

+-----+  
 | ADMINISTRATIVE DIRECTIVE |  
 +-----+

TRANSMITTAL: 98 ADM-3

TO: Commissioners of  
 Social Services

DIVISION: Temporary  
 Assistance

DATE: March 13, 1998

SUBJECT: Domestic Violence: Family Violence Option under the Welfare  
 Reform Act of 1997

SUGGESTED  
 DISTRIBUTION: | Income Maintenance Directors  
 | Food Stamp Directors  
 | Medical Assistance Directors  
 | Employment Coordinators  
 | Child Support Enforcement Units  
 | Directors of Services  
 | Child Welfare Staff  
 | Domestic Violence Service Providers  
 | Domestic Violence Liaisons  
 | CAP Coordinators  
 | Accounting Supervisors  
 | Staff Development Coordinators

CONTACT  
 PERSON: | See Attachment A

ATTACHMENTS: | See Attachment A

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
93 ADM-24		Parts 310,	Art. 6A-SSL	<u>PASB</u>	92 LCM-104
94-ADM-11		347, 350	Chap. 53 of	<u>XXIII-B-all</u>	94 LCM-153
97-ADM-23		351, 352,	the Laws of	<u>FSSB</u>	96 LCM-59
		369, 370,	91 and 92	IV-C-3	97 LCM-28
		372, 408,	62.5 - SSL	X-B-7-all	
		452, 453	131-u - SSL	V-D-1.2-1.3	
		454, 455		V-D-2.2-2.3	
			349-a-SSL	V-D-3.4	
			459-h-SSL		

TABLE OF CONTENTS

	Page
I. Purpose.....	3
II. Background.....	3
III. Program Implications.....	3
A. New Requirements.....	3
B. Continuing Requirements.....	4
C. Definitions.....	4
IV. Required Action.....	5
A. Universal Notification.....	5
B. Screening and Referral to Liaison.....	6
C. Domestic Violence Liaison.....	8
D. Assessment of Credibility.....	10
E. Services Referral and Waiver Assessment.....	11
F. Waivers.....	11
G. Good Cause.....	14
H. Battered Alien Eligibility and Deeming.....	15
I. Confidentiality.....	15
J. Safety and Privacy Considerations.....	16
K. Data Reporting.....	16
V. Child Abuse and Maltreatment Implications.....	17
VI. Food Stamp Implications.....	18
VII. MA Implications.....	18
VIII. Employment Implications.....	19
IX. Notice Requirements.....	19
X. Systems Implications.....	20
XI. Fiscal Implications.....	20
XII. Effective Date.....	21
XIII. Examples.....	21

I. PURPOSE

The purpose of this directive is to advise social services districts (SSDs) of the new requirements to implement the Family Violence Option. This involves identifying persons who are currently victims of domestic violence and offering temporary waivers of public assistance (PA) program requirements where compliance with such requirements would place the victim and/or victim's children at greater risk of harm or make it more difficult for them to escape from abuse.

II. BACKGROUND

The federal Wellstone-Murray Family Violence Option allows states to address the safety needs of domestic violence victims and their children within the state's TANF plan. The Family Violence Option includes procedures for screening for domestic violence, assessment, service referrals and temporary waivers of public assistance requirements which would place the victim at further risk.

After much collaborative work on the part of the Governor's Office; Office of Temporary and Disability Assistance; the Office of Children and Family Services; the Office for the Prevention of Domestic Violence; the NYS Coalition Against Domestic Violence; advocates and service providers, New York State adopted the Family Violence Option when the Governor signed the Welfare Reform Act of 1997. These entities, joined by representatives of several SSDs, developed regulations to implement the law. These regulations were filed on March 10, 1998 as Department Regulation 351.2(1).

III. PROGRAM IMPLICATIONS

A. New Requirements

The regulations which implement the family violence option require that starting April 1, 1998:

- | all applicants for and recipients of public assistance receive information about domestic violence and the protections and services available;
- | as part of the application and recertification process, applicants/recipients will be screened to determine those currently affected by domestic violence;
- | disclosure will be voluntary and confidential; and
- | individuals who self identify as victims must be referred to a specially trained domestic violence liaison who will assess whether the domestic violence claim is credible and whether it

impacts the individual's ability to meet PA program requirements such as residency requirements, child support cooperation requirements, work activity requirements, and other PA requirements.

