance grant or calculate the amount of any overpayment of a public assistance grant as a result of new or increased earnings.

Analysis of the need for the rule: The amendments were developed to: encourage public assistance recipients to obtain employment and become self-sufficient; permit public assistance recipients to pay for employment-related expenses before their benefit levels are reduced; and allow SSDs to adjust benefit levels without also having to calculate an overpayment of assistance.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-a, and 355(3).

F. TDA-49-02-00007 Public Assistance and Food Stamps*

Amended 18 NYCRR §§ 350.3(a), 387.1(e)(1), and 387.5(j) and (k) limit the use of an authorized representative to persons who were unable to file an application for public assistance or food stamps.

Analysis of the need for the rule: The amendments were developed to help ensure that the information given to a case worker by an authorized representative concerning a person's eligibility for public assistance or food stamps is accurate and reflects existing household circumstances. The amendments affecting the Food Stamp Program implement federal regulations.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 95, 131(1), and 355(3); Title 7, Part 273, § 2, subdivision (n) of the Code of Federal Regulations (C.F.R.).

G. TDA-49-02-00008 Vehicle Resource Level*

Amended 18 NYCRR § 352.23(b) establish resource exemption levels for vehicles owned by public assistance recipients and authorize SSDs to exempt, as a resource, funds deposited in a bank account by such recipients if the account did not exceed a certain level and if the funds were used to purchase a first or used vehicle to enable the recipients to seek, obtain, or maintain employment.

Analysis of the need for the rule: The amendments were developed to implement legislative changes to the SSL.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-n, and 355(3).

H. TDA-49-02-00009 Eligibility for Emergency Assistance to Needy Families with Children (EAF)*

Amended 18 NYCRR §§ 369.1, 372.2 and 372.4 to conform the EAF regulations to federal laws and regulations; eliminate the potential for federal penalties for incorrect use of funds in the EAF program; and remove unnecessary and restrictive limits on the amount of EAF benefits that can be provided to repair an EAF recipient's home.

Analysis of the need for the rule: The amendments were developed to: eliminate the potential for federal penalties; conform the regulations to federal law and regulations; and remove an unnecessary limit on the amount of EAF benefits that can be used to repair an EAF recipient's home.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 350-j, 355(3) and 410-u; Social Security Act §§ 404(a)(2), 408(a)(1)(A), and 409(a)(1)(A) and (B). The referenced SSL sections required OTDA to promulgate regulations necessary for the implementation of the provisions of the EAF program.

I. TDA-49-02-00010 Food Stamp Certification Periods*

Amended 18 NYCRR § 387.17(a) to extend, from 12 months to 24 months, the food stamp certification period for households in which all adult members are elderly or disabled.

Analysis of the need for the rule: The amendments were developed to: implement federal requirements concerning food stamp certification periods; significantly ease and streamline the processing procedures for SSDs; and enhance access to food stamps for elderly or disabled persons.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 95; Title 7, Part 273, § 10, subdivision (f) of the C.F.R..

J. TDA-49-02-00011 Eligibility for Food Stamps*

Amended 18 NYCRR §§ 358-2.28, 358-2.29, 358-3.1(f), 387.7(a) and (g), 387.14(g)(1)(ii) and 387.17 to implement federal requirements concerning the food stamp application and certification processing requirements.

Analysis of the need for the rule: The amendments were developed to: implement federal requirements concerning the food stamp application and certification processing requirements; significantly ease and streamline the processing procedures for SSDs; and enhance access to food stamps for eligible households.

Legal basis: SSL §§ 20(3)(d), 34(3)(f) and 95; Title 7, Part 273, §§ 2, 10, and 12 of the C.F.R..

K. TDA-19-03-00008 Eligibility for Food Stamps*

Amended 18 NYCRR § 387.14(a)(5)(i) and (ii) to extend categorical eligibility for food stamps to recipients of Safety Net Assistance (SNA).

Analysis of the need for the rule: The amendments were developed to extend categorical eligibility for food stamps to recipients of SNA.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 95.

