

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 4, 2017, 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 2014, 2012, 2007, 2002 and 1997. Those regulations are set forth below:

Rules adopted in 2014

A. TDA-14-14-00014 State Supplement Program (SSP)*

Repeal of 18 NYCRR Part 398; addition of a new Part 398 and § 358-5.12 to set forth the process for OTDA's administration of the SSP and allow for telephone hearings to challenge SSP determinations.

Analysis of the need for the rule: These regulations provide the framework for OTDA's administration of the SSP. The regulations provide the initial and continuing eligibility requirements for additional State payments. They set forth the reporting responsibilities of applicants and recipients of the SSP benefits and the ramifications if they fail to comply with the requirements. The regulations address the issuance of notices of action and provide for administrative fair hearings. They also address when OTDA will replace additional State payments for recipients and when underpayments of such benefits will be corrected. Conversely, the regulations also provide when OTDA will recover overpayments and equivalent benefits from recipients. The regulations address OTDA's administrative responsibilities including confidentiality and document retention requirements. Lastly, the regulations allow telephone hearings for applicants and recipients of additional State payments.

Legal basis for the rule: SSL §§ 20(3)(d), 22(3)(f), (4), (8), 207, 211 and 212

B. TDA-36-14-00014 Noncompliance with SNAP Work Requirements; SNAP Conciliation Process*

Amended 18 NYCRR §§ 385.11 and 385.12 to render State regulations governing noncompliance and the conciliation process consistent with federal requirements.

Analysis of the need for the rule: These regulations were developed to make OTDA regulations pertaining to noncompliance and notice requirements consistent with federal regulations and policy. The regulations, in part, provide that SNAP applicants who fail to comply with work requirements without good cause are no longer subject to a durational sanction, and SNAP recipients will have the opportunity to avoid the imposition of a SNAP sanction by timely demonstrating compliance with the work requirements of the employment and training program as assigned by the District.

Legal basis for the rule: SSL § 95(1)(b); 7 USC §§ 2011, 2013 and 2029

C. TDA-38-14-00023 Standard Utility Allowances for SNAP*

Amended 18 NYCRR § 387.12 to update the standard utility allowances for SNAP to the federally approved levels as of October 1, 2014.

Analysis of the need for the rule: It was of great importance that the federally approved standard utility allowances for the SNAP were applied to SNAP benefit calculations effective October 1, 2014. If the standard utility allowances were not updated on October 1, 2014, it could have resulted in thousands of SNAP dependent households receiving underpayments each month. Thus, the rule was necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis for the rule: SSL §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); 7 CFR § 273.9(d)(6)(iii).

Rules adopted in 2012

D. TDA-17-11-00016 Fair Hearing Process*

Amended 18 NYCRR § 358-5.5 to revise the time frames within which an Appellant or an Appellant's authorized representative must request that a defaulted fair hearing be rescheduled.

Analysis of the need for the rule: The regulation removed the 15-day and 45-day time frames within which an Appellant or Appellant's authorized representative is to request that a fair hearing be rescheduled.

Legal basis for the rule: SSL §§ 20(3)(d), 22(8), and 34(3)(f).

E. TDA-22-12-00022 SNAP*

Repealed 18 NYCRR § 388.8 and amended 18 NYCRR §§ 351.2, 384.3 and 387.9 to eliminate finger imaging for purposes of SNAP, as OTDA had implemented a new Statewide Clearance process designed to prevent the receipt of duplicate SNAP benefits, in order to reduce food insecurity and improve nutrition.

Analysis of the need for the rule: On April 16, 2012, OTDA implemented a new Statewide clearance system for SNAP applicants and recipients designed to prevent the receipt of duplicate SNAP benefits. Cases are matched based on Social Security number, date of birth, name, and gender. The statewide clearance function enables both local social services district eligibility and case workers in all 58 districts to be able to check for duplicate participation in real time.

Legal basis for the rule: SSL §§ 20(3)(d), 95 and 131(1); 7 USC § 2020(a).

F. TDA-26-12-00017 Food Stamp Program Renamed to be SNAP*

Amended 18 NYCRR §387.0 and §387.1 to change the name of the Food Stamp Program to SNAP pursuant to Chapter 41 of the Laws of 2012.

Analysis of the need for the rule: Chapter 41 of the Laws of 2012 changed the name of the Food Stamp Program to SNAP. The rule implemented this Chapter Law and clarified that references in the regulations to the Food Stamp Program refer to SNAP.