B. Continuing Requirements

| SSD's continue to have an obligation to provide residential and non residential services to victims of domestic violence. This requirement and the related funding continues as outlined in 94 ADM-11.

| Longstanding PA policy provides that income and resources which belong to the victim's spouse or are jointly owned are not considered to be available to the victim unless the victim has access to them without putting the victim in danger, or can obtain access through legal means. Such limitations must be taken into consideration when making any PA eligibility determinations.

NOTE: The concept of actual availability of income and resources is important in domestic violence situations. The circumstances under which victims leave their homes often means that they may not have income and/or resources with them, such as cash, bank books, credit cards, etc. Also, they usually do not have ready access to this income and/or resources while they are in a domestic violence residential program.

| Workers continue to be Child Protective Services (CPS) reporters and are required to report suspected child abuse.

| Confidentiality continues to be crucial to ensuring the personal safety of victims of domestic violence since SSD's are identifying and offering special services to victims of domestic violence. To safeguard confidentiality, Department regulations continue to require that the street address of a residential program for victims of domestic violence be kept confidential.

C. Definitions

1. A VICTIM OF DOMESTIC VIOLENCE means an individual who has been subjected to:

| physical acts that resulted in, or threatened to result in, physical injury to the individual;

| sexual abuse;

| sexual activity involving a dependent child;

| being forced as the caretaker relative of a dependent child to engage in non-consensual sexual acts or activities;

| threats of, or attempts at, physical or sexual abuse;

| mental abuse; or

| neglect or deprivation of medical care, and

| such act or acts are or are alleged to have been committed by a family or household member.

2. For the above purposes, FAMILY or HOUSEHOLD MEMBERS means the following persons:

| persons related by blood or marriage;

| persons legally married to one another;

| persons formerly married to one another regardless of whether they still reside in the same household;

| persons who have a child in common regardless of whether such persons are married or have lived together at any time;

| unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or

| unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household. Access here means accessibility to the person whether in the dwelling unit itself or elsewhere in the community.

IV. REQUIRED ACTION

A. Universal Notification

1. SSD's must provide all applicants for and recipients of public assistance with a copy of the Universal Notification Handout (Attachment B). This notice, developed by this Office in consultation with the Office for the Prevention of Domestic Violence and statewide domestic violence advocacy groups, provides information on procedures for protection from domestic violence and of the availability of services.

2. SSD's may provide the hotline telephone number of a locally approved domestic violence provider on the space indicated on the Universal Notification Handout.
3. SSD's must reproduce the Universal Notification Handout locally. This information will be included in the next revision of the Client Information Books. This Universal Notification Handout must be provided at the time of application and/or recertification. English and Spanish versions are available.
4. SSD's must also provide each applicant/recipient with a small "palm" card containing the same information as the Universal Notification Handout. The "palm" card will be part of the application/recertification packet and will be supplied by this Office. The cards should be available wherever other informational material is displayed in the SSD and also made available to other local service providers. The purpose of the "palm" card is to provide a small document that the victim can keep hidden and refer to at a later date.
5. SSD's may also provide this information during a general orientation session for applicants of PA.

B. Screening and Referral to Liaison

1. SSD's must screen all PA applicants and recipients who are subject to PA program requirements to determine if domestic violence affecting the individual exists in the household. The LDSS-4583: "Domestic Violence Screening Form" (Attachment C) developed by this Office in consultation with the Office for the Prevention of Domestic Violence and statewide domestic violence advocacy groups must be used to do the screening. Because printed copies of this form will not be drop-shipped to SSD's until sometime in May 1998, SSD's must photocopy the attached form until that time. English and Spanish versions are available. The form may be modified by this Office based on future experience with this process.
2. SSD's must advise individuals that responding to questions regarding the existence of domestic violence is voluntary and that any response will remain confidential provided, however, that information regarding suspected maltreatment or abuse of children will be reported to the Statewide Central Register.
3. SSD's must make the screening form available for voluntary completion, in writing, at the application and recertification interview. However, the SSD must accommodate individuals who wish to provide this screening information verbally, when completion is not possible due to literacy problems.

