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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 95 ADM-15

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: September 14, 1995

SUBJECT: Food Stamp Program Implications of the Mickey Leland
 Childhood Hunger Relief Act (P.L. 103-66)

 SUGGESTED

DISTRIBUTION: | Food Stamp Directors
 | Income Maintenance Directors
 | Staff Development Coordinators
 | Corrective Action Coordinators
 | Child Assistance Program (CAP) Coordinators

CONTACT

PERSON: | Food Stamp County Representative at 1-800-343-8859,
 | extension 4-9225

ATTACHMENTS: | None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
93 ADM-22		387.1(w)		FSSB	GIS
92 ADM-9		387.9(b)		XVI-D-all	94 ES/WMS
89 ADM-18		387.11 (j)		XII-G-all	004
91 INF-3		387.12(e)(2)		XI-D-5&6	94 ES/DC017
89 INF-31		387.14(a)(1)		XI-C-5.1	91 IM/DC013
		387.23		XI-C-4.1	ABEL Trans.
				X-E-1	94-4
				X-B-7.1	94-3
				IX-G-3.1	94-2
				VI-A-2	
				V-A-2-all	
				V-A-1.1	
				v-3.1	

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I. PURPOSE

The purpose of this directive is to provide social services districts with the details of numerous changes in current federal and State food stamp policy required by the Mickey Leland Childhood Hunger Relief Act (P.L. 103-66).

II. BACKGROUND

Congress enacted the Mickey Leland Childhood Hunger Relief Act (Mickey Leland Act, Public Law 103-66) as part of the Omnibus Budget Reconciliation Act of 1993. The Mickey Leland Act amends The Food Stamp Act of 1977. The major goals of the amendments include ensuring adequate food assistance to applicants and recipients, promoting self-sufficiency, and simplifying the provision of food assistance. The amendments will provide additional benefits to some households currently in receipt of food stamps (FS), and will extend eligibility to some households currently ineligible.

In passing this legislation, Congress sought to support the above initiatives by enacting the amendments listed as follows, grouped in accordance with their intended goal:

Ensuring Adequate Food Assistance

- o Student Earned Income Exclusion
- o Excess Shelter Limit
- o Earned Income Tax Credits
- o Homeless Households in Transitional Housing
- o General Assistance Vendor Payment Exclusion (HR, VA and PG/ADC)
- o Continuing Benefits to Eligible Households

Removing Barriers to Self-Sufficiency

- o Increase in Dependent Care Deduction Cap
- o FS/E&T Dependent Care Reimbursement
- o Fair Market Value of Vehicles
- o Vehicles Necessary to Carry Fuel or Water

Simplifying the Provision of Food Assistance

- o Household Definition Change

Three Mickey Leland Act provisions are not included in this release, but will be addressed in future Directives. These three provisions are:

- o Deduction for child support payments to non-household members,
- o Eligibility of children residing with their parents in drug/alcohol treatment centers,
- o Increased IPV Penalties for FS trafficking.

III. ORGANIZATION AND CONTENTS OF THIS DIRECTIVE

Each Mickey Leland Act provision in the following Section contains its own subsections detailing Background, Program Implications, Required Action, and Systems Implications, instead of having one such subsection only, for the entire Directive.

The table of contents will guide users to the appropriate sections.

IV. COMBINED BACKGROUND, PROGRAM IMPLICATIONS, REQUIRED ACTION AND SYSTEM IMPLICATIONS

A. Student Earned Income Exclusion:
Ensuring Adequate Food Assistance

Background

Before September 1, 1994, the earned income of a child who was a student at least half-time, who had not yet attained his or her eighteenth birthday was excluded as food stamp income. This exclusion applied to students attending elementary school, secondary school or post-secondary school.

As of September 1, 1994, the earned income of a household member who is an elementary or secondary school student at least half time, and who is 21 years of age or younger, is excluded as food stamp income. Secondary school students enrolled in a vocational curriculum leading to a high school/GED degree are considered students for the purposes of this amended student income exclusion criteria.

Program Implications

The change requires that the student must be attending elementary school or high school, including pursuing a high school equivalency diploma (GED). Income earned while attending post-secondary education is no longer excluded. The exclusion now applies to students 21 years of age or younger. It is still required that the student be attending school at least half-time. It may be necessary for district staff to contact the educational institution to determine the institutions' criteria for half-time student status.

The exclusion is expected to result in an increase in benefits to households in which an employed member age 21 or younger is attending grammar or high school. It may result in a very small number of cases becoming eligible for FS that are not currently eligible. However, since income earned while attending post-secondary education is no longer excluded, this change could increase household income, thereby decreasing benefits in situations where a student under the age of 18 is attending college.

Required Action

Exclude as food stamp income the earned income of an elementary or high school student attending school at least half-time who is 21 or younger.

The amended exclusion standards were applied beginning September 1, 1994 for new applications and at recertification for participating households. Participating households not rebudgeted by September 1, 1994 must be provided restored benefits by next recertification for any month starting with September, 1994 when an underpayment occurred because the household was eligible for but did not receive a student income exclusion.

Participating households must also be evaluated by next recertification to determine if the income of a student attending post-secondary school is being excluded. If this income is being excluded in these situations, the case budget must be changed to include the income. There is no overpayment to such household for the period between September 1, 1994 and the date the action is taken to change the case budget, if the action is completed by the household's next recertification. When a student attains age 22, the case budget must be adjusted in the month following the month in which the student became 22 years of age.

Systems Implications

No systems implications.

B. Excess Shelter Limit

Background

Prior to July 1, 1994, excess shelter costs were capped at \$207/month. This limit applied unless the household contained a member who was elderly or disabled as defined in FSSB V-A-6.1. This provision will phase out the shelter cap on the excess shelter deduction in two increments, with the elimination of the shelter cap in January 1997.