Legal basis for the rule: SSL § 95; 7 USC Chapter 51, §§ 2011 and 2013; Chapter 41 of the Laws of 2012.

G. TDA-42-12-00001 Standard Utility Allowance for SNAP*

Amended 18 NYCRR § 387.12 to update the standard utility allowances for SNAP to the federally approved levels as of October 1, 2012.

Analysis of the need for the rule: It was of great importance that the federally approved standard utility allowances for SNAP were applied to SNAP benefit calculations effective October 1, 2012. If the standard utility allowances were not updated on October 1, 2012, it could have resulted in thousands of SNAP dependent households receiving overpayments each month. Overpayments to SNAP dependent households could have subjected the households to a 10% recoupment of their monthly SNAP benefits until the overpayment was recovered. Thus, the rule was necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis for the rule: Social Services Law, §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(c); 7 CFR § 273.9(d)(6)(iii).

Rules adopted in 2007

H. TDA-41-06-00034 Child Support Standards Chart*

Amended 18 NYCRR § 347.10 (a) (9), (b) and (c), consistent with State law at that time, to update the child support calculations formula as reflected in the child support standards chart.

Analysis of the need for the rule: The amendments were developed to update the self-support reserve, the poverty level and the child support standards chart in order to correctly reflect child support obligation amounts.

Legal basis for the rule: SSL sections 20 (3) (d), 34 (3) (f), 111-a and 111-i.

I. TDA-42-06-00015 HEAP*

Amended 18 NYCRR § 358-2.2(a)(14) to update the adequate notice requirements for HEAP determinations.

Analysis of the need for the rule: The amendments were developed to update the adequate notice requirements to reflect the current policy and practice of providing budget information in HEAP notices that are based upon budget computations.

Legal basis for the rule: SSL sections 20 (3) (d), 34 (3) (f), 97 and 131 (1).

J. TDA-37-06-00011 Congregate Care Level 3 Enhanced Residential Care*

Amended 18 NYCRR § 352.8 (b) (4) (i), (ii), (5), (c) (1) (ii) and (d); and added 18 NYCRR § 352.8 (b) (4) (iii) to authorize the provision of an allowance for temporary assistance recipients residing in congregate care level 3 facilities.

Analysis of the need for the rule: This rule was developed to authorize the provision of an allowance for temporary assistance recipients residing in congregate care level 3 facilities in order to implement the reclassification adult homes and enriched housing programs certified by the Department of Health from congregate care level 2 to level 3.

Legal basis for the rule: SSL sections 20 (3) (d), 34 (3) (f), 131 (1), 131-o and 209.

Rules Adopted in 2002

K. TDA-37-01-00006 Applications for Safety Net Assistance*

Amended 18 NYCRR § 350.4 (a) and (b) to describe the circumstances when a person who is no longer eligible for family assistance because of the durational limits must apply for safety net assistance in order to be eligible for such assistance.

Analysis of the need for the rule: This rule was developed to describe the circumstances when a person who is no longer eligible for family assistance because of the durational limits must apply for safety net assistance in order to be eligible for such assistance.

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

L. TDA-02-02-00005 Removals

Amended 18 NYCRR § 352.7 (o) to revive regulations concerning the circumstances under which a social services district may remove a public assistance recipient to another state or country.

Analysis of the need for the rule: This rule was developed to revive regulations concerning the circumstances under which a social services district may remove a public assistance recipient to another state or country.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f) and 121.

M. TDA-01-02-00005 HEAP

Amended 18 NYCRR §§ 358-3.5(b)(4), 393.2(b), 393.3(a)-(b), 393.4(c)-(d) and 393.5(a), (c) and (e) to conform the regulations concerning HEAP with current policies and procedures of OTDA.

Analysis of the need for the rule: This rule was developed to conform the regulations concerning HEAP with OTDA's policies and procedures.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f) and 97.

N. TDA-29-02-00010 Refugee Cash Assistance and Medical Assistance Programs*

Amended 18 NYCRR Part 373 to implement federal regulations concerning operation of the refugee cash assistance program and the refugee medical assistance program.

Analysis of the need for the rule: This rule was developed to implement federal regulations concerning operation of the refugee cash assistance program and the refugee medical assistance program.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 358(3) and 358(4).

O. TDA-01-02-00006 Domestic Violence Waivers*

Amended 18 NYCRR § 351.2 to implement federal requirements concerning the establishment of domestic violence service plans and review of domestic violence waivers.