4. SSD's must accommodate individuals who wish to provide this information at another time, when completion is not initially possible due to risk of danger to themselves (i.e., due to presence of batterer at the time of initial screening).
5. SSD's must provide the screening form to any individual who at any time identifies as a victim of domestic violence, or otherwise requests such screening. For example, the issue may not arise until the individual is discussing work requirements with an employment worker.
6. When an individual indicates the presence of domestic violence by checking yes on the screening form and signing it, the SSD must refer that individual to a domestic violence (DV) liaison as soon as practicable and prior to any other assessment, such as for drug or alcohol abuse or employment. Once this process is initiated, it should be expedited so that other assessments can proceed, without delaying the overall application process. All other assessments are on hold until the DV assessment is completed.
7. When an individual indicates the presence of domestic violence to a local child support enforcement worker, that worker must refer the individual to a domestic violence liaison for screening and assessment. All other workers should provide for the completion of the screening form prior to a referral to the liaison for assessment.
8. SSD's must develop a process on how to handle referrals to the DV liaison and how to track appointments. If an individual fails to keep a DV liaison appointment, a process has to be in place in order to go to the next step in the application process.
9. SSD's must be sensitive at intake, especially if more than one person is present. The DV screening form should be referenced, but not addressed further if parties are not interested. It can never be assumed that the batterer or another person that could influence the applicant's willingness to disclose is not present in this situation. SSD's may need to be creative in finding a way to mention the form again in a private setting. SSD's may also want to mention this new requirement to every applicant/recipient in a general orientation session to address the presence of other persons.
10. The screening form contains questions about possible DV situations:
  - if individual checks "yes" and signs the form, SSD will refer to DV liaison and all other assessments are on hold until DV assessment is completed.

- if individual checks "no", SSD will continue with the rest of the PA process.

C. Domestic Violence Liaison

SSD's must have a domestic violence liaison(s) either on staff or contracted out. The domestic violence liaison(s) will have responsibility to assess the credibility of assertions of DV, what referrals should be made and whether domestic violence interferes with an individual's ability to comply with program requirements. The position can be full-time or part-time.

The domestic violence liaison must make determinations about the need for a waiver from program requirements. This will require an understanding of domestic violence, PA program requirements, and a working knowledge of the waiver process to adequately assist victims.

1. Responsibilities - Domestic violence liaisons will be responsible for the following tasks:
  - a. assessing the credibility of the assertion of domestic violence based upon information and corroborating evidence;
  - b. assessing the safety of the victim and the victim's dependents and their need for services and other supports;
  - c. informing a referred victim about domestic violence and the options for protection, services and other supports;
  - d. informing a referred victim about their rights and responsibilities with respect to waivers of public assistance program requirements;
  - e. gathering facts regarding the extent to which domestic violence is a barrier to meeting public assistance requirements including employment requirements and the need for waivers of such requirements;
  - f. determining the need for waivers where compliance with public assistance requirements would place the victim and/or the victim's children at greater risk of harm or make it more difficult to escape from the abuse, and make recommendations for granting waivers or grant waivers (functions may be split between SSD and an outside contracting agency);
  - g. periodically reassessing the individual's domestic violence circumstances and modifying, terminating or extending waiver(s);



- h. establishing and maintaining a list of, at a minimum, available domestic violence services and a relationship with the providers of the services including, but not limited to domestic violence service providers, key court personnel and local domestic violence coalition where applicable;
- i. coordinating activities with other case managers and examiners within the local SSD;
- j. facilitating emergency safety planning for victims in a crisis situation, as necessary; and
- K. collecting and maintaining data/record keeping.

2. Qualifications

SSD's must give a strong preference to relevant advocacy or counseling experience in designating someone as a domestic violence liaison. Domestic violence liaisons must meet the following minimum job qualifications:

- a. Caseworker, or a bachelors degree, or
  - 1 year of domestic violence advocacy or domestic violence counseling experience with an approved domestic violence program, or
  - 2 years of relevant advocacy or counseling experience;
- b. Completion of Office of Temporary and Disability Assistance sponsored or approved training for domestic violence liaisons;
- c. Good communication, listening and assessment skills and the ability to work positively in a team setting.

