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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 95 ADM-4

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: January 18, 1995

SUBJECT: Public Assistance and Medical Assistance Benefits For
 Infants Residing With Their Incarcerated Mothers

SUGGESTED

DISTRIBUTION:

Public Assistance Staff
 Medical Assistance Staff
 Child Support Enforcement Unit Coordinators
 Staff Development Coordinators
 Services Staff

CONTACT

PERSON:

1-800-343-8859
 Public Assistance Contact: Dottie Mullooly at
 ext. 4-6853, user ID AV1760
 Medical Assistance Contact: Eileen Lombardo at
 ext. 3-5456, user ID MB0020

ATTACHMENTS:

Attachment I: Memorandum of Understanding -
 available on-line
 Attachment II: Confidentiality Agreement -
 available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		369.1 and 2 360-2.2	SSL Section 65 Section 366	PASB VIII-all FSSB V-A-4.2	

I. PURPOSE

The purpose of this release is to advise social services districts (SSDs) that there are programs within the prison system which allow infants who are born to incarcerated mothers to remain with the mothers and that such infants may be eligible for Public Assistance (PA) and Medical Assistance (MA).

II. BACKGROUND

Staff from the New York State Department of Correctional Services (DOCS) and a local county prison system contacted the Department to discuss the needs and care of infants who live in nurseries in select correctional facilities. The infants, born to mothers serving prison sentences, may live in the nursery for up to eighteen months. This includes a stay for a period that would not extend past the child's first birthday unless there is reasonable probability that the mother is to be paroled shortly after the child becomes one year of age. In no case may the child remain past age 18 months. At the end of that time, if the parent is not ready for release, the child will be placed with relatives outside the facility or into foster care.

The DOCS representative asked if such children would be eligible for PA or MA. Because it is the parent and not the child who is incarcerated, there is no reason why a child who would otherwise be eligible for PA or MA would be ineligible solely because he or she is living in a correctional facility where the mother is incarcerated.

The Department then sought, and received, written verification from the Department of Health and Human Services (HHS) that such a child, who is otherwise eligible for Aid to Dependent Children (ADC), is eligible for ADC in such living situations.

III. PROGRAM IMPLICATIONS

At this time, there are few correctional facilities that operate nurseries for infants born to inmates. An inmate mother with a child in the facility nursery may apply for PA and MA for the child. The most recent SSD of legal residence of the mother will be the district of fiscal responsibility (DFR).

IV. REQUIRED ACTION

The DFR of a woman who is an inmate and whose infant is residing in the correctional facility nursery must accept and process the application and determine the eligibility for PA and/or MA for the infant.

The following will state the responsibility of DOCS and DFR for each aspect of the application and eligibility process:

A. Application

The mother of the infant or, for MA purposes, the mother's representative must complete the State-prescribed form, the DSS-2921: "Application for Public Assistance, Medical Assistance, Food Stamps, Services".

The designated person at the correctional facility will review the application to insure that it is complete and will conduct the interview.

B. Designated Person

The designated person(s) may be a SSD employee. The SSD Commissioner may also approve a corrections employee, chosen by the Superintendent of the facility, as the designated person.

When the SSDs and the correctional facility decide that the designated person will be a corrections employee, the LDSS and the facility must enter into a Memorandum of Understanding (MOU) which sets forth the rights and obligations of each. A sample MOU is included as Attachment I. SSDs that choose to modify this MOU must submit a copy of the proposed MOU to the Department for approval and explain procedures that vary from those in Attachment I.

SSDs must submit modified MOU's to:

Robert Sharkey, Acting Director
Bureau of Income Support Programs
New York State Department of
Social Services
40 N. Pearl Street - 7C
Albany, NY 12243

A copy of the modified MOU should also be submitted to:

Betty Rice
MA Specialist III
New York State Department of Social Services
40 N. Pearl Street
Division of Health and Long-Term Care - Room 606
Albany, NY 12243

Any corrections staff selected to act as a designated person must complete the Confidentiality Agreement (Attachment II).

C. Application Date

The application date is the date that the designated person at the correctional facility receives the signed, completed application form.

D. District of Fiscal Responsibility

The infant's district of residence is considered to be the mother's district of residence at the time of her sentencing.

In the event that the mother has no legal residence at the time that she is sentenced, the where-found district (that is, the sentencing district), is the district of fiscal responsibility.