Analysis of the need for the rule: This rule was developed to implement federal requirements concerning the establishment of domestic violence service plans and review of domestic violence waivers.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f), 131-u and 349-a.

P. TDA-50-01-00004 Desk Reviews of Child Support Payments*

Added 18 NYCRR § 347.25 to publish regulations on the conduct of desk reviews. The desk reviews involve an examination of public assistance and child support enforcement case records that will result in a written determination to the requestor of how the collections were distributed.

Analysis of the need for the rule: This rule was developed to formalize the procedures for the conduct of desk reviews upon the request of current and former recipients of public assistance who wish to obtain an accounting of the distribution of child support collected for months during which they received assistance payments and who believe that such distribution was incorrect.

Legal basis for the rule: SSL sections 20(3)(d), 34(3)(f) and 111-a.

Rules Adopted in 1997

Q. SCS-07-96-00005 Shelters for Adults

Amended 18 NYCRR Part 491 to ease the burden on social services districts and other operators of shelters for adults in relation to the operation of such shelters.

Analysis of the need for the rule: The regulatory amendments, among other things, expanded the options for granting waivers of non-statutory requirements of 18 NYCRR Parts 485, 486 and 491 relating to shelters for adults; increased the time period during which a shelter for adults could be operated above the certified capacity; and repealed

environmental standards that were duplicative of local codes or other State requirements.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 460 and 461.

R. SCS-13-96-00003 Personal Interviews for Applicants

Amended 18 NYCRR § 350.3(c) to require that an interview with an applicant for public assistance be scheduled within seven rather than five working days after an application is submitted.

Analysis of the need for the rule: The regulatory amendment assisted social services districts in the effective and efficient administration of public assistance programs by providing additional time for districts to schedule interviews with public assistance applicants.

Legal basis for the rule: SSL §§ 17, 20(3)(d), 34(3)(f), 158(a) and 355(3).

S. SCS-25-96-00016 Temporary Housing Assistance for Homeless Families

Repealed 18 NYCRR Part 1000 and amended Part 900 to in part define a family to include a pregnant woman for eligibility in a shelter for families, and to modify existing requirements for all shelters for families.

Analysis of the need for the rule: The regulatory amendment provided administrative flexibility to, and reduced the administrative burden on, social services districts and homeless shelter providers by consolidating and modifying existing requirements for family shelters and shelters for pregnant women.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f) and 153, Chapter 562 of the Laws of 1953, and Chapter 53 of the Laws of 1992.

T. SCS-31-96-00001 Copies of Documents for Fair Hearings

Amended 18 NYCRR §§ 358-3.7 and 358-4.2 to set forth standards for making documents available to appellants in fair hearings.

Analysis of the need for the rule: The regulatory amendments relieved social services districts from costly mandates by conforming Office regulations to federal requirements regarding the provision of copies of documents from the case file by social services districts to appellants at fair hearings.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f) and 22(8).

U. SCS-41-96-00017 Food Stamp Program

Amended 18 NYCRR §§ 359.9, 387.1, 387.2, 387.9, 387.10, 387.11, 387.12, 387.14 and 387.19 to implement the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193) relating to the food stamp program.

Analysis of the need for the rule: The regulatory amendments were developed to implement the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) relating to the food stamp program.

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

V. SCS-11-97-00019 1996 Self-Support Reserve and Child Support Standards Chart

Amended 18 NYCRR § 347.10, consistent with State law at that time, to reflect the 1996 self-support reserve and child support standard chart.

Analysis of the need for the rule: The regulatory amendment advised the social services districts and the family courts of the correct amount of the 1996 self-support reserve when calculating the basic child support obligation for parties in child support proceedings. This was consistent with federal requirements that States implement child support standards that were used in the calculation of child support obligations and that the standards took into account the non-custodial parent's income.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 111-a and 111-i.

At the conclusion of the public comment period on March 7, 2017, OTDA had not received comments regarding its Rule Review published in the New York State Register on January 4, 2017.