L. TDA-19-03-00009 Eligibility for SNA*

Amended 18 NYCRR § 352.20(c) to allow for the percentage earned income disregard to be provided to all SNA cases eligible for family assistance (FA) except for the imposition of the 60-month State limit on the receipt of FA.

Analysis of the need for the rule: The amendments were developed to allow for the percentage earned income disregard to be provided to all SNA cases eligible for FA except for the imposition of the 60-month State limit on the receipt of FA.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131-a(1), 131-a(8)(a)(iii), 158, 349, and 355(3).

M. TDA-19-03-00010 Fair Hearings*

Amended 18 NYCRR Part 358 to make technical changes that were primarily needed to conform the regulations concerning fair hearings to the Welfare Reform Act of 1997.

Analysis of the need for the rule: The changes, in part, reflected the following: the creation of OTDA and the Office of Children and Family Services (OCFS); the responsibility of the Department of Health for the medical assistance program; the responsibility of the Department of Labor for the public assistance employment programs (subsequently repealed); the responsibility of OCFS for certain services programs; and the responsibility of the Office of Administrative Hearings within OTDA for conducting hearings on behalf of such agencies. The addition of § 358-5.9(e) concerned the issuance of subpoenas in fair hearings.

Legal basis: Chapter 436 of the Laws of 1997, constituting the Welfare Reform Act of 1997; SSL §§ 20(3)(d), 22(8), and 34(3)(f).

N. TDA-20-03-00001 Trust Assets*

Amended 18 NYCRR § 352.22(e)(1) and repealed 18 NYCRR § 352.22(e)(2) to clarify the regulations concerning the treatment of trust funds and the eligibility for public assistance.

Analysis of the need for the rule: The amendments revised the regulations concerning the treatment of trust assets for purposes of determining whether such assets can be used to provide for the basic maintenance needs of the trust beneficiary when such beneficiary was in receipt of or applied for public assistance.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-n, and 355(3).

O. TDA-23-03-00002 Food Stamp Reporting*

Amended 18 NYCRR §§ 358-3.3(e)(3), 387.14(a)(5)(ii)(b), and 387.17 to establish new requirements for reporting information to SSDs concerning eligibility for food stamps.

Analysis of the need for the rule: The amendments were developed to: implement federal regulations concerning the food stamp application and certification processing requirements; and simplify the reporting requirements for food stamp recipients with earnings.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 95; Title 7, Part 273, §§ 10 and 12 of the C.F.R..

Rules Adopted in 1998

P. TDA-49-97-00006 Learnfare Program*

Added 18 NYCRR § 351.12 to implement the Learnfare Program.

Analysis of the need for the rule: The amendments were developed to implement the Learnfare Program, which was intended to prevent children from dropping out of school and improve the attendance of children in school.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131-y.

Q. TDA-49-97-00007 Food Assistance Program*

Amended the Title of 18 NYCRR Part 358 and 18 NYCRR § 358-1.1, and added 18 NYCRR Part 388 and § 358-2.27 to implement the Food Assistance Program.

Analysis of the need for the rule: The amendments were developed to implement the Food Assistance Program.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 95(10).

R. TDA-02-98-00003 Child Assistance Program (CAP)

Added 18 NYCRR Part 366 to implement provisions of Chapter 436 of the Laws of 1997 concerning the CAP.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning the CAP, which was a district optional component of the FA program designed to encourage FA recipients to take steps towards financial self sufficiency.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131-z.

S. TDA-02-98-00004 Law Enforcement Cooperation*

Amended 18 NYCRR § 357.3 to implement provisions of Chapter 436 of the Laws of 1997 concerning law enforcement cooperation.

Analysis of the need for the rule: The amendments, permitting social services officials to contact law enforcement officials under certain circumstances, were developed to implement SSL § 136, as amended by Chapter 436 of the Laws of 1997, and to implement mandatory provisions of § 408 (a)(9)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 136.

T. TDA-02-98-00005 Earned Income Disregards for Recipients of Public Assistance

Repealed 18 NYCRR § 352.17(b)(1)(iii) and amended 18 NYCRR §§ 352.18, 352.19, and 352.20 to implement provisions of Chapter 436 of the Laws of 1997 concerning the calculation of earned income disregards for recipients of public assistance.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which revised certain income disregards used in calculating eligibility for public assistance.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131-a; Chapter 436 of the Laws of 1997.