3. Guidelines for Contracting Out

If a SSD chooses to contract for the domestic violence liaison position(s), it must comply with the following additional requirements:

- a. The agency employing the liaison(s) must be an approved residential program for victims of domestic violence pursuant to the Office of Children and Family Services regulation Part 452, 453, 454, or 455 and/or non-residential program for victims of domestic violence pursuant to the Office of Children and Family Services Regulation Part 462;

- b. If it is not feasible for the assessment function to be carried out at the local SSD, the SSD must make provision for how individuals will get to the alternative location, how their safety will be ensured and how confidentiality will be maintained. The SSD must make this information available to the Office when requested;
- c. The liaison must maintain regular contact with appropriate SSD staff; including providing the SSD with data pertaining to recommending and/or granting of waivers. (The Office may ask for information from SSDs as to how they plan to do this.); and
- d. The agency employing the liaison and the SSD must provide each other with necessary training so that each agency can optimally fulfill its obligations.

NOTE: Liaison functions may be divided between the SSD and an outside contracting agency.

#### 4. Training

Domestic violence liaisons, whether in-house or contracted out, are required to attend comprehensive training on their job functions and work responsibilities. Any person responsible for recommending or granting waivers must attend the Domestic Violence Liaison Training Institute. This state sponsored training will provide the information and skills required to perform their jobs effectively.

#### D. Assessment of Credibility

- 1. The domestic violence liaison must, as soon as practicable, assess the credibility of a positively screened individual's assertion of domestic violence based upon all relevant information including, but not limited to: an order of protection; court, medical, criminal, child protective services, social services, psychological, or law enforcement records; presence in a residential program for victims of domestic violence; a signed statement by a domestic violence counselor or other counselor or other corroborating evidence. Corroborating evidence may include collateral contacts such as persons as clergy, friends or relatives who are familiar with the victim's circumstances and whose names the victim provides as collateral contacts. Copies of any relevant reports should be maintained in the DV liaison's case record.
- 2. Such assessment must be based upon the relevant information and corroborating evidence, but must in the absence of other sufficient evidence include, at a minimum, a sworn statement by the individual alleging the abuse.

3. A model assessment tool has been developed to guide liaisons in making determinations as to credibility and waivers (Attachment D). This assessment tool is a model that may be used as a guide by liaisons to ensure consistency in assessing credibility and making waiver decisions.

E. Services Referral and Waiver Assessment

If the domestic violence liaison determines that the allegation is credible, the domestic violence liaison must, as soon as practicable:

1. inform the individual of services related to domestic violence, which are available to the individual on a voluntary basis;
2. conduct an assessment to determine if and to what extent domestic violence is a barrier to compliance with public assistance program requirements;
3. assess the need for temporary waivers of such program requirements;
4. recommend or grant any necessary waivers in coordination with SSD staff who are charged with the implementation of such waivers and/or the administration of public assistance program requirements;
5. inform SSD staff responsible for the administration of public assistance requirements of the final determination or recommendation with respect to waivers. SSD's must develop a plan to communicate waiver decisions to the appropriate SSD staff involved and to ensure confidentiality. The DV liaison will be a "case manager" to coordinate as the agency deems appropriate; and
6. enter confidential waiver information into WMS for tracking and reporting purposes.

F. Waivers

1. Waivers are a temporary suspension of public assistance program requirements including, but not limited to, residency rules, child support and paternity establishment cooperation, alcohol and substance abuse rehabilitation, work activity requirements, learnfare, and minor parent eligibility requirements.

On a case-by-case basis, using the criteria detailed in paragraph #3 below, the liaison will determine the need for a waiver to any of the following program requirements:

| Child Support Cooperation Requirement - When an individual indicates the presence of domestic violence, the local child support enforcement worker must refer the individual to a domestic violence liaison for screening and assessment. With respect to the children of the alleged batterer, the local child support enforcement unit shall not undertake to locate the absent parent or putative father, establish paternity or establish, modify or enforce an order of support while the applicant or recipient is undergoing domestic violence screening or assessment.

The domestic violence liaison must determine which, if any, of the child support cooperation requirements should be waived for the individual. If any child support waivers are granted, the domestic violence liaison also must determine which child support activities may be undertaken by the SSD without the individual's cooperation, without risk to the victim or the victim's children. Child support activities include all the processes and events necessary to locate an absent parent or putative father, establish paternity and establish, modify and enforce an order of support.