Program Implications

This provision increased the excess shelter deduction limit beginning July 1, 1994. The shelter cap will then be entirely eliminated in January, 1997. On July 1, 1994 the shelter cap was increased to \$231. The second increase of the shelter cap will occur on October 1, 1995 with an increase to \$247. Removal of the cap is effective January 1, 1997.

This provision will result in an increase in benefits for households and is expected to affect a significant number of FS cases. Also, a small number of households that are not currently eligible for FS may become eligible because of the new excess shelter limit threshold.

Required Action

A Mass Rebudgeting/Reauthorization (MRB/A) was delivered for July implementation of the July 1st increase. The next increase, scheduled for implementation on October 1, 1995, will be mass rebudgeted as part of the October 1, 1995 MRB/A reflecting food stamp and Standard Utility Allowance (SUA) changes. The elimination of the shelter cap will be reflected in the January 1st MRB/A in 1997. For budgeting details see FSSB XI-C-5.1.

Systems Implications

Upstate

An MRB/A ESD (Excess Shelter Maximum Deduction) delivered on May 23, 1993 (Initial Phase May 16) rebudgeted FS for the shelter cap increase. ABEL Transmittal 94-2 explained details of automated support and necessary follow-up. A revision was made to the ABEL calculation program effective 7/1/94 to reflect the new shelter cap.

New York City

An MRB delivered on the weekend of June 18 rebudgeted all cases eligible for the shelter cap increase. A revision was made to the ABEL calculation program effective 7/1/94. Full details were issued in ABEL transmittals PA-B-94-2 and FS-B-94-2.

C. Earned Income Tax Credit

Background

Previously, any federal Earned Income Tax Credit (EITC) payment was excluded from food stamp household income in the month received and excluded as a resource for the month received and the following month. If a state had a state EITC payment, it was excluded from income only if it was a non-recurring lump sum payment. A state EITC payment was not excluded as a resource.

Currently, federal EITC advance (periodic) or lump sum payments continue to be excluded as countable FS income in the month received, and as resources for the month of receipt and the following month. However, as of September 1, 1994, both federal and State EITC payments are excluded as resources for 12 months from receipt, provided the individual receiving the EITC payment was participating in the FS Program when the EITC payment was received and participated continuously during the 12 month period.

New York is beginning a State EITC program in 1995.

Program Implications

Income

Although the Mickey Leland Act change regarding EITC payments does not affect how payments are treated as income, USDA took this opportunity to clarify treatment of EITC payments as income for both federal and state payments.

As of September 1, 1994 federal periodic or lump sum EITC payments received by households applying for or participating in the Food Stamp Program continue to be excluded as income in the month received. Exclusion of federal advance or periodic EITC payments as income is authorized by the Internal Revenue Code and does not address State EITC payments. State EITC payments received as a lump-sum (e.g., a single amount representing the payment for an entire year) are exempt as income based on the lump-sum income exclusion permitted by the Food Stamp Act and federal regulations. It is anticipated that State EITC payments will be by lump-sum only. However, if this policy changes and State EITC sums are also paid as periodic payments, these sums will not be excluded as income.

Resources: Applicants

Federal EITC payments are excluded as a resource in the month received and the following month. This also is not a change from previous policy. A federal EITC payment received the month before an application is filed or in the filing month on a day previous to the application filing date, is exempt as a resource until the third month after the EITC payment is received. It is possible that an applicant household could be eligible for one or two months when the federal EITC is excluded as a resource and ineligible in month three due to excess resources.

The federal provisions for this exclusion do not apply to State EITC's. State EITC payments received prior to the application filing date and retained at the time of application count as a resource for such applicants/recipients.

Resources: Recipients

Both federal and State EITC payments are excluded as a resource for 12 months from receipt if the individual is participating in the FS program at the time the credits are received and participated in the program continuously during the 12 month period. The month the payment is received counts as month one when determining the 12 month period. Breaks in program participation of one month or less due to administrative reasons (e.g. late recertification or non-return of quarterly mailer), are not considered as non-participation in determining the 12

month exclusion. Cases closed because of ineligibility (e.g. excess income or excess resources) are considered to have breaks in participation, even if the break is one month or less. Persons who receive an EITC payment while a member of a food stamp household continue to be eligible for the exclusion for the remainder of the 12 month period if they move to another food stamp household.

Federal and State EITC payments received by an applicant after the application filing date but before eligibility is determined are considered payments received by a recipient. This 12 month exclusion applies to such payments. This provision will enable participating households to retain their eligibility for food stamps but will not make additional households eligible.

Required Action

Beginning September 1, 1994, for participating households reporting receipt of federal and state EITC funds, or for households adding a member formerly participating in another FS household on a continuous basis since receiving a federal or state EITC payment, amounts of an EITC payment retained by the food stamp household must be considered an exempt resource for a twelve month period from the date of the receipt.

Systems Implications

No systems implications.

D. Homeless Households in Transitional Housing

Background

Prior to September 1, 1994, any amount of a public assistance grant in excess of the state's established public assistance standard for shelter with heat that was paid directly to a third party for the cost of providing a homeless household transitional housing was excluded as food stamp income. In addition, an amount equal to 1/2 the shelter standard with heat was also excluded as food stamp income.

As of September 1, 1994 the entire amount of a public assistance payment paid directly to a third party for the cost of providing a homeless household transitional housing is excluded as food stamp income.

Program Implications

Beginning September 1, 1994, PA payments paid directly to a housing provider for transitional housing to a homeless household must be excluded as income for food stamp purposes. This means that these households will have less countable income when the amount of food stamp benefits is calculated.

No FS shelter expense deduction is permitted for any shelter expense that is paid by monies that are excluded as FS income. This means that PA/FS households which have the total cost of shelter paid by vendor payments, will have no shelter cost expense included in the excess shelter cost deduction determination.

In some situations, homeless households may pay some part of a transitional housing cost out of income other than public assistance income. There is no exclusion for income other than public assistance income. However, any part of a transitional housing cost paid by income other than public assistance is allowed as a shelter cost when calculating the household's FS excess shelter deduction.