U. TDA-02-98-00006 Sanctions for Non-Compliance

Amended 18 NYCRR § 352.30 to provide sanctions for noncompliance with work rules and drug or alcohol screening.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which changed the sanction from an incremental reduction of benefits to a pro rata reduction of benefits for a failure to comply with the work requirements of 18 NYCRR Part 385. A similar sanction was imposed by Chapter 436 of the Laws of 1997 on persons who failed to participate in a drug or alcohol screening program.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 132(4)(f), and 342; Chapter 436 of the Laws of 1997.

V. TDA-02-98-00007 Local Flexibility Incentive Pilot Programs

Added 18 NYCRR § 300.9 to implement provisions of Chapter 436 of the Laws of 1997 concerning local flexibility incentive pilot programs.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning local flexibility incentive pilot programs to enable SSDs to develop and implement innovative, flexible and efficient human service programs.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 36-b; Chapter 436 of the Laws of 1997.

W. TDA-02-98-00008 Intentional Program Violations

Amended 18 NYCRR § 352.30 and Part 359 to impose sanctions for intentional program violations in the FA and SNA Programs.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning the imposition of sanctions for intentional program violations in the FA and SNA Programs.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 145-c; Chapter 436 of the Laws of 1997.

X. TDA-02-98-00009 SNA Program*

Amended 18 NYCRR Part 370 to provide the standards for the SNA Program.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which included the replacement of the term “home relief” with “safety net assistance” throughout the Part. Many of the requirements for home relief remained under the SNA Program; however, the amendments added several new provisions for eligibility for, and the provision of, SNA.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 157 -159; Chapter 436 of the Laws of 1997.

Y. TDA-02-98-00010 Replacement of Identification Cards*

Amended 18 NYCRR §§ 383.1 and 383.3 to implement provisions concerning when the identification card of a PA recipient should be replaced.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which required SSDs to provide a recipient of PA with a replacement identification card within a certain time period.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131(19); Chapter 436 of the Laws of 1997.

Z. TDA-02-98-00011 Electronic Benefit Transfer System

Amended 18 NYCRR §§ 381.1 and 381.2 to implement the Statewide electronic benefit transfer system.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997 concerning the establishment of a Statewide electronic benefit transfer system, which provides recipients increased security and convenience in accessing their benefits, while also reducing benefit fraud.

Legal basis: SSL §§ 20(3)(d), 21-a, and 34(3)(f).

AA. TDA-02-98-00012 Eligibility for FA*

Amended 18 NYCRR Part 369 to implement provisions of Chapter 436 of the Laws of 1997 concerning eligibility for FA.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which included replacing the term “aid to dependent children” with the term “family assistance” throughout the Part. Many of

the requirements for aid to dependent children remained under the FA program; however, the amendments added several new provisions for eligibility for, and the provision of, FA.

Legal basis: SSL §§ 2(18), 20(3)(d), 34(3)(f), 131(6), 344, 349, and 350(c)(2); Chapter 436 of the Laws of 1997.

BB. TDA-02-98-00013 Screening for Alcohol and/or Drug Abuse*

Added 18 NYCRR § 351.2(i), requiring that applicants for or recipients of public assistance be screened for alcohol and/or drug abuse and attend appropriate treatment programs as necessary.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which required screening for alcohol and/or substance abuse of all heads of households and adult applicants for public assistance.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 132; Chapter 436 of the Laws of 1997.

CC. TDA-02-98-00014 Exemption of Income and Resources for Public Assistance

Amended 18 NYCRR § 352.23(a), (b), and (d) to provide for the exemption of certain income and resources for public assistance eligibility.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which amended the provisions for the exemption of certain income and resources when determining public assistance eligibility in order to more closely align the public assistance resource policy with that of the Food Stamp Program.

Legal basis: SSL §§ 20(3)(d), 34(3)(f) and 131-n; Chapter 436 of the Laws of 1997.