Even though the child may have been born in the SSD where the correctional facility is located, that SSD will not be the DFR unless it is the county where the mother resided at the time of her sentencing.

E. Processing the Application

1. Public Assistance

The application package, including the application, the Certification Guide, the Child Support Enforcement Referral, proof of the child's birth and, a SS-5 completed for the child or proof that application for a social security number for the child has been made must be forwarded by the designated person at the correctional facility to the Income Maintenance Director of the DFR. The DFR must review the application, the Certification Guide and the documentation and decide on eligibility for the child.

In the event of an unresolved interjurisdictional dispute, the district in the county where the facility is located must accept and process the application. The county may request a hearing to resolve the dispute.

2. Medical Assistance

In most instances, MA will be authorized as a result of the child's eligibility for PA. Children determined ineligible for PA must have their eligibility for MA determined separately as required by Department Regulation 360-2.2 using standard procedures. Infants who qualify/apply for MA only should have their eligibility determined as if the infant was residing in the community, as a household of one. The DFR of the infant is determined in accordance with the policy contained in Section IV.D of this release.

NOTE: MA eligibility can be established for the three month retroactive period (PA/MA and MA-only cases) provided no coverage is authorized for periods prior to the child's birth.

F. Category

The child is considered to be living in the home of an ADC relative since the mother of an infant in a correctional facility nursery is involved in the day-to-day care of the child and in the decision making about the child. The case category will be ADC based on the deprivation of continued absence of the child's father.

G. Determination of the Grant

In another living situation, the mother of the child would also be required to be included in the filing unit with her minor dependent child. Because the mother of the child is incarcerated, she is not eligible to receive PA or MA. So, although she must complete and sign an application that includes information about herself, including her income and resources, her social security number and her signature, her needs cannot be included in the budget.

1. Income

Any income and resources of the mother, unless exempt (for example, the income and resources of an SSI mother) must be considered in full to determine the eligibility of the child.

Inmates will sometimes be paid wages of up to \$1.05 per day. The total monthly earned income must be budgeted but it is very unlikely that the earned income will ever exceed the \$90 earned income disregard. The entry of earned income in the PA budget will trigger the quarterly reporting requirements. There is no basis in regulation which would exempt cases in this situation from those requirements.

2. Standard of Need

The standard of need for the child will be based on a negotiated room and board rate plus the \$45 personal needs allowance (PNA). Each SSD has the right to negotiate its own rate with the correctional facility. It is suggested that the room and board maximum (the total of the one person Basic, Home Energy Allowance, Supplemental Home Energy Allowance and Shelter maximum, heat included) for the responsible SSD should be the rate set.

Only the child should be included for the Household (HH) and Case (CA) counts in ABEL in conjunction with Shelter code 04, Room and Board.

H. Coordination Between SSD and the Correctional Facility

The grant can be paid to the correctional facility as a restricted payment if requested by the mother, or paid into an account for the mother at the correctional facility. If the mother does not request restricted payment, the correctional facility, as part of the package that is sent to the SSD, must provide specific details concerning the mother's account in the facility into which the grant will be paid. If the mother requests restricted payment to the facility, a copy of the request must be provided to the SSD.

Copies of client notices of case action, request for information, etc. that are sent to the mother must also be provided by the SSD to the designated person in the correctional facility. Each application forwarded to the DFR must include the name and telephone number of the designated person at the correctional facility.

Arrangements must also be made between the SSD and the designated person at the correctional facility for the performance of necessary procedures and the gathering of information by the correctional facility for recertification of a case (PA/MA and MA only) and for quarterly reporting where required.

I. Child Support Enforcement Unit (CSEU)

The CSEU in the DFR must accept referrals and provide appropriate child support enforcement services to establish paternity and secure support for the child in receipt of PA MA who is residing with the mother in a correctional facility. The CSEU in the DFR may request assistance from the CSEU in the SSD where the correctional facility is located in obtaining information, in preparing affidavits and/or acknowledgments of paternity or in providing other services which may require personal, on-site contact with the mother at the correctional facility.

J. Food Stamps

Children living with their incarcerated mothers are ineligible for food stamps since they are considered boarders.

V. SYSTEMS IMPLICATIONS

Only the child should be included for the Household(HH) and Case (CA) counts in ABEL in conjunction with Shelter code 04, Room and Board.