For example, the domestic violence liaison may conclude that the requirements for the individual to provide information to identify and locate the children's absent parent and to submit to genetic testing are not waived, but that the requirement to appear at court hearings is waived for the duration of the waiver. In this example, the domestic violence liaison may further determine that all child support activities may proceed with or without the individual's participation.

| Work Activity Requirement - When an individual indicates the presence of domestic violence, public assistance work requirements can be waived to reduce the risk of violent incidents related to the individual being required to participate in a work activity.

| Residency Requirements - When an individual indicates the presence of domestic violence as a reason for moving from another state to New York State to escape the abuse, the SSD must refer that individual for screening, assessment and waiver determination. If a waiver is granted, this individual could receive full public assistance benefits rather than the reduced benefits of their former state for the first 12 months of residency.

| Drug and Substance Abuse Rehabilitation - When an individual indicates the presence of domestic violence, the substance abuse counselor at the treatment program must refer the individual to the domestic violence liaison for screening and assessment. The eligibility of the individual and the other household members will not be denied while the individual is undergoing domestic violence screening and assessment. After the assessment, this requirement could be waived if it is determined that compliance with this requirement would place the individual at further risk. (For example, the abuser might discover the victim's treatment site.)

| Learnfare Requirement - When a child or the parent or legal guardian of the child indicates the presence of domestic violence as the cause of absences from school (because the family is in a shelter, for example), and although the learnfare administrator may make a determination that the child's absence is unexcused, the SSD should not impose a learnfare grant reduction in these cases. In these situations, the SSD must work with the DV program or other appropriate parties to make alternate educational arrangements for the child.

| Eligibility of Minor Parents - An individual under the age of 18 who is not married and has a minor child but no children under 12 weeks of age and who has not completed or is not working towards a high school education or its equivalent or an alternative educational or training program directly related to employment is ineligible for assistance. When the above individual indicates the presence of domestic violence as the cause of non-compliance, the SSD shall refer the individual for screening, assessment and waiver determination.

| Other program requirements that meet the criteria in paragraph #3 below.

2. Waivers shall not affect the amount of the grant or the budgeting of income.
3. Waivers shall be granted in cases where compliance with program requirements would make it more difficult for the individual or the individual's children to escape from domestic violence or subject them to further risk of domestic violence. Such waivers must be for an initial period of not less than four months. All such waivers will be subject to on-going review of the individual's circumstances by the domestic violence liaison and may be extended, modified or terminated based on such review, at any time, including the time covered by the initial four

month waiver period. However, changes to the initial waiver can be made only when supported by new information, e.g. the batterer is in jail, the batterer is dead, there is new information that indicates a fraudulent claim of DV was made, etc..

4. In considering the extension of waivers, the domestic violence liaison must consider the totality of the individual's case circumstances. However, unwillingness on the part of the individual to engage in any options, steps or activities that might assist the individual in terms of safety or self-sufficiency may effect the individual's credibility.
5. Waivers may be granted permitting the receipt of Family Assistance benefits by individuals who have already received benefits for sixty months and who would not be required to participate in work or training activities, pursuant to the regulations of the Department of Labor, because of an independently verified physical or mental impairment resulting from domestic violence that is anticipated to last for three months or longer. This also applies if the individual is unable to work because of the need to care for a dependent child who is disabled as a result of domestic violence. There is no waiver from the 24 month cash Safety Net Assistance time limit.
6. An individual may decline a waiver or terminate an existing waiver at any time without penalty.

G. Good Cause

Good cause exceptions to child support cooperation requirements still exist and, even in cases when a domestic violence waiver has not been granted, good cause claims must be investigated. For example, a district's domestic violence liaison may determine, in the course of an assessment interview, that the PA applicant wants the district to obtain child support for her family but is apprehensive about facing her ex-husband in court. The applicant does not request a waiver of the child support requirements, but does claim good cause for refusing to cooperate in the child support process. The PA worker examines the applicant's claim and corroborative documentation (in this example, a psychiatrist's statement), and concludes that the applicant does have good cause for not participating in the child support process but that the district can pursue support without her involvement. Other examples of circumstances which may not result in a domestic violence waiver of the child support requirements but which do constitute good cause for not pursuing paternity establishment or child support include cases where the child is being surrendered for adoption or was conceived as a result of incest or rape.