DD. TDA-02-98-00015 Recovery of Assistance for Basic Needs

Amended 18 NYCRR § 353.2(a) and (b) to clarify that interim assistance that is subject to recovery may include FA, if paid exclusively from State and local funds.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which renamed the programs for which interim assistance may be recovered, and clarified that interim assistance could be recovered from non-federally funded FA provided to persons, or households containing such persons, who are permanently disabled and awaiting determinations of eligibility for federal SSI benefits.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 349(B)(2); Chapter 436 of the Laws of 1997.

EE. TDA-02-98-00016 Individual Development Accounts

Added 18 NYCRR § 352.21 to implement the establishment of individual development accounts.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the Laws of 1997, which permitted individuals who are receiving FA to accumulate funds in certain individual development accounts.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 358(5); Chapter 436 of the Laws of 1997.

FF. TDA-02-98-00017 Standards for Ineligibility for Public Assistance

Amended 18 NYCRR §§ 351.1(b)(2)(iv), 352.30(d)(2)-(4), and 387.1(w) and added 18 NYCRR § 351.2(k) concerning standards for ineligibility for public assistance.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which prohibited the following persons from receiving assistance: unmarried persons under 18 years old who are with a child and who have not completed or are not attending high school; fugitive felons and probation and parole violators; persons convicted of illegally receiving duplicate benefits; and minors absent from their homes.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131; Chapter 436 of the Laws of 1997.

GG. TDA-02-98-00018 FA and SNA

Added 18 NYCRR § 350.1(d) to provide technical consistency and clarify the regulatory language relative to the PA Program.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which established the FA Program and the SNA Program. The amendments stated that references to “aid to dependent children” refer to “family assistance” and that references to “home relief” refer to “safety net assistance.” The amendment defined “public assistance” as referring to FA, SNA, and veteran assistance.

Legal basis: SSL §§ 2, 20(3)(d), and 34(3)(f); Chapter 436 of the Laws of 1997.

HH. TDA-02-98-00019 Eligibility of Non-Citizens for FA

Repealed 18 NYCRR §§ 349.3 and 352.33 and added new 18 NYCRR §§ 349.3 and 352.33 to: conform the State's eligibility requirements for federally funded assistance to federal law; exercise federal options for the eligibility of certain persons; and set forth the requirements for eligibility for State funded programs.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which addressed the eligibility of non-citizens for FA, SNA, food stamps, Title XX benefits, and additional State payments in the SSI Program. The amendments established requirements for deeming the income of an alien's sponsor available to the alien for purposes of eligibility for various programs.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 122; Chapter 436 of the Laws of 1997.

II. TDA-02-98-00036 Finger Imaging

Amended 18 NYCRR §§ 351.2, 384.1, 384.2(b) and (c), and 384.3(a)(3)(i), and added 18 NYCRR §§ 387.9(c) and 388.8 to extend the scope of the automated finger imaging system.

Analysis of the need for the rule: The amendments were developed to implement provisions of Chapter 436 of the Laws of 1997, which required SSDs to obtain finger images of applicants for and recipients of SNA, emergency SNA, EAF, public institutional care adults, FA, food stamps, or food assistance benefits. (Note: effective November 1, 2012, finger imaging was eliminated for purposes of administering SNAP).

Legal basis: SSL §§ 17, 20(3)(d), 34(3)(f), 131(1), 134-a, 139-a, 158(a), and 355(3); Chapter 436 of the Laws of 1997.

JJ. TDA-12-98-00018 Repayment of Grants for Energy Arrears

Amended 18 NYCRR § 352.5(e) to revise the regulations concerning who must sign an agreement to repay emergency assistance provided to pay utility arrears.

Analysis of the need for the rule: The amendments were developed to clarify the regulations concerning who must sign an agreement to repay emergency assistance provided to pay utility arrears.

Legal basis: SSL §§ 17, 20(3)(d), 34(3)(f), 131(1), 131-s, 158, and 355(3).

KK. TDA-15-98-00002 Nazi Persecution Payments

Added 18 NYCRR § 352.22(aa) to exempt payments to victims of Nazi persecution in determining eligibility for public assistance.