Example 1: PA/FS case with only PA income

A homeless individual residing in a hotel/motel has a public assistance monthly shelter vendor payment (paid directly to the motel operator) of \$700. The household's countable PA income is as follows:

not counted as FS income

\$700.00 Transitional Housing Vendor Payment
\$ 14.10 HEA (Home Energy Allowance)
\$ 11.00 SHEA (Supplemental Home Energy Allowance)

countable as FS income

\$112.00 Basic allowance
64.00 Restaurant Allowance

allowable shelter cost

\$0.00 Allowed as Shelter cost

Example 2: PA/FS case with PA and Other income

A homeless individual residing in a hotel/motel has \$800 in unearned income. The individual is eligible for a \$201 PA grant that is a vendor payment to the landlord. The monthly motel rent is \$700.00. The household's income is treated as follows:

\$201.00 PA vendor shelter payment is excluded income

\$700.00 Monthly motel rent
-\$201.00 Amount by PA as vendor payment
\$499.00 Out of pocket payment from recipient's unearned income to landlord allowed as a shelter expense.

Required Action

The total amount of transitional housing vendor payments must be excluded beginning with the September 1994 benefit. New York City ABEL was modified on June 20, 1994 and Upstate ABEL on July 18, 1994 to reflect this change for new budgets with effective dates of September 1, 1994 and beyond.

New York City WMS mass rebudgeted undercare cases on August 20 effective beginning with September 1, 1994 payments. Any cases not done through mass rebudgeting must be rebudgeted no later than the next recertification. Restored benefits back to September 1, 1994 must be paid for any month in which a household is underpaid because it was entitled to, but did not receive, the new exclusion amount.

Districts outside of NYC received lists of the cases affected by this change. Districts were not required to rebudget participating households before September 1, 1994. However, restored benefits back to September 1, 1994 must be issued no later than the next recertification for any month in which a household is underpaid because it was entitled to, but did not receive, the new exclusion amount. Cases that successfully complete the ALL MRB/A will have the new exclusion amount beginning with benefits paid for October, but must be reviewed for September.

For households affected by this provision, a monthly increase in FS benefits per household may result. A small number of households previously ineligible for FS may become eligible because this provision may result in less countable income to the household.

Systems Implications

Upstate WMS/ABEL

On upstate WMS, beginning July 18, 1994, when the (Function) SF8 key is used on an ABEL PA Budget with a FROM Date of September 1, 1994 or later, and the Shelter Type code is 06, 19, 21, 22, 33, 36 or 37 (i.e., Transitional Housing), new procedures were implemented to meet the requirements that are specified in the Program Implications and Required Action sections above. (Shelter payments made directly to the vendor will be subtracted from the PA grant amount and the FS Shelter amount before they are displayed on the FS Input screen.) ABEL Transmittal 94-3 includes details of ABEL procedures and describes how lists of affected cases will be distributed and used. ABEL Transmittal 94-4 describes the alert that will be set for affected cases in the ALL MRB/A.

Downstate WMS/ABEL

Details of the changes to ABEL and the mass rebudgeting were sent to districts in an ABEL transmittal.

E. General Assistance Vendor Payment Exclusion (HR, VA, and PG/ADC)

Background

Prior to September 1, 1994, energy assistance paid to PA/FS recipients in the form of the public assistance HEA and SHEA payments was excluded as food stamp income.

As of September 1, 1994, in addition to the exclusion of HEA/SHEA payments, state Public Assistance payment amounts restricted for the purpose of making vendor payments to cover energy or utility costs are not counted as food stamp income. New York State's categories of Public Assistance affected by this change are Home Relief (HR), Veteran Assistance (VA) and PG/ADC.

Program Implications

For purposes of this exclusion, energy or utility costs are heating costs and costs for domestic utilities such as lights, cooking gas, and hot water as well as costs for drinking water, sewer usage and garbage disposal. The HEA/SHEA payments, whether paid to the recipient or restricted for the purpose of making a direct payment to a vendor, continue to be excluded as food stamp income. Effective September 1, 1994, any amount of a HR, VA, or PG/ADC grant restricted for the purpose of making a payment directly to a vendor for energy or utility assistance is also excluded as food stamp income.

This Mickey Leland provision will result in less PA countable income and will therefore, increase FS benefits for certain HR/FS, VA/FS and PG-ADC/FS households.

Required Action

Heating and Domestic Utility Costs

For upstate cases, any new ABEL budgets done after July 18, 1994 for September 1 or beyond exclude vendor restricted payments for heating and domestic utilities such as lights, cooking gas and hot water, as income.

Other Domestic Utility Costs

PA payment amounts for drinking water (as a separate charge) may be restricted for the purpose of making a direct payment to a vendor. However, ABEL is not programmed to automatically exclude these restricted PA payment amounts for drinking water as FS income. Because of this, any PA payment amount for restricted water costs must be manually subtracted from both the PA countable income and water amounts brought forward to the FS Input Screen for HR, VA or PG-ADC cases.

There is no PA authority for providing a separate PA allowance for sewer usage and garbage disposal costs. However, if water, sewer or garbage disposal expenses are included as part of the total PA shelter amount and are also vendor restricted payments, these costs must then be subtracted from both the PA countable income and the FS shelter amounts brought over to the FS Input Screen.

Eligibility workers must do a new FS budget when changing the PA case type to or from a federally funded category to ensure that these vendor payments are properly budgeted. For mixed FS household cases, districts must ensure that eligibility workers doing ABEL budget calculations after case type changes to or from a federally funded category, receive all utility information necessary to calculate an accurate budget.

For upstate cases, any household with grant amounts restricted for the purpose of making vendor payments for heating or domestic utility costs which was successfully mass rebudgeted for the October Food Stamp standards change, had this new exclusion used to calculate benefits beginning with the October benefit. Budgets of households changed for October as a result of the mass rebudgeting must be reviewed by next recertification and restored benefits issued for September, if an underpayment occurred. Cases that do not complete the mass rebudgeting must be reviewed by next recertification and issued restored benefits for any month, beginning September, 1994 in which an underpayment occurred because the new exclusion was not used.