OTDA is considering amendments that may impact the regulatory changes that were adopted in 2014, 2012, 2007, 2002, and 1997. OTDA is considering the following regulatory amendments: amend regulations by adding a reference to a written notice to Medicaid appellants, who failed to appear at a scheduled fair hearing, advising how to request the rescheduling of such fair hearing and which states the right to aid-continuing, if previously authorized, extends to the deadline to respond to the notice; amend the title and the regulations of Part 385 to make updates, including updating reference from "food stamp" to "SNAP"; amend employment program provisions for notices of conciliation and notices of discontinuance or reduction as a result of an employment sanction to incorporate plain language requirements; establish additional guidelines regarding work activity definitions and work documentation and verification procedures to make them consistent with standards required by federal regulations; revise SNAP employment and training regulations to conform to federal regulations; revise regulations to implement changes to conciliation and employment sanctions procedures pursuant to SSL §§ 341-a and 342-a; amend regulations to implement changes to the work activities that may be made available to individuals to include financial literacy consistent with Chapter 275 of the Laws of 2017; update regulations to reflect the current policy that standard allowances for heating/air conditioning, utility and telephone costs are used in calculating shelter expenses for SNAP; generally update SNAP regulations to conform to changes in federal regulations and law; amend regulations to expand scope to include shelters for adults that currently are not certified by OTDA and to update and clarify applicable standards; and amend regulations to expand scope to include shelters for families that currently are not certified by OTDA and to update and clarify applicable standards. At this time, OTDA has determined that no additional modifications, other than those set forth above, need to be made to its regulations adopted in 2014, 2012, 2007, 2002, and 1997, as amended or otherwise modified.

OTDA has determined that in the ensuing calendar year, it should review certain regulations from Title 18 NYCRR adopted in 2015, 2013, 2008, 2003 and 1998. These regulations, 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 April 2, 2018.

Rules adopted in 2015

1. TDA-49-14-00003 Public Assistance (PA) Schedules*

Amended 18 NYCRR §§ 352.1 and 352.2 to update certain PA schedules to comply with the schedules in SSL § 131-a.

Analysis of the need for the rule: The amendments were required in order to conform certain PA schedules set forth in 18 NYCRR §§ 352.1(a) and 352.2(d) to the non-discretionary provisions set forth in amended Social Services Law § 131-a.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1), 131-a(2)(a-1)-(a-4), and 131-a(3)(a-1)-(a-4)

2. TDA-23-15-00004 Emergency Shelter Allowances (ESA)*

Amended 18 NYCRR § 352.3(k) to update provisions for ESA for persons with AIDS or HIV-related illness to reflect statutory authority,

Analysis of the need for the rule: The amendments were needed to conform to State laws requiring social services districts to disregard the Supplemental Security Income and needs of any household member who is not the sole household member medically diagnosed with AIDS or HIV-related illness and to help ensure that districts, including New York City, are able to continue to provide the same level of housing for these individuals in need as they have in the past.

Legal basis for the rule: SSL §§ 20(3)(d), 34(3)(f), 131(1); L. 2008, ch. 53; L. 2009, ch. 53; L. 2010, chs. 58, 110; L. 2011, ch. 53; L. 2012, ch. 53; L. 2013, ch. 53; L. 2014, ch. 53; L. 2015, ch. 53

3. TDA-38-15-00005 Standard Utility Allowances for SNAP*

Amended 18 NYCRR § 387.12 to set forth the federally approved standard utility allowances as of October 1, 2015.

Analysis of the need for the rule: It was of great importance that the federally approved standard utility allowances for SNAP were applied to SNAP benefit calculations effective October 1, 2015. If the standard utility allowances were not updated on October 1, 2015, it could have resulted in thousands of SNAP dependent households receiving overpayments each month. Households receiving such overpayments could be subject to an extended period of SNAP recoupments at the rate of 10% of their monthly SNAP benefits to recover the resulting overpayments of SNAP benefits. Thus, the rule was

necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis for the rule: SSL §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); 7 CFR § 273.9(d)(6)(iii)

4. TDA-15-15-00003 Video Hearings*

Added 18 NYCRR § 358-5.13 to specifically allow OTDA's Office of Administrative Hearings (OAH) to conduct fair hearings by means of video equipment.

Analysis of the need for the rule: Video hearings allow OAH to hold more hearings by assigning individual hearing officers to hold fair hearings for multiple locations throughout the State on the same day.

Legal basis for the rule: SSL §§ 20(3)(d) and 22(8)

Rules adopted in 2013

5. TDA-36-12-00001 Fair Hearings Process for HEAP*

Amended 18 NYCRR §§ 358-3.5(b)(4) and 393.5(e) to eliminate the requirement that a fair hearing request concerning HEAP must be made within 105 days of the social services district's termination of the receipt of HEAP applications for the program year.

Analysis of the need for the rule: These amendments were needed due to the court order and stipulation of settlement in Pedersen v. Hansell which ordered OTDA to commence rule making proceedings to eliminate the 105 day statute of limitations imposed on individuals requesting a HEAP fair hearing and clarify that federal HEAP funds are available for a finite period of time.