Analysis of the need for the rule: The amendments were developed to exclude reparation payments made to victims of Nazi persecution from consideration in determining eligibility for and the amount of benefits to be paid under certain public assistance programs.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131-n(2) .

LL. TDA-15-98-00003 Immunizations*

Added 18 NYCRR § 355.1(c) to require SSDs to provide information and a schedule regarding age-appropriate immunizations to certain applicants for and recipients of public assistance.

Analysis of the need for the rule: The amendments were developed to require that SSDs provide all applicants for and recipients of public assistance whose households include a child five years of age or younger with information and a schedule regarding age-appropriate immunizations. The amendments also required that SSDs must provide such applicants and recipients with information about eligibility for free vaccinations for children.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131(13).

MM. TDA-19-98-00016 Recoveries of Public Assistance

Amended 18 NYCRR § 352.31(d)(5) to raise the threshold amount of public assistance to be recovered from \$35 to \$125.

Analysis of the need for the rule: The amendments were developed to relieve SSDs from the administrative burden of collecting overpayment amounts which are so small that collection is not cost effective.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 106-b.

NN. TDA-25-98-00006 Domestic Violence Protection*

Amended §§ 347.5 (g) and (h), 351.2(l), 357.3(i), 358-3.1(b), 358-3.3, and 369.2(b)(1)(iv) to implement procedures for domestic violence screening, assessment, and referral programs for applicants for and recipients of public assistance.

Analysis of the need for the rule: The amendments were developed to establish the procedures for the State's domestic violence screening, assessment, and referral program in order to provide care, support, and protection to those applicants for and recipients of public assistance who are victims of domestic violence.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 349-a.

During the comment period, OTDA received one letter, dated March 21, 2013, in response to the above list. That letter recommended the elimination of the requirement for a face-to-face interview at the conclusion of the third calendar month after the month of acceptance for all new and reopened FA and SNA cases as set forth in 18 NYCRR § 351.21 (c)(2), maintaining that this requirement could place an undue hardship upon unemployable customers. The letter also recommended amendment of 18 NYCRR § 351.22 (a) to permit the substitution of an electronic mail questionnaire or telephonic

interview in lieu of a face-to-face recertification interview. The letter further recommended amendment of 18 NYCRR § 352.20 to permit the same earned income disregards for recipients of SNA as are permitted for FA recipients. Additionally, the letter recommended amendment of 18 NYCRR § 352.30 to provide for a full family sanction and to eliminate public assistance grants for households in which a legally responsible adult is in non-compliance with work rules and/or drug and alcohol treatment requirements, maintaining that this would promote increased cooperation on the part of benefit recipients and increase the probability of the family achieving self-sufficiency. The letter also recommended amendment of 18 NYCRR § 383 (b) to permit SSDs to charge benefit recipients a nominal fee for the reissuance of identification cards more than once in a calendar year. The letter further recommended amendment of 18 NYCRR §§ 387.7-387.8 to allow deferral of the interview requirement prior to the issuance of initial benefits for SNAP applicants for up to 60 days after application, where necessary, asserting that this amendment would streamline and expedite the review process and allow the SSDs to issue the most essential benefits to the families with the greatest needs.

Upon review, OTDA considered these recommendations, and determined that 18 NYCRR § 351.21 (c) already allows SSDs to waive certain face-to-face recertification timeframes, including that for three-month recertification, as approved by OTDA. OTDA also determined that SSL § 134-a requires SSDs to conduct eligibility interviews, such as annual recertification interviews, in person; moreover, face-to-face interviews afford the SSDs the opportunity to conduct other necessary assessments and screenings such as drug/alcohol screening, domestic violence screening, and employment assessments. OTDA further determined that SSL § 131-a (8) limits the earned income disregard to households with eligible children. Additionally, OTDA determined that the imposition of sanctions for non-compliance with work rules and/or drug and alcohol treatment requirements is governed by the SSL. OTDA also determined that any amendment of 18 NYCRR § 383.3 (b) to permit charging a fee for reissued identification cards would require interagency agreement. OTDA further determined that the interview requirements presently included in 18 NYCRR §§ 387.7-387.8 conform to those contained in the federal regulations.