There is no required action in New York City for excluding vendor restricted payments for energy or domestic utility costs such as lights, cooking gas and hot water because vendor restricted payments made for these energy or utility costs are amounts equal to or less than the HEA/SHEA and are therefore already exempt as income. However, vendor restricted payments for drinking water costs shall be manually calculated in accordance with the instructions for districts outside of NYC, as described above. Currently, there are no NYC cases with restricted payments for sewer or garbage disposal costs. Should any such payments occur, they must also be handled in accordance with instructions for districts outside of New York City.

Systems Implications

Districts Outside of New York City:

Beginning July 11, 1994 on training and July 18, 1994 on production, when the SF8 key is used on a PA/FS Budget with Case Type = 14 (PG-ADC), 16 (HR), or 17(VA) and the FROM Date is September 1, 1994 or later, restricted allowances for the purpose of making a direct vendor payment for heating or certain domestic utility costs such as lights, cooking gas and hot water will be excluded as FS income. Restricted PA allowances for payment of drinking water costs are not automatically excluded by ABEL as FS income. Such a PA allowance, when restricted, must therefore be manually subtracted from both the PA income and water amounts brought forward to the FS Input Screen. Additionally, when water, sewer and garbage disposal costs are restricted and included as part of the PA budget shelter amount, both the shelter amount and the PA income amount carried to the FS Input Screen must be reduced by the amount of the restricted payments. Further details about this change are contained in ABEL Transmittal 94-3.

New York City

Budgets with effective dates of 9/A/94 or later will exclude the PA Fuel Allowance, to be paid as a vendor payment as countable FS income for all HR or HR/PG cases which receive the PA Fuel Allowance. Budgets with effective dates prior to 9/A/94 will continue to include the PA Fuel Allowance as FS income. Further details about this change will be included in ABEL Transmittal PA-B-94-3.

Additionally, any restricted PA payment for drinking water costs shall be manually handled in accordance with the vendor payment exclusion systems instructions for districts outside of NYC, as described above. Currently, there are no NYC cases with restricted payments for sewer or garbage disposal costs. Should any such payments occur, they must also be handled in accordance with instructions for districts outside of New York City.

F. Continuing Benefits to Eligible Households

Background

Prior to September 1, 1994, food stamp household benefits were prorated following any break in participation in the Food Stamp program. The Mickey Leland Act amendment eliminates the proration of benefits for households unless the household is off the Food Stamp program for more than one month.

Program Implications

Beginning September 1, 1994, when households reapply after having been off the Food Stamp program for less than one month, the first month's benefit is not prorated. Eligible households, reapplying within 30 days after case closing during a certification period or households recertified during the first month following the end of the prior certification period, must receive full benefits for the first month of the new certification period.

This provision includes households who apply after the fifteenth of the month and who are entitled to receive combined benefits. This provision also applies to cases processed under regular and expedited procedures.

For households closed during a certification period, the date for counting 30 days is the last day of the month in which the case is closed. To determine the case closing month, use the last month the client had the opportunity to participate as detailed on BICS (cross county inquiry is available). In instances where an individual was deleted, use of the WMS

Individual Case Inquiry Screen, section WINQ02 (Individual CIN or SSN Inquiry) can be used to access screen WINQ12 (Case Involvement of CIN). The Case Involvement screen will show the date of deletion. For information about cases previously active in New York City, upstate districts can call the FS Correspondence Control Unit at 212-240-4551. For a household where a member has moved out, the 30 day count begins in the last month in which the individual left the first household. Further, 30 days is considered to equal a calendar month. For example, if a case is closed during June, the first month's benefits are not prorated if the household files an application by July 31.

For PA/FS applicants, whose application is filed within one month after the end of the food stamp certification period or case closing, the first month's food stamp benefits are not prorated. However PA benefits will be prorated.

This provision applies in all situations when a person participated in the food stamp program during the month preceding the application or recertification month. This includes persons who move from one district to another and persons who move out of a participating household and file an application within 30 days.

This change does not change the definition of the application filing date. The filing date is still the date that a signed application is submitted to the agency. It is important to use the correct application filing date because the thirty day time-frame for processing the application is still counted from the application filing date.

This provision will result in additional benefits for eligible households reapplying within 30 days after a case closing.

Required Action

As of September 1, 1994, households reapplying or recertifying that have been off the Food Stamp Program less than one month must receive a full month's benefit, if eligible, instead of a prorated amount for the first month of certification.

The following examples illustrate this provision:

Example number 1: Jay Jevu's, an NPA-FS recipient, certification period ended June 30. He does not submit his recertification application to the district until July 16. The application filing date is July 16. Action must be taken on the application within 30 days of July 16. If eligible, he will receive food stamp benefits for the entire month of July and for the entire month of August because he applied after the 15th of the month.

If he waited and submitted his recertification application on August 12, he would receive prorated food stamp benefits from his date of application, August 12 (filing date), if eligible.

Example number 2: Mag Hairday's, an ADC recipient, certification period ended June 30. She does not recertify and her case is closed June 30. She reapplies on July 12 (filing date). If eligible, she will receive food stamp benefits for the entire month of July and prorated PA benefits from the date she complies with all PA eligibility requirements and is determined eligible for PA.

If she waited and submitted her recertification application on August 19, she would receive pro-rated food stamp benefits from the date of her application, August 19 and pro-rated PA benefits from her date of compliance, if eligible.

Example number 3: Ted Center, an HR recipient, does not attend his recertification interview and his case is closed June 10. He reapplies July 16 (filing date). If eligible, the beginning date of his HR benefits will be August 29 (45 days) and his food stamps July 1.

If he waited and applied on August 8 (filing date), he would receive pro-rated food stamp benefits from the date of his application, August 8, and prorated HR benefits as of September 21, if he were determined eligible.