Legal basis: SSL §§ 20(3)(d), 22(8) and 97; 42 USC § 8621, et seq.

6. TDA-49-12-00014 Child Support*

Amended 18 NYCRR §§ 346.2 and 347.17 to address child support services applications and notification requirements and the imposition of an annual service fee; and to set forth requirements concerning the provision of legal services and the recovery of associated costs.

Analysis of the need for the rule: The amendment of § 346.2 was made to help ensure the state's compliance with federal child support application and notification requirements pursuant to 45 CFR § 302.33, which requires that states must make available all services to any individual who files an application with the child support agency, and must provide information describing available services, the individual's rights and responsibilities, the state's fees, cost recovery, and distribution policies that must accompany all applications for services, and be provided to all applicants/recipients of Medicaid and assistance programs. In addition, the amendment to § 347.17 was made as a result of federal changes requiring the imposition of an annual service fee of \$25 for families who have never received assistance.

Legal basis: 42 USC § 654(6)(B)(ii); 45 CFR §§ 302.33 and 303.2; SSL §§ 20(3)(d), 111-a, 111-c(4)(a), 111-g(3)(a) and (b); and Family Court Act § 453(a)

7. TDA-22-12-00021 Limits on Administrative Expenses and Executive Compensation

Added 18 NYCRR Part 315 to establish limits on the use of State funds or State-authorized payments for administrative costs and executive compensation by covered providers.

Analysis of the need for the rule: The regulations, which were required by Executive Order No. 38, were needed to prevent certain providers from using State funds or State-authorized payments to support excessive compensation or unnecessary administrative costs.

Legal basis: SSL § 20(3)(d); and Not-For-Profit Corporation Law § 508

8. TDA-38-13-00008 Standard Utility Allowances for the Supplemental Nutrition Assistance Program (SNAP)*

Amended 18 NYCRR § 387.12 to update the standard utility allowances for SNAP to the federally approved levels as of October 1, 2013.

Analysis of the need for the rule: It was of great importance that the federally approved standard utility allowances for SNAP were applied to SNAP benefit calculations effective October 1, 2013. If the standard utility allowances were not updated on October 1, 2013, it could have resulted in thousands of SNAP dependent households receiving underpayments each month. Thus, the rule was necessary for the preservation of the public health and general welfare of SNAP dependent households.

Legal basis: SSL §§ 20(3)(d) and 95; 7 USC § 2014(e)(6)(C); and 7 CFR § 273.9(d)(6)(iii)

Rules adopted in 2008

9. 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 (Districts), of face-to-face recertification requirements, subject to OTDA approval.

Analysis of the need for the rule: The amendments were developed to provide Districts 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).

10. 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 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.

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).

11. 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 USC; 7 USC §§ 2011 and 2013; SSL §§ 95 and 95-a.

Rules Adopted in 2003

12. 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).

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

Amended 18 NYCRR § 352.17(e), which established that when a report of a new or increased earned income is made timely by the recipient, the district must adjust the grant or calculate the amount of any overpayment only after a reasonable administrative processing period has passed.

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 Districts 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).

14. 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 establish a good cause reason that prevents them from applying 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 (CFR).

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

Amended 18 NYCRR § 352.23(b) to establish resource exemption levels for vehicles owned by public assistance recipients and authorize Districts 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 at that time.

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

16. 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.

17. 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 Districts; 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 CFR.

18. 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 Districts; 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 CFR.

19. 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.

20. 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).

21. 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).

22. 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).

23. 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 Districts 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 CFR.

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24. 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, consistent with State law at that time.

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).

25. 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.

26. 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.

27. 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.

28. 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.

29. 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 Districts 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.

30. 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.

31. 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.

32. 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 Districts 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.

33. 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).

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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.

42. TDA-02-98-00036 Finger Imaging

Amended 18 NYCRR §§ 351.2, 384.1, 384.2(b) and (c), and 384.3(a)(3), 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 Districts 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, and 355(3); Chapter 436 of the Laws of 1997.

43. 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).

44. 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) .

45. TDA-15-98-00003 Immunizations*

Added 18 NYCRR § 355.1(c) to require Districts 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 Districts 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 Districts 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).

46. 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 an individual no longer receiving assistance, from \$35 to \$125.

Analysis of the need for the rule: The amendments were developed to relieve Districts 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.

47. 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.

* 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/rule-review-2018.pdf>.

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