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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 93 ADM-2

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: February 1, 1993

SUBJECT: Public Housing: Changes to Shelter Allowances

SUGGESTED DISTRIBUTION: Income Maintenance Directors
 Food Stamps Directors
 WMS Coordinators
 Staff Development Coordinators

CONTACT PERSON: Public Assistance: Dottie O'Brien, 1-800-342-3715
 extension 4-6853

ATTACHMENTS: Attachment - Department Amended Regulation 352.3
 (d)(i) - not available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-26	90 ADM-26	352.3(a) 352.3(d)	P.L. 97-35 <u>McCoy v. Perales</u>	<u>PASB</u> Section XIII-D-9- all	

I. PURPOSE

The purpose of this administrative directive is to inform districts of changes to Department regulation 352.3(d) that affect the amount of the rent allowance for some households residing in public housing.

The regulation provides that an allowance for rent shall be granted as paid up to the schedule in paragraph (1) of subdivision (d) of 352.3(d) or the schedule approved by this Department for that public housing authority (PHA).

II. BACKGROUND

Previously, when a public assistance household resided in public housing and was charged less than the public housing schedule, the shelter allowance was the public housing schedule amount. This was true whether the PHA charged rent based on the schedule contained in the regulation for public housing or on a modified schedule approved by the Department for that PHA. This occurred when a non-public assistance tenant of record charged a PA household member little or no rent, or when the PHA reduced the tenant's rent responsibility by a utility allowance amount.

III. PROGRAM IMPLICATIONS

The effect on local district operations of these changes is expected to be minimal. Small savings to the State and districts are expected.

IV. REQUIRED ACTION

A. Public Assistance

Public assistance recipients who reside in public housing must be given an allowance for rent as actually paid, whether the PHA charges rent based on the approved schedule or on a percentage of the household's income.

Schedule Based Rent

When the public housing authority indicates that rent is charged based on the regulatory schedule for public housing projects or an approved modified welfare rent schedule, the public assistance shelter allowance must be the amount the family actually pays, up to the appropriate welfare rent schedule for the public housing authority.

Example 1:

Mr. and Mrs. Barrett and their five daughters reside in public housing in Erie County. All household members are in the assistance unit and there is no income other than PA.

The PHA charges rent according to the approved modified welfare rent schedule. For that PHA, the approved rent for 7 persons in a 4 bedroom apartment is \$245. Heat is included, but the Barretts must pay for utilities separately. The PHA calculates that the Barretts must have \$38 per month available to meet their utility bills. Therefore, the Barretts are required to pay \$207 to the PHA for rent ($\$245 - \$38 = \$207$).

The Barretts' shelter allowance is \$207. This is because the PHA charges according to the approved schedule, and \$207 is the amount they must actually pay.

Notice Requirements

When a household's grant is being reduced because the shelter allowance is adjusted from the welfare rent schedule amount to the amount actually paid, timely and adequate notice must be provided.

Suggested reason language to explain this change is:

The reason for this is that the social services regulations (rules) have changed for some people, like you, who live in public housing and who pay for their own utilities.

You got an allowance for rent based on a schedule even though you have to pay less rent than the schedule amount. You have to pay less than the schedule amount for rent because the Housing Authority gives credit for a utility allowance.

Your allowance for rent is now the amount you must actually pay. (18 NYCRR 352.3(d)).

Income Based Rent

If the Public Housing Authority indicates that rent is charged based on 30% of the household's adjusted gross income or 10% of gross income, then the shelter allowance must be the amount actually paid up to the agency's private housing maximum for that size public assistance household.

These cases are commonly referred to as McCoy cases.

Example 2:

When the Barretts' oldest daughter, Elizabeth, turned 19, she left the Public Assistance case and began working. The PHA recalculated the rent based on 30% of the household's adjusted gross income, including Elizabeth's wages, and arrived at a total tenant payment of \$292. The Barretts were informed by the PHA that their rent obligation was increased to \$254 each month (\$292 - \$38 utility allowance = \$254).

Because the rent is charged based on a percentage of income, the Barretts' rent allowance is no longer based on the approved modified welfare rent schedule for the PHA. Rather, the family can get rent actually paid up to the private housing maximum.

The family maintains that Elizabeth does not contribute to the rent. Therefore, the Barretts are entitled to a shelter allowance of \$254. That amount is within the Erie County maximum of \$262, the amount for six PA household members with heat included.

Notice Requirements

When a Public Housing Authority changes a household's rent obligation based on family income, the appropriate notice must be sent. Timely and adequate notice must be provided if the change results in a reduction to either the public assistance grant or the food stamps benefits.

The notice must simply state the reason, "The amount you must pay for rent has changed. (18 NYCRR 352.3(a) and (d))."

B. Food Stamps

The food stamp shelter expense amount is the actual shelter cost which is incurred by the household.

As in other situations, the public assistance shelter allowance given to the household is counted as food stamp income.

C. MEDICAL ASSISTANCE

The rent allowance for an MA-only applicant/recipient (A/R) who resides in public housing is the amount the A/R actually pays, up to the maximum of the appropriate rent schedule. This applies whether the rent is based on the regulatory rent schedule, an approved modified rent schedule for that PHA, or on a percentage of the household's income.

V. WMS IMPLICATIONS

A. WMS Upstate

There will be no change to the PA ABEL edits. For all public housing (Shelter Code 02), ABEL requires entry of both an actual and a local allowable shelter amount. ABEL prohibits entry of an actual shelter expense less than the local allowance. Assuming workers always entered the applicable schedule amount as the local allowance, the shelter allowance granted was never less than the schedule amount. However, ABEL does permit entry of amounts LESS THAN the applicable schedule in the local allowable shelter.

Thus for SCHEDULE BASED RENT, workers should enter the actual expense in the ACTUAL field and enter the actual expense up to the local public housing schedule amount in the ALLOW field (i.e., the scheduled amount as a maximum limit is enforced by the worker entry). For INCOME BASED RENT, workers should enter the actual expense in both the ACTUAL and ALLOW fields (i.e., the worker does not limit the ALLOW entry to the scheduled amount). ABEL automatically limits the shelter allowance granted to no more than the agency's private housing maximum, regardless of the basis on which shelter is charged.

B. WMS Downstate

Due to the change which allows schedule based cases to receive their shelter allowance as paid, Special Needs Type 26 will no longer be a valid entry in ABEL for Shelter Type 24 (NYCHA - Utilities Not Included) housing situations.

Future ABEL transmittals will provide details for the implementation of this policy including:

- o Effective dates for the migration of this change to ABEL; and
- o Details on the MRB which will rebudget and remove Code 26 from all applicable cases.

C. MBL - Upstate and Downstate

There will be no change to MBL. Shelter code 02, Public Housing, should be used when the case resides in public housing. The actual monthly amount of rent should be entered in the Shelter Amount field. To determine the PA Standard, MBL will use the input amount if it is less than or equal to the local agency maximum. Otherwise the local agency standard amount will be used. This amount will be displayed in the Shelter Allowance field.

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VII. EFFECTIVE DATE

This ADM is effective February 1, 1993, retroactive to December 30, 1992, effective date of the supporting regulation.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security