Example number 4: Tom Ato's food stamp case was closed at his request effective May 10th. Tom submitted a new application for food stamps on June 19th (filing date). If eligible, he would receive food stamp benefits for the entire month of June and the entire month of July because he applied after the 15th of the month.

If Tom had waited and submitted his food stamp application on July 5th (filing date), his benefits would be prorated from his application date, July 5, if he were determined eligible.

Systems Implications

The application filing date is the actual date of the month on which a signed/completed application is submitted to the district. This date can be determined through WMS Inquiry.

Upstate

When the benefits are authorized, and if the client has recertified or reapplied within one month after termination of benefits, the first of the month following the month of termination must be used as the FROM Date both on the food stamp Authorization Period and the FROM Date on the pay line used to authorize food stamp benefits on screen WKBK06. The ABEL budget must be calculated using the first of the month following the month of termination as the effective FROM Date.

New York City

For PA/FS cases, workers should continue to manually issue the first month of FS benefits using the new rules for pro-rated and full months benefits.

NPA/FS cases that are reopened in less than 30 days should be reopened through Undercare for the client to receive the full months benefit. If benefits are to be pro-rated because the case has been closed more than 30 days, the case should be opened through Eligibility. Benefits will automatically be pro-rated.

G. Increase in Dependent Care Deduction Cap:

Removing Barriers to Self-Sufficiency

Background

Prior to September 1, 1994, the dependent care deduction cap was \$160 per dependent, per month. This amount was raised as of September 1, 1994.

Program Implications

Effective September 1, 1994, the dependent care deduction cap was raised to \$200 per child, per month for each child under 2 years of age and \$175 per dependent, per month for other dependents. If a child reaches a second birthday before the end of a certification period, the dependent care deduction must be adjusted no later than the next regularly scheduled recertification.

Food stamp benefits to affected households will increase. The increased deduction cap will also result in a small number of cases becoming eligible for benefits. This policy change also provides some administrative ease because it standardizes dependent care deduction policy between PA and FS programs.

Required Action

These increased deduction amounts must be used for households beginning with the September 1994 benefit. New York City ABEL was modified on June 27, 1994 and upstate ABEL on July 18, 1994 to use the new limits for new budgets with effective dates of September 1, 1994 and beyond.

Districts Outside New York City

For districts outside New York City, both PA/FS and NPA/FS households with a child care cost greater than \$160 on the ABEL budget were mass rebudgeted to receive a deduction of the actual amount paid or \$175, whichever is less, beginning with the October, 1994 benefit. This change was made as part of the ALL MRB/A which is done every year to implement the yearly adjustment to the Food Stamp program standards.

Districts outside New York City must review households by next recertification to determine if households are entitled to receive a higher deduction for October, 1994 and beyond (i.e., a deduction between \$176 and \$200) and/or were entitled to a higher benefit for September, 1994. The district must pay restored benefits for any month a household was underpaid because it did not receive the correct deduction. Restored benefits also must be paid for any month, back to September, to any household which is underpaid because the household's case did not successfully complete the MRB/A process.

New York City

In New York City, PA/FS cases were mass rebudgeted to raise the child care deduction to the actual amount paid or \$200, whichever is less, for children under the age of two and the actual amount or \$175, whichever is less, for children over the age of two. NPA/FS budgets which contained information regarding the age of dependents were also mass rebudgeted this way. These changes for both PA/FS and NPA/FS were made as part of the mass rebudgeting for the October change to the Food Stamp program standards. Budgets were changed to affect October 1994 payments.

NPA/FS cases without age information could not be mass rebudgeted. Restored benefits must be paid to those households. Restored benefits must be paid to PA/FS and NPA/FS cases mass rebudgeted but which were underpaid for September because the mass rebudgeting was done to start with the month of September.

Systems Implications

Upstate WMS/ABEL

On Upstate WMS, beginning July 18, 1994, when a FS Budget is calculated on ABEL with a FROM Date of September 1, 1994 or later ABEL will perform the procedures that are specified in the Program Implications and Required Action sections above. A new field on the FS Input screen will capture the month and year of birth of each dependent for which there is a cost of care entry. For a dependent through the month that the child becomes two years old, ABEL will allow up to the \$200.00 limit. For children two and older, ABEL will allow up to the \$175.00 limit. ABEL Transmittal 94-3 includes details of ABEL procedures and describes how lists of affected cases will be distributed and used. ABEL Transmittal 94-4 describes the alert that will be set for affected cases in the ALL MRB/A.

Downstate WMS/ABEL

PA/FS Cases

Budgets with Effective dates of 09/A/94 or later will cap the input Daycare Amount, less the amount issued as a Supplemental Issuance, at either \$175 (children two years of age or older) or \$200 (children less than two years of age). Budgets with Effective Dates prior to 09/A/94 will continue to budget using the current methodology. ABEL Transmittal PA-B-94-3 provides details of this change.

NPA/FS Cases

Workers will now be required to input the child's Date of Birth in the Daycare DOB field on Individual Screen NSBL06 whenever a Daycare Amount is also input. The input DOB will be used to cap the input Daycare Amount at either \$175 (children two years of age or older) or \$200 (children less than two years of age). Budgets with Effective Dates of 09/A/94 or later will use this new methodology. Budgets with Effective Dates prior to 09/A/94 will continue to budget using current methodology. ABEL transmittal FS-B-94-3 provides details of this change.

Client Notices System (CNS)

For CNS districts, language has been added to include an explanation when the child care allowance is reduced because of a child turning two. The calculation explanation language will include the month and year of birth of each dependent for which there is a dependent care deduction.

H. Reimbursement for Dependent Care of FS/E&T Participants

Background

Before September 1, 1994 the dependent care reimbursement to Food Stamp recipients participating in Food Stamp Employment & Training (FS/E&T) activities was capped at the same \$160 per month, per dependent that was provided under the child care deduction.