H. Battered Alien Eligibility and Deeming

1. Under Immigration and Naturalization Services (INS) rules, certain battered aliens not otherwise considered qualified aliens for public assistance eligibility purposes can petition INS and be granted qualified alien status thereby entitling them to receive benefits. Aliens so qualified will be issued a "Notice of Prima Facie Case" by INS.
2. SSD's must exempt such battered aliens from alien deeming requirements. In accordance with Department regulation 352.33(c), this exemption does not apply unless the battery or cruelty bears a substantial connection to the need for benefits or if the person responsible for such battery or cruelty resides in the same household as the individual who was subject to the battery or cruelty.

I. Confidentiality

1. General

Social Services Law (SSL) 136 governs the confidentiality of public assistance (PA) records in general. SSL 136(2) states that all communications and information relating to a person receiving PA or care obtained by any social services official, service officer or employees in the course of their work shall be considered confidential.

2. Domestic Violence

- a) Information with respect to victims of domestic violence collected as a result of procedures for domestic violence screening, assessment, referrals and waivers must not be released to any outside party/parties or other government agencies unless the information is required to be disclosed by law, or unless authorized in writing by the public assistance applicant or recipient.
- b) Employees of this Office, SSDs or any agency providing domestic violence liaison services may have access to client identifiable information maintained by a domestic violence liaison or by the welfare management system (WMS) only when the employees' specific job responsibilities cannot be accomplished without access to client identifiable information.
- c) Each SSD and agency providing domestic violence liaison services must develop and implement policies and practices to ensure the maintenance of confidential individual information. This may require a different process depending on whether or not the provider has access to WMS.

3. Case Records

Domestic violence liaisons are to maintain their own files for confidentiality reasons. Screening forms and specific documentation provided to assess credibility must be in this file (example: copy of order of protection, medical records, etc.). Note taking on specific incidents should be limited to information needed to document credibility or the waiver determination, in order to protect the victim, ensure confidentiality and privacy.

The DV liaison is responsible for notifying the other units such as employment or child support of the waiver decision.

J. Safety and Privacy Considerations

1. Intake Interviews/Assessments

Safety and privacy are two areas of major concern in relation to this new initiative. The privacy of the individual must be maximized during the eligibility interview especially when the individual raises the issue of domestic violence or seeks clarification about the screening process.

Department regulation 357.5 requires that "interviews with clients shall be conducted at a location and in a manner which maximizes privacy". For example, SSD's could maximize privacy by using private office space, enclosed space with privacy partitions, booths, using different floors, etc.

2. Mailing Information

Another safety and privacy issue is the mailing of information to the victim's home. During the assessment interview the DV liaison must inform the client how information will be provided, and discuss whether mailing information home might endanger the client; i.e. due to access to the mail by the batterer. Notices and other information may be mailed to an alternate mailing address, P.O. Box number or held for the client at SSD when mailing to a home address might place the client in danger. The client will have to decide the safest way to obtain this information.

K. Data Reporting

Data will be collected through WMS to track and monitor this requirement and to meet the state reporting requirements. The Office may request SSDs to provide information as to how they plan to collect this data from contract agencies.



V. CHILD ABUSE AND MALTREATMENT REPORTING

As either an employee of a local SSD or as a contractual agent of a local SSD, a person involved in the process of determining eligibility for any public assistance program or serving as a domestic violence liaison is required to report suspected child abuse and maltreatment. This requirement arises when such person is carrying out her/his professional responsibilities and a child comes before such person or the child's parent or guardian states information to such person that gives the person reasonable cause to suspect that the child has been abused or maltreated.

The domestic violence and screening procedures were not established for the purpose of identifying suspected child abuse or maltreatment. However, if a concern about the child's well-being is raised either by you or on observation of the child or a statement of the parent or guardian, it would be unprofessional to ignore possible signs or statements that might suggest that child abuse or maltreatment is occurring.

Depending upon the nature of the professional's concern, one or more of the following questions appropriately may be woven into the interview (such discussions presumably are more likely to occur with the domestic violence liaison):

- | has your partner hurt your child
- | has your partner hit the child with objects ( for example, belts or wires)
- | has your partner touched the child in such a way that made you feel uncomfortable
- | has your partner assaulted you while you were holding your child, your child was trying to protect you, or your child was present
- | is your child fearful of your partner
- | is your child either fearful of being left alone with your partner or your being left alone with your partner
- | has your child exhibited emotional/behavioral problems at home, school or day care

If the person who may be causing the abuse or maltreatment is the person you are interviewing, some of the preceding questions, without reference to the interviewee's partner, may be appropriate. The SSD and contract agencies should develop procedures for its staff about consulting with someone when a worker is unclear about whether he/she has sufficient cause to report suspected child abuse or maltreatment.