OTDA is considering amendments that may impact the regulatory changes that were adopted in 2008, 2003, and 1998. OTDA is considering the following regulatory amendments: update provisions regarding persons who are permanently residing in the United States under the color of law (PRUCOL); delete the regulatory provisions relating to the Learnfare Program; amend regulations to make technical updates to Part 352 of Title 18 NYCRR, including updating references to “aid to dependent children” and “home relief” with “family assistance” and “safety net assistance” respectively; amend regulations to address support payments, noncountable income and resources, and estimates of need and application of income; amend regulations authorizing SSDs to provide shelter allowance supplements at local option to prevent eviction and address homelessness; amend regulations governing emergency shelter allowances for persons medically diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV)-related illness; amend public assistance regulations to

implement a shared living reduction; implement a federal waiver regarding the SNAP employment sanction process; delete SNAP monthly reporting/retrospective budgeting references and add provisions for change reporting; conform regulations concerning in-office interviews for SNAP applicants to federal requirements; amend SNAP regulations to reflect expanded categorical eligibility for SNAP; amend regulations regarding what is a complete periodic report to require verification of income only if a change in income has been reported; and repeal provisions relating to the Food Assistance Program. At this time, OTDA has determined that no additional modifications need to be made to its regulations adopted in 2008, 2003, and 1998, as amended.

OTDA has determined that in the ensuing calendar year, it should review its regulations from Title 18 NYCRR adopted in 2009, 2004, and 1999. These regulations from 2009, 2004 and 1999, listed below, are subject to the provisions of SAPA § 207. The regulations must be reviewed to determine whether they should be retained as written or modified. OTDA invites written comments on the continuation or modification of these regulations in order to assist in the required review. We will consider only those comments that are received by March 4, 2014.

Rules adopted in 2009

1. TDA-17-08-00032-A State-Confirmed Human Trafficking Victims*

Added Part 765 of Subchapter K to Title 18 NYCRR to govern the process and protocols for confirming an individual as a human trafficking victim in New York State.

Analysis of the need for the rule: The amendments provide more detailed instruction on protocols and procedures relating to the confirmation of human trafficking victims and how the responsibilities are to be carried out by OTDA. The need for the amendments is derived from the necessity to clearly define the participant agencies, the victim, and the terms describing the process of referral; to clearly describe the nature of OTDA's consultative role in the confirmation process; and to clearly describe the process for required notifications to the prescribed parties.

Legal basis: SSL Art. 10-D.

2. TDA-04-09-00011-A Educational Activities*

Amended §§ 385.6(a) and (b), 385.7(a) and (b), and 385.9(c) of Title 18 NYCRR to provide additional opportunities to participate in education and other skill development activities.

Analysis of the need for the rule: The amendments were developed to increase the skills of individuals receiving public assistance through the provision of additional opportunities to participate in education and other skill development activities.

Legal basis: 42 U.S.C. §§ 601(a) and 607; SSL Art. 5, Title 9-B.

3. TDA-07-09-00014-A Utility Service*

Amended § 352.5(e) of Title 18 NYCRR to suspend the enforcement of utility repayment agreements during periods of cold weather.

Analysis of the need for the rule: The amendment was developed to better enable SSDs to help protect the health and safety of households if they suffer utility shutoffs during a cold weather period as a result of high energy costs.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131(1), and 131-s.

4. TDA-09-09-00007-A Recovery of Overpayments*

Amended § 352.31(d)(1) of Title 18 NYCRR to delete the regulatory requirement to recoup/recover overpayments from all members of an assistance unit regardless of their ages at the time of overpayment.

Analysis of the need for the rule: This amendment was developed to benefit children by relieving them of the burden of an overpayment incurred on someone else's assistance unit when they were children in that assistance unit.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 106-b.

Rules adopted in 2004

5. TDA-03-04-00003-A SSI Benefits*

Repealed § 352.2(b) and added new §352.2(b); amended §§ 352.3(k)(3), (i), 352.30(a) and (f), and 352.31(a)(2); and added §352.3(l) to Title 18 NYCRR, to require SSDs to consider the presence in the household of an adult or child receiving SSI who would, except for the receipt of SSI, be required to be included in the public assistance household when determining the household's standard of need.