Beginning September 1, 1994 the cap on dependent care reimbursement to FS/E&T participants was increased to the lower of the actual cost of dependent care or the applicable local market rate. However, the FS/E&T cap must be no lower than the dependent care deduction cap. See 93 ADM-22 for the latest revised local market rates for child care. Beginning September 1, 1994 the dependent care deduction cap has increased to \$200 per child for each child under 2 years of age and \$175 per dependent for other dependents.

Program Implications

Effective September 1, 1994 the limits on dependent care reimbursements are raised to the lower of the actual cost of dependent care or the local market rate as provided in Section 415.9 of the Department's Regulations (the local market rates for child care already established). Dependent care reimbursements are for food stamp recipients who incur out of pocket dependent care costs as a result of their being enrolled in FS/E&T programs. Even though households may be paid up to the local market rate, under no circumstances will the household be paid a dependent care reimbursement higher than the actual out of pocket costs incurred by the household for the dependent care.

Local market rates for dependent care reimbursement do not include a rate for physically or mentally handicapped adults. Households may be reimbursed for the actual costs of dependent care for a physically or mentally disabled adult up to a statewide limit for the dependent care deduction used for dependents age 2 and over.

FS/E&T dependent care reimbursements are an important source of federal funding. FS/E&T reimbursements are generally used for NPA/FS households, applicants for PA/FS and NPA/FS who receive expedited processing, and HR recipients. Also, this provision is expected to increase benefits slightly for affected households.

Required Action

These new caps apply to FS/E&T plans and procedures after September 1, 1994.

In some limited situations before September 1, 1994, a FS/E&T household may have been voluntarily paying above the \$160 level. Effective September 1, 1994 these households must be raised to the lower of the actual cost or the applicable local market rate. If the budget is not changed by September 1st, restored benefits must be issued no later than the next recertification for any month in which a household is underpaid.

Systems Implications

Upstate WMS

The dependent care reimbursement may be issued by using payment type F3 on screen six of the WMS full data entry screens. Future system enhancements are being considered to support the computation of the local market dependent care rates similar to what now is done for the ADC JOBS supplemental payments.

Downstate WMS

Future system enhancements are being considered to support the computation of the local market dependent care rates and districts will receive information about these changes under separate cover.

I. Fair Market Value of Vehicles

Background

Before September 1, 1994, the portion of a vehicle's fair market value which is \$4,500, or less, was excluded when determining the food stamp resource value of:

- o one general purpose vehicle per household; and
- o any vehicle, in addition to the general purpose vehicle, used to attend training or education preparatory to employment or to travel to and from employment or seek employment in compliance with JOBS or FSE&T requirements.

The change to the Food Stamp Act provides for a \$50 increase in the fair market value exclusion effective September 1, 1994 and another \$50 increase effective October 1, 1995. Beginning October 1, 1996, the limit will be indexed annually for inflation over the year ending the previous June, using the Consumer Price Index for new cars and using \$5,000 as the base of the calculation.

Program Implications

The amount of the fair market value of vehicles that is not counted towards the FS resource limits is \$4,500 through August 31, 1994. The exclusion then increases as follows:

- o \$4,550 September 1, 1994
- o \$4,600 October 1, 1995
- o \$5,000 October 1, 1996

The change to the exclusion for October 1, 1996 will be adjusted by USDA, if necessary, and announced sometime after June 1996. The fair market exclusion amount will be adjusted as of each October thereafter.

The new vehicle resource limits are expected to have a small impact during the first two years of implementation, since the vehicle resource limit will increase by only \$50. However, after October 1, 1996 the increased vehicle exclusion threshold is expected to increase the number of households that are eligible for FS benefits.

Required Action

Beginning September 1, 1994, social services districts were required to begin using the \$4,550 exclusion threshold. Beginning October 1, 1995, the \$4,600 exclusion must be used. Districts will be notified regarding the 1996 amount, which will not be less than \$5,000.

Systems Implications

For CNS districts, language has been modified to include an explanation of the old and new resource limits.

J. Vehicles Necessary to Carry Fuel or Water

Background

This provision excludes from countable resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.

Program Implications

Effective September 1, 1994 households which depend on a vehicle to transport either fuel for heating or water for home use, when such transported fuel or water is the primary source of fuel or water for the household, must have the value of that vehicle excluded as a resource for food stamp purposes. Such vehicles do not need to have any special capabilities or be specially equipped to qualify for the exclusion. This exclusion must be

allowed even if there are other vehicles belonging to the household that are excluded for reasons different than hauling fuel or water. Also, the value of such vehicles may be eligible for exclusion for an entire year even though the vehicle is used to transport fuel or water for a concentrated period of time only (i.e. transporting wood for fuel during winter or fall months, for example).

This provision applies to households that live in areas without operational fuel and water hook-ups. It also applies to individual households that are without fuel or water because service has been terminated for non-payment or other reasons (i.e. water piped to a household that is not usable, for example). It applies to households which voluntarily choose to haul fuel or water, even though fuel or water hook-ups are available to the household, or where a utility connection to the household is already in existence.

The determination of what is considered a primary source of fuel or water is to be based on the information provided by the household and existing case record information including ABEL fuel codes.

This vehicle exclusion is expected to result in a small number of cases becoming eligible for FS that were not eligible prior to the exclusion.

Required Action

Beginning September 1, 1994 vehicles used for transportation of a household's primary source of fuel or water must be excluded as a resource for food stamp purposes.

Systems Implications

For CNS districts, language has been modified to include an explanation of this exclusion.

K. Simplifying the Provision of Food Assistance: Household Definition

Background

The change in household definition was made to simplify the definition.

Under the new policy, the following individuals living together must be considered to be customarily purchasing and preparing meals together, even if they do not do so:

1. a spouse of a member of the household;

2. a child(ren) under 18 years of age, other than a foster child(ren), under the parental control of an adult household member who is not the child(ren)'s parent or stepparent;
3. parents and their children or stepchild(ren) 21 years of age or younger, who are not themselves parents living with their child(ren) or married and living with their spouses.