Such local procedures could recommend consultation with the professional's supervisor and/or the State Central Register (SCR) or local child protective services (CPS) staff. Section 413 of the Social Services Law requires that when the professional is required to report suspected child abuse or maltreatment such professional should notify the person in charge of the agency or such person's designee. Section 415 of the Social Services Law requires that after making an oral report, the professional making the report must make a written report and send it to the local child protective staff.

Finally, if a CPS report is made, active consideration should be given to informing the parent/guardian that the report was made. Informing the parent of your legal responsibility to report suspected child abuse and maltreatment may help to build trust. It may also give a parent who is a victim some time to begin thinking about the consequences of the report in relation to the parent's and child(ren)'s safety, and deciding to seek help when the parent feels that is warranted.

VI. FOOD STAMP IMPLICATIONS

There is no specific provision to waive Food Stamp program requirements for victims of domestic violence. However, the State's food stamp plan allows districts to "exempt" victims from food stamp work requirements. Food Stamp work registrants who are victims of domestic violence could be excluded from participation in the Food Stamp Employment and Training (FSET) program under the criteria of "substantial barriers to employment".

VII. MEDICAL ASSISTANCE IMPLICATIONS

Individuals who apply for Medicaid-Only are not required to complete domestic violence screenings. For Medicaid-Only, applicants/recipients who indicate the possibility of a domestic violence situation should be advised about the availability of domestic violence services. And in the past, compliance with Medicaid program requirements such as those under Title IV-D must be evaluated under the Department's good cause provisions when domestic violence is an issue.

Medicaid will honor any waivers granted by PA for temporary suspension of program requirements that also apply to Medicaid, i.e., child support, paternity cooperation, and alcohol and substance abuse as a result of a domestic violence assessment. The PA provisions regarding residency, work activities, learnfare, and eligibility of minor parents do not apply to Medicaid. This policy applies across program lines.

Medicaid policy parallels PA policy regarding good cause and available income or resources. Income and resources which belong to the victim's spouse or are jointly owned are not considered to be

available to the victim unless the victim has access to them without putting the victim in danger, or unless the victim can gain access through legal means. Such limitations must be considered when determining Medicaid eligibility.

Information with respect to victims of domestic violence must not be released to any outside party or other governmental agencies unless the information is required to be disclosed by law, or unless authorized in writing by the applicant/recipient. Districts need to be concerned about how information is shared (i.e., insured that information pertaining to good cause or domestic violence is not mailed to victims' homes). Notices and other information may be mailed to an alternate mailing address or held at a district office. The client must decide the safest way to obtain the information.

VIII. EMPLOYMENT IMPLICATIONS

Department of Labor regulations Title 12 Part 1300, require public assistance applicants and recipients to participate in employability assessments as well as to participate in work activities as assigned by the local SSD. As previously stated in this directive, the domestic violence liaison will determine to what extent domestic violence is a barrier to employment and will inform the employment staff of any waivers granted. Once it has been determined that a waiver is no longer needed, the individual must be referred for an employability assessment and assignment to appropriate work activities. At some future date, if domestic violence resumes as a problem for the individual, he/she should be referred again to the liaison for another assessment and possible waiver.

For purposes of the TANF participation rate calculation, cases in which the individual receives a domestic violence waiver remain in the calculation rate denominator for the district and the State. This will therefore, impact the state's ability to attain the federal participation rates. Federal TANF regulations do allow for a waiver of penalty if the State fails to attain the required rate and is able to demonstrate that the reason for such failure was domestic violence victim individual waivers. The number of such waivers granted during the year and the duration of each will be available from WMS and thus will enable the State to apply for this waiver if the State needs to do so. However, SSDs will need to maintain the documentation of these waivers until WMS enhancements are available.

IX. NOTICE REQUIREMENTS

Notices of Waiver Determinations (Attachment E) for waiver requests are mandated for all individuals. Fair Hearing language is provided on the reverse of the form. These notices will be provided by the DV liaison or other SSD designated person to