Analysis of the need for the rule: The amendments were developed to eliminate different budgeting methods required to be used for various family circumstances, and, with the exception of budgeting for households requesting and eligible to receive an emergency shelter allowance under § 352.3(k), to establish one budgeting method for determining the needs standard for a household that is applying for benefits.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 158, 349, and 355(3).

6. TDA-28-03-00008-A Eligibility of Refugees, Asylees, and Aliens for Public Assistance*

Amended §§ 349.3(a)(1)(iv), (vii), (2), (b), and 352.33; and added § 349.3(c) to Title 18 NYCRR to implement changes to the public assistance eligibility requirements for refugees, asylees, and aliens as set forth in Chapter 214 of the Laws of 1998.

Analysis of the need for the rule: The amendments were developed to implement provisions in Chapter 214 of the Laws of 1998, and to incorporate federal clarification of certain definitions related to citizenship and alien status.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 122, 131(1), and 355(3).

7. TDA-13-04-00002-A Case Management Subsystem*

Amended § 600.6 of Title 18 NYCRR requiring SSDs to use the cash management subsystem of the welfare management system.

Analysis of the need for the rule: The amendment was developed to standardize local cash processing systems by requiring SSDs to use the cash management subsystem of the welfare management system for receipt of cash and for refunds and recoveries of past expenditures and the collection and tracking of overpayments; to reduce the number of systems used by SSDs to establish and collect recoveries and overpayments on a timely basis; to identify claims on collection cases; and to encourage more orderly claims processing.

Legal basis: SSL §§ 20(3)(d), 21, 21(2), 34(3)(f), and 82.

8. TDA-17-04-00016-A Exemption of Earned Income*

Amended § 352.20(a) and (b) of Title 18 NYCRR concerning the exemption of the earned income of full-time and part-time students when determining eligibility for public assistance.

Analysis of the need for the rule: The amendment was developed to implement Chapter 246 of the Laws of 2002, which amended the regulations to provide that all of the income earned by a dependent child receiving public assistance or for whom an application for such assistance has been made, who is a full-time or part-time student attending a school, college, or university or a course of vocational or technical training designed to fit him or her for gainful employment is exempt when determining eligibility for public assistance.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131-a(8), 158, 349, and 355(3).

Rules adopted in 1999

9. TDA-30-98-00005 Child Support Cooperation Requirements*

Amended §§ 347.5, 360-3.2, 369.1, 369.2, 369.7, 370.2, and 370.7 of Title 18 NYCRR to require child support enforcement unit workers, instead of public assistance or medical

assistance workers, to determine whether an applicant/recipient has cooperated in establishing paternity and in establishing, modifying, and enforcing a support order (for medical assistance, a medical support order only).

Analysis of the need for the rule: These amendments implemented Public Law 104-193, regarding cooperation in establishing paternity and establishing, modifying, or enforcing a support order by applicants for and recipients of public assistance and medical assistance, and Chapter 398 of the Laws of 1997, requiring applicants for and recipients of medical assistance to cooperate in establishing paternity or establishing, modifying, or enforcing a medical support order.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 111-a, and 364; Chapter 474 of the Laws of 1996.

10. TDA-39-98-00067 Child Support Cooperation and Reduction of Benefits

Amended § 352.30 (d) of Title 18 NYCRR to implement provisions of Public Law 104-193 and Chapter 214 of the Laws of 1998.

Analysis of the need for the rule: This amendment conformed the regulations to changes in federal and State law, so that instead of a person being ineligible for public assistance when the person failed to comply with requirements to cooperate in establishing paternity or in establishing, modifying, or enforcing a support order, that person's household benefit was reduced by 25%.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131 (16).

11. TDA-46-98-00015 EAF

Amended §§ 372.1, 372.2, 372.4, and 372.6 of Title 18 NYCRR, in part, to implement provisions of § 38 of Part B of Chapter 436 of the Laws of 1997.

Analysis of the need for the rule: The amendments were developed to implement Chapter 436 of the laws of 1997, which amended § 350-j of the SSL concerning the types of care that EAF can pay for, eliminating the maximum time period for EAF eligibility, and setting forth other EAF eligibility requirements.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 350-j; § 38 of Part B of Chapter 436 of the Laws of 1997.