Program Implications

The change in the food stamp definition of who must be considered as customarily purchasing food and preparing meals together will permit some persons previously required to be part of a relative's food stamp household to be a separate food stamp household.

This change could result in a significant number of individuals becoming eligible for separate household status, who are not currently eligible for separate status. However, a small number of households who were previously eligible for separate household status based on a parent/sibling being elderly or disabled may no longer be eligible for separate household status.

Required Action

The food stamp household is based on which individuals living together purchase and prepare meals together. However, in certain situations individuals must be included in the food stamp household even when they do not customarily purchase and prepare meals together.

Under the new policy, the following individuals living together must be considered to be customarily purchasing and preparing meals together, even if they do not do so:

1. a spouse of a member of the household;
2. a child(ren) under 18 years of age, other than a foster child(ren), under the parental control of an adult household member who is not the child(ren)'s parent or stepparent;
3. parents and their children or stepchild(ren) 21 years of age or younger, who are not themselves parents living with their child(ren) or married and living with their spouses.

This change means there is no longer a provision to extend separate household status to individuals who purchase and prepare meals separately if a parent or sibling is elderly or disabled. Because of this change, however, children age 22 and over, living with their parent(s), can be separate food stamp households if they purchase and prepare meals separately.

Additionally, siblings who live together can be separate food stamp households if they purchase and prepare their meals separately. This is because they no longer must be considered to be customarily purchasing and preparing meals together, even when they do not. (However, siblings who live together with their parent(s) or in a parental control situation cannot be separate households from each other if they are required to be in the same household as their parent(s) or parental control adult).

The concept of parental control no longer applies if the child is living with a parent, or step-parent. Such a child age 21 or younger can be a separate household if the child is also living with his/her child and/or spouse and purchases and prepares meals separately. It is no longer necessary to determine if the parent or step-parent is exercising parental control in these situations.

The concept of parental control now applies only in situations where an adult, who is not a parent, stepparent or foster parent, is living with a child under 18. When making an assessment of parental control for children under 18, districts cannot consider a child under 18 living with their spouse or child(ren) under parental control. (See FSSB Section V-A-2.1-2.2 for other standards for determining parental control).

Districts must apply this new household definition beginning September 1, 1994 for new applicants and by recertification for participating households. Districts must review case records of participating households which were not rebudgeted by September 1, 1994 and restore benefits for any months when an underpayment occurred because the new household composition rules were not applied.

Determination of whether restored benefits are owed must be based on documented information in the case record i.e., whether the case record indicates that the individual(s) claimed at last application or recertification to be purchasing and preparing food stamps separately. Restored benefits must be provided if the amount of food stamps the individuals would receive as separate food stamp households is greater than the amount they received as a single food stamp household. If it is determined that restored benefits are owed, the difference between what the original household received and what the individuals would have received if the new rules had been applied must be issued to the new household. If there is no indication in the record that a household member was purchasing and preparing separately, no restored benefits are owed.

Other food stamp household provisions are unchanged.

CASE EXAMPLES:

1. Mr. and Mrs. Dale, both age 45, are applying for food stamps. Also listed on their application is their daughter, age 15 and their son, age 22. Their son purchases and prepares meals on his own.

Q. Must the son be included in his parents food stamp case?

A. No, under the new food stamp rules, a child over age 21 who purchases and prepares meals separately from parents and siblings is not included in his parent's household.

2. Lena, age 17 lives with her friend Mary, age 23. Mary pays all the household shelter expenses. Lena is in high school, does not work and has no income or resources. Lena is applying for food stamps and indicates that she purchases and prepares meals separately from Mary.

Q. Can Lena receive food stamps separately from Mary?

A. No, it is reasonable to assume Lena is under Mary's parental control because of their respective financial situations. Children under 18 years of age under the parental control of an adult household member are considered to be customarily purchasing and preparing food together, even if they do not do so.

3. Yvette, age 17, and her infant child reside with Yvette's aunt. Yvette indicates she purchases and prepares meals separately from her aunt.

Q. Can Yvette and her child receive food stamps separately from her aunt?

A. Yvette and her child can be a separate FS case. The concept of parental control does not apply because Yvette has her own child residing with her.

4. Mary and Sandy, twin sisters age 25, live together and are applying for food stamps. The sisters indicate that they purchase and prepare meals separately. Neither sister is disabled.

Q. Can Mary and Sandy receive food stamps separately?

A. Yes, there is no longer a requirement that siblings be considered to customarily purchase and prepare meals together, even if they do not do so.

5. Jeannette a 17 year old and her infant son, live with her parents. Jeannette indicates that she and her son purchase and prepare meals separately from her parents.

Q. Can Jeannette and her son receive food stamps separately from her parents?

A. Yes, since Jeannette is living with her son and preparing meals separately from her parents.

6. Emily and John, both age 50 live together with their adult son Dirck, age 28. Emily and John are not married and not holding themselves out to the community as such. All three indicate that they purchase and prepare meals independently of each other.

Q. How many food stamp households are there?

A. Three. Since all individuals purchase and prepare meals separately, and are not spouses or minor children living with parents, each individual can be a separate household.

7. Skip, age 16, lives with his wife Liz, age 14, and his parents. Skip is applying for food stamps for his wife and himself. Skip indicates on the application that he and his wife purchase and prepare meals separately from his parents.

Q. Can Skip and Liz receive food stamps separately from his parents?

A. Yes, since Skip is living with his spouse and purchasing and preparing meals separately from his parents.

8. Mike, age 19 and his sister Sadie, age 18 live together. Sadie is applying for food stamps for herself. She indicates that she purchases and prepares meals separately from her brother Mike.

Q. Can Sadie receive food stamps separately from her brother?

A. Yes, since she is over age 18 there is no issue of parental control. There is no longer a requirement that siblings be considered to be customarily purchasing and preparing meals together. Note: If Sadie was under 18 and under the parental control of her brother, she could not be a separate food stamp household.

