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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-44

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: October 30, 1991

SUBJECT: Changes to Home Relief (HR/PG-ADC) Drug Alcohol
 Rehabilitation Requirements

SUGGESTED

DISTRIBUTION: Income Maintenance Directors
 Food Stamp Directors
 Medicaid Directors
 WMS Coordinators
 Employment Coordinators
 Staff Development Coordinators

CONTACT
 PERSON:

Call 1-800-342-3715, ask for:
 Public Assistance: Charles Giambalvo, extension 4-3231
 Food Stamps: County Representative, extension 4-9225
 Medical Assistance: County Representative,
 extension 3-7581
 In NYC (212) 587-4853

ATTACHMENTS:

Attachment A - Notice of Possible Sanction - available
 on-line
 Attachment B - Personal Needs Allowance (PNA) Returned
 to Districts - available on-line

FILING REFERENCES

| Previous ADMs/INFs | Releases Cancelled | Dept. Regs. | Soc. Serv. Law & Other Legal Ref. | Manual Ref. | Misc. Ref. |
|-----------------------|-----------------------|-------------|---|-------------|------------|
| 90 ADM-43 | | Part 352.8 | Chapter 165 | PASB | |
| 90 ADM-18 | | (c) | of the Laws | XIII-D-11 | |
| | | Part 370.2 | of 1991 | all | |
| | | Part 387.13 | SSL 131 | XIII-D-12 | |
| | | | SSL 158-a | all | |
| | | | | FSSB | |
| | | | | V-D-1.1-1.2 | |
| | | | | V-D-2.1 | |
| | | | | V-D-3-all | |
| | | | | IX-C-1.2 | |
| | | | | IX-C-2.1 | |
| | | | | IX-I-1 | |
| | | | | X-B-2 | |

I. PURPOSE

This release advises social services districts of changes in Home Relief (HR/PG-ADC) drug and alcohol rehabilitation requirements resulting from Chapter 165 of the Laws of 1991.

II. BACKGROUND

Prior to the enactment of Chapter 165 of the Laws of 1991, an HR/PG-ADC applicant/recipient who, as a condition of eligibility, was required to attend an appropriate rehabilitation program because of dependence on alcohol or illegal substances, could refuse to begin, or could discontinue participation in, an appropriate out-patient program prior to completion of the program. This could occur without the applicant/recipient being subject to a durational sanction. As soon as the individual resumed cooperating with the requirement to participate, that individual again became eligible for HR/PG-ADC.

Chapter 165 of the Laws of 1991 establishes sanction periods for HR/PG-ADC applicants/recipients who refuse to participate in, or who leave, an appropriate out-patient rehabilitation program prior to completion of the program without good cause. These sanction periods do not apply to persons referred to residential rehabilitation programs.

Another significant change is that the requirement to participate in appropriate out-patient or residential rehabilitation takes effect only when alcohol or substance abuse is a primary cause of the individual's need for HR/PG-ADC. Prior to the enactment of Chapter 165, participation in appropriate rehabilitation was required when alcohol or substance abuse was a contributing cause of the individual's need for HR/PG-ADC.

Finally, Chapter 165 requires that personal needs allowances (PNAs) provided to HR/PG-ADC clients in residential alcohol or substance abuse rehabilitation programs be conditional payments. As such, these payments are to be made as restricted payments paid directly to the program. If the person fails to complete the residential rehabilitation program, any accumulated PNA monies held by the program must be returned to the social services districts.

III. PROGRAM IMPLICATIONS

These changes are part of the Department's cost containment effort and are expected to generate State and local savings.

IV. REQUIRED ACTION

A. Public Assistance

Effective September 25, 1991, social services districts must:

1. Require only those HR/PG-ADC applicants/recipients for whom alcohol or other substance abuse is a primary cause of the client needing HR/PG-ADC to participate in appropriate out-patient or residential rehabilitation, if available.

Alcohol or substance abuse is not considered a primary cause of the client needing HR/PG-ADC when the applicant or recipient is not employable for reasons separate and apart from drug or alcohol dependence such as age, mental or physical incapacity, illness or injury or for other reasons detailed in Part 385 of Department Regulations.

2. Maintain ongoing contact with rehabilitation programs in order to identify any HR/PG-ADC applicant/recipient who fails without good cause to participate in, or complete, a required out-patient alcohol or substance abuse rehabilitation program when referred to such program by the social services district. The social services district must also identify any HR/PG-ADC applicant/recipient who leaves such programs prior to completion provided, however, that completion of the program must be solely determined by the guidelines and rules of the rehabilitation program. If the district is advised by the rehabilitation program that the individual has completed the program, then the district must accept that advice. However, the district must refer such individuals to additional treatment programs, if appropriate, as long as alcohol or other substance abuse remains a primary cause of need.

An applicant or recipient must be considered to have good cause for failing to participate in or failing to complete an out-patient rehabilitation program when:

- a) the facility and the applicant or recipient agree that the applicant or recipient is in need of a different program than the one to which the client was referred originally or is attending, and the applicant/recipient can document a good faith effort to enter another program; or
- b) a verified unforeseen circumstance occurs that is beyond the client's control such as illness or death in the family.

HR/PG-ADC applicants/recipients who fail, without good cause, to participate in, or complete any required out-patient program, including second or subsequent referrals after initial program completion, are subject to the sanctions described in #3 below.

3. After proper notice, sanction those HR/PG-ADC applicants or recipients who fail without good cause to participate in, or complete, an appropriate out-patient alcohol or substance abuse rehabilitation program as required by Department regulation 370.2.