VI. ADDITIONAL INFORMATION

Training will be provided to designated corrections staff in interviewing techniques and the kinds of information or documents the applicant must provide to verify eligibility and on the general eligibility requirements of the Public Assistance and Medical Assistance programs.

That training will be provided to State DOCS staff by State Department of Social Services staff.

The SSD where a county correctional facility is located will provide training to designated persons who are county corrections staff.

Local district expenditures associated with providing training to county corrections staff can be claimed for normal reimbursement. The costs would be charged to the eligibility/income maintenance function (F1) and claimed on the Schedule D-1 Claiming of Eligibility/Income Maintenance (E/IM) Expenditures (DSS-2347-A). These costs would qualify as an exemption from the administrative cost cap if an exempt activity plan is submitted.

VII. EFFECTIVE DATE

The effective date of this release is January 1, 1995.

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

MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding between _____ County Department of Social Services (DSS) and _____ Correctional Facility, for processing of Public Assistance (PA) and Medical Assistance (MA) applications of inmate mothers with infants in residence.

A. The _____ County Department of Social Services agrees:

1. To conduct training of staff of the correctional facility designated to take applications for PA and MA on the procedures and requirements for taking applications and conducting interviews of applicants for PA and MA.
2. To advise correction staff of relevant changes in PA and MA statutes, regulations and procedures in a timely manner.
3. To follow up on applications after submission by correction staff. If the DSS needs additional documentation/verification, it may request that correction staff get the information.
4. To notify applicants of PA and MA eligibility decisions and forward a copy of the notice to the correction facility.
5. To provide the correction staff with the name(s) of a contact person and a phone number at DSS.
6. To respond to questions from correction staff and provide necessary information regarding the processing of applications.
7. To cooperate with the Correction staff to establish reasonable procedures to accomplish the tasks described in this document.

B. For the purpose of this program, the _____ Correction Facility agrees:

1. To designate employees of the correctional facility to take applications and conduct interviews for PA and MA and notify DSS in writing of the name(s), title(s) and qualifications of that person(s) and names of any backup(s) or replacement(s) staff that will be performing eligibility interviews.
2. To require all employees designated pursuant to paragraph B.1 to attend training conducted by DSS on the procedures and requirements for taking applications for PA and MA and conducting interviews of applicants for PA and MA.
3. To obtain a signed DSS Release of Information from the applicant where applicable.

4. To complete the interview guide (DSS-3570) and to complete all referral forms as necessary. The last page of the guide must contain a case narrative.
5. To conduct a face-to-face interview with the applicant and obtain as much documentation as possible of all statements on the application form (DSS-2921). All necessary documentation that is not submitted at the interview must be entered on the documentation requirements form (DSS-2642). Provide a copy of the DSS-2642 to the applicant, notify the applicant of any missing documentation and the due date for submission of documentation.
6. To assist the applicant in obtaining necessary documentation and notify DSS if reasonable attempts to secure documentation fail, that the documentation cannot be obtained.
7. To provide the original application, interview guide, DSS-2642 and the DSS-2860, the Child Support Enforcement referral and any additional information or documentation requested by DSS along with a photocopy of all documentation required, to DSS using procedures agreed upon in accordance with paragraph A.7.
8. To maintain a log that shows the applicant's name, date of interview and date on which the application was provided to DSS.
9. To keep confidential all information obtained while acting as a designated representative to facilitate the filing of PA and MA applications. The unauthorized release of information collected can result in termination of this agreement and potential legal action as defined by Section 136 of the Social Services Law. All persons who are designated to perform PA and MA eligibility interviews must sign the confidentiality agreement provided by DSS.
10. To notify of DSS a change in the status of a child no later than the end of the second business day after the change in status.

 _____ Correctional Facility

 _____ County Department
 of Social Services

 Title

 Title

 Date

 Date

CONFIDENTIALITY AGREEMENT

I, _____, (title)_____ at _____ Correction Facility have been designated to take Public Assistance and Medical Assistance applications on behalf of the _____ County Department of Social Services. I understand that all communications, information and documents received by me in the course of conducting a Public Assistance and/or Medical Assistance eligibility review is confidential and may not be disclosed by me to anyone except the applicant for or recipient of public assistance or medical assistance and persons authorized to have such information for the purpose of making eligibility determinations for public assistance or medical assistance.

I understand that any violation of the provisions of this agreement is unlawful and may subject me to loss of my status as a designated interviewer as well as any other penalties prescribed by law.

Signature

Print Full Name

Date

Witness