9. Kathy, age 16 lives with her friend Martha, age 17. Kathy is applying for food stamps for herself. She indicates that she and Martha share shelter expenses but purchase and prepare meals separately.
- Q. Can Kathy receive food stamps separately from Martha? What if they were siblings?
- A. Yes, Kathy is not under Martha's parental control and since Martha is not an adult, Kathy can be a separate food stamp household. If they were siblings, the answer would be the same because there no longer is a requirement that siblings living together be considered one food stamp household.

Systems Implications

How to Budget Public Assistance Income for Single PA Cases Separating into Multiple FS Households:

Shelter Allowances: A prorata share of the PA shelter allowance is counted as food stamp income according to the number of household members receiving the public assistance in the FS cases. Example: A three person PA household in which there are two food stamps cases, one for the grandmother and one for her child and grandchild. The PA shelter allowance is divided by three and attributed to two separate FS households, one-third to the Grandmother's PA/FS case, and two-thirds to the 2nd and 3rd generation NPA/FS case as they have two of the PA members in their household.

Basic Allowances: A prorata share of the PA basic needs allowance is counted as food stamp income according to the number of household members receiving the public assistance in the FS cases.

Pregnancy Allowances: Any pregnancy allowance is attributed in full to the FS case with the pregnant household member.

Child Support Pass-through Allowances: For PA cases with only one FS household with child support in effect, any child support pass through payment is attributed to the FS household with the child support payment in place.

Where multiple court orders of support are in effect for one PA case, but the support is intended for members in multiple FS cases, the pass through allowance is attributed to the FS case with the PA case grantee in it.

Essential Persons: Persons who are not essential persons under Danks v. Perales essential person policy, are included in the PA household and case counts to determine the basic and shelter allowance. The PA basic and shelter allowances are divided by the number of people on the PA case and then attributed to the FS household the essential person purchases and prepares food with. This is true even when the essential person constitutes their own single FS case because they purchase and prepare by themselves.

Note: For Danks v. Perales cases, the essential person is granted the full basic allowance for a case of one. This full basic allowance for one is attributed to the FS case containing the essential person. The shelter related allowances for the Danks v. Perales essential person, however, are based on the proration of the allowances for the total number of persons in the PA case.

How to calculate the Standard Utility Allowances (SUA) for Heating/Cooling, Utility and Phone:

The division of the SUA or actual heating/utility expenses between the FS households is divided on a per food stamp household basis, as is explained in FSSB Section XI-D-5 & 6.

WMS Systems Implications:

WMS Budgeting Outside of NYC

There are two options for the issuance of FS benefits to each of the FS households in an affected PA case. With either option, the Co-operative Case Number field on WMS may be used to record the case number of associated FS-Mix cases.

The first option is to establish a PA only case and then establish a separate FS-MIX case for each FS household within the PA household.

The second option is to issue PA/FS for the household that contains the PA grantee through the WMS PA case. (When that FS household includes a person who is not receiving PA, however, the first option must be applied.) A separate FS MIX case must be established, however, for each of the other FS households.

Special ABEL Procedures

When the first option is used to administer PA and FS, the Budget for each case can be calculated and stored on ABEL.

On the PA case:

- o on the ABEL PA Input screen, the case number for an associated FS-MIX case must be entered in the FS CASE NO. field,
- o use the F8 key on the PA Budget and print the resultant FS Input screen for distribution to the worker for each FS-MIX case,
- o on section 6 of the Authorization DSS-3209, PA Food Stamp code 04 or 06 must be entered.

For each FS-MIX case, the ABEL FS Budget is calculated with the following entries (EXCEPT Danks v. Perales essential person cases):

- o the number of FS households in the HT/AC, UTIL or PHONE indicator field;
- o the contribution to shelter cost;
- o the full income amount from any source other than PA that is received by a member of the FS household;
- o the manually calculated countable PA Grant:
 - oo when no pregnancy allowance is present, prorate the FS countable PA Grant that is displayed when the F8 key is used on the PA Budget; OR
 - oo when a pregnancy allowance is present, first subtract the pregnancy allowance from the PA Grant that is displayed when the F8 key is used on the PA Budget, prorate the remaining countable PA grant, add the pregnancy allowance to the prorated PA Grant for the appropriate FS-MIX case.

When the second option is used to issue PA and FS:

On the PA/FS case:

- o the PA and FS Budgets must be calculated on SCRATCHPAD then transcribed to the Bottom Line Budget screen for the case,
- o the FS Input screen should be printed immediately after the F8 key is used on the SCRATCHPAD PA Budget, for distribution to the worker for each FS-MIX case,
- o the procedures prescribed in the first option above for FS-MIX cases must be applied to the Scratchpad PA/FS Budget.

The procedures indicated in the first option above apply for the FS-MIX cases. (The FS Budgets can be stored on ABEL for the FS-MIX cases.)

Call the systems contact person for instructions on a Danks v. Perales essential person case.

Inter Unit Communications/Tracking:

Methods must be developed locally for the passing of case/budget information to and from PA to FS units. Examples of this include development of special unit codes to track cases and ensure reports are routed and shared between appropriate units.

WMS Budgeting in NYC:

Procedures for NYC system support will be issued separately.

V. CLIENT NOTICES SYSTEM (CNS)

For CNS districts, notice language will be changed to reflect the program changes mandated by this Directive.

FS Case Reason Codes for Closing, Recert-Closing and Denials were modified on July 18, 1994 to reflect these changes in policy.

The following Case Reason code will be deleted:

E75-Living with Sibling

The following Case Reason Codes will be added:

F70-Parental Control of Child

F71-Child Under Parental Control

A migration summary will provide a detailed explanation. In CNS districts, F70 and F71 will generate the appropriate notice language.

VI. EFFECTIVE DATE

All Mickey Leland provisions must be implemented effective September 1, 1994, unless otherwise noted. However, if districts or WMS mass rebudgeting are unable to rebudget cases on this date, restored benefits must be issued back to the appropriate implementation date.

Patricia A. Stevens
Deputy Commissioner
Division of Economic Security