Such sanctions must remain in effect until the failure to comply ceases but not less than:

- a) 45 days in the first instance of non-compliance;
- b) 120 days in the second instance; and
- c) 180 days in the third or subsequent instances.

An individual sanctioned for failure to complete an out-patient program may resume receiving HR/PG-ADC benefits before the sanction period ends if, and only if, the individual enters an appropriate residential rehabilitation program and is otherwise eligible for HR/PG-ADC.

4. For HR/PG-ADC applicants/recipients required to participate in an appropriate rehabilitation program as required by Department regulation 18 NYCRR 370.2 and who receive treatment in a certified congregate care residential treatment facility, make all future personal needs allowance payments as restricted payments to the program. The district must also make arrangements with the programs to recover, as an overpayment, any accumulated personal needs allowance monies left in the account of HR/PG-ADC recipients who leave such programs prior to completion. Completion of the program is to be solely determined by the guidelines and rules of the program.
5. Notify all affected HR/PG-ADC applicants/recipients that they may be sanctioned if they fail to participate in or, if participating, fail to complete, an out-patient alcohol or substance abuse rehabilitation program. Applicants/recipients should also be notified that they may forfeit any accumulated personal needs allowance if they leave a residential program prior to completion.

Attachment A (Notice of Possible Sanction) and Attachment B (Personal Needs Allowance (PNA) Returned to Districts) were designed to notify affected HR/PG-ADC applicants/recipients that they might be sanctioned or that they might lose their PNA. These notices will be added to the information booklets at the next update. Until they are added to the booklets districts must reproduce them and give them to appropriate applicants/recipients.

B. Medical Assistance

Individuals who are sanctioned on HR/PG-ADC for failure to participate in, or complete, a required out-patient alcohol or substance abuse rehabilitation program are also sanctioned for Medical Assistance (MA). However, as soon as such sanctioned individuals begin or return to the required treatment program, they become eligible for MA.

MA-Only applicants/recipients are required, as a condition of eligibility, to participate in out-patient or residential alcohol or substance abuse rehabilitation as provided for in Department Regulation 360 - 5.10(b).

In addition, since MA-Only recipients do not receive PNAs, the residential rehabilitation restricted payment policy does not apply to such MA recipients.

C. Food Stamps

Individuals who are participants in a drug addiction or alcoholism treatment rehabilitation program are exempt from food stamp work requirements. An individual who fails to participate or complete participation in such programs is not sanctionable for food stamps. Individuals who decide not to participate in a drug or alcoholic treatment rehabilitative program lose their exemption from food stamp employment requirements and must be reassessed for food stamp employability.

Individuals who do not meet any of the FS work requirement exemptions as specified in FSSB IX-C-1 must work register for food stamps and be assessed for placement in a Food Stamp Employment and Training (FSET) component. Failure of an employable individual to work register and comply with a FSET component without good cause will result in the individual or FS household being sanctioned for food stamps as specified in FSSB IX-I-1.

Restriction of the personal needs allowance for residents of drug/alcohol treatment centers in accordance with Chapter 165 does not change the Food Stamp budgeting method applicable for residents of residential treatment facilities (See FSSB X-B-2).

V. SYSTEMS IMPLICATIONS

A. WMS Upstate

New sanctioned ineligible reason codes will be added to reflect the appropriate sanction period (45, 120, or 180 days). Also, a new denial and closing reason code will be added to identify denials and closing actions. Districts will be advised under separate cover when these codes will be available on WMS. Individuals who are being sanctioned but become eligible for MA during the sanction period must be coded Individual Status "07 - Active" on Screen 05.

B. WMS NYC

New sanction codes are being developed and will be sent under separate cover.

VI. ADDITIONAL INFORMATION

Recoveries of PNA's made as a result of this ADM must be shared with the state in the same manner that they were claimed as a reimbursable expense.

VII. EFFECTIVE DATE

This directive is effective October 31, 1991 retroactive to September 25, 1991.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance

NOTICE OF POSSIBLE SANCTION

When a main or primary reason why a person needs public assistance is because of alcohol or substance abuse, the person must take part in an approved rehabilitation program. This is a requirement unless the person receives public assistance in the Aid to Families with Dependent Children (ADC) program.

If you are now in or are being referred to an approved out-patient program, it is important for you to know that if you do not take part in the program you will become ineligible for public assistance and medical assistance unless you have a good reason for not taking part. A good reason is:

- illness
- death in your family
- the rehabilitation program and you agree that you are in the wrong program and you can prove that you are making a good faith effort to go into a different program.
- you have entered an in-patient program

If you are required to take part in an approved out-patient program and you fail, without good reason to take part, you will be ineligible for public assistance and medical assistance for 45 days for the first failure, for 120 days for the second failure and for 180 days for any failure after the second failure.

This means that if, for example, you become ineligible for 120 days under these rules, you cannot get public assistance before that 120 day period ends even if you go into the same or another approved out-patient program. However, if you go into an approved out-patient program you may get medical assistance before the 120 day period ends. If you go into an approved in-patient program you may get both public assistance and medical assistance before the 120 day period ends.

Personal Needs Allowance (PNA) Returned to Districts

If you are required to participate in an in-patient residential treatment program because a primary need for your public assistance is caused by alcohol or substance abuse, you will have your personal needs allowance, if any, authorized as a conditional restricted payment. This means that the payment will be made to the residential treatment program. If you fail to complete the residential treatment program, any accumulated personal needs allowance monies held by the program must be returned to the social services district.