12. TDA-47-98-00002 Tier II Family Shelters

Amended Part 900 of Title 18 NYCRR to conform the regulations governing the operation of shelters for homeless families to § 352.35 of Title 18 NYCRR.

Analysis of the need for the rule: The amendments were developed to update Part 900 of Title 18 of the NYCRR to conform to the regulations governing the provision of

temporary housing assistance to persons that are homeless as set forth in 18 NYCRR § 352.35.

Legal basis: SSL §§ 20(3)(d) and 34(3)(f); Chapter 562 of the Laws of 1953.

13. TDA-52-98-00007 Lottery Intercept

Added Part 396 to Title 18 NYCRR concerning the interception of lottery awards to repay public assistance received.

Analysis of the need for the rule: The amendment was developed to implement provisions of § 131-r of the SSL which authorized OTDA to recoup any public assistance paid over the prior 10 years from recipients of such assistance who won lottery prizes of \$600 or more. The amount of assistance to be recovered could not exceed 50% of the lottery prize.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), and 131-r.

14. TDA-07-99-00002 Child Assistance Program Participants

Amended § 366.4(c)(2)(ii) and added § 366.7(o) to clarify the eligibility requirements for a family in receipt of FA to participate in the child assistance program and to add the repair of heating equipment, cooking stoves and refrigerators to the list of special allowances to which child assistance program recipients could be entitled.

Analysis of the need for the rule: The amendments were developed to conform the State regulation to current practices by SSDs relative to the eligibility prerequisites that must be met by a family receiving FA to enroll in the child assistance program, and to remedy an administrative oversight in the original Part 366 of Title 18 NYCRR which did not include the repair of heating equipment, cooking stoves and refrigerators on the list of special allowances.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131-z, and 355(3).

15. TDA-10-99-00001 Supervisory Review*

Amended § 351.7 of Title 18 NYCRR to provide SSDs the option of conducting supervisory reviews on all actions on public assistance cases or of conducting supervisory reviews on selected cases.

Analysis of the need for the rule: The amendment was developed to give SSDs the option to forego supervisory review of applications for public assistance. There are cases in which strict guidelines can be applied to such applications and no discretion is involved, thereby reducing the need for a supervisor's review. If SSDs wished to review only a certain proportion of the cases, they could submit a plan to OTDA for approval setting forth requirements for supervisory review.

Legal basis: SSL §§ 20(3)(d) and 34(3)(f).

16. TDA-14-99-00014 Reporting Requirements*

Amended Part 651 of Title 18 NYCRR to implement § 149 of Part B of Chapter 436 of the Laws of 1997, which required that OTDA and the Department of Labor (DOL) collect data related to the operation of public assistance programs, including, but not limited to, information that must be submitted to the federal Department of Health and Human Services pursuant to Public Law 104-193.

Analysis of the need for the rule: The rule set forth requirements for monthly reporting by SSDs to OTDA and DOL.

Legal basis: SSL §§ 20(3)(d) and 34(3)(f); § 149 of Part B of Chapter 436 of the Laws of 1997.

17. TDA-40-99-00001 Allowances to Children Suffering from Spina Bifida*

Amended §§ 352.22(c), (f), (w), (x), and (y), and added § 352.22(bb) to Title 18 NYCRR to implement the provisions of Public Law 104-204, which provided that allowances paid on behalf of the natural children of Vietnam veterans who suffered from spina bifida could not be considered when determining eligibility for any federally-financed program.

Analysis of the need for the rule: These amendments implemented provisions of Chapter 18 of Part II of Title 38 of the U.S.C., as added by Public Law 104-204, and made technical corrections to several provisions of 18 NYCRR § 352.22 consistent with Public Law 104-193 and Chapter 436 of the Laws of 1997.

Legal basis: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-n, and 355(3).

* The asterisks identify rules for which a regulatory flexibility analysis, rural area flexibility analysis, or job impact statement was prepared.

The rule review may be accessed on OTDA's website at <http://otda.ny.gov/legal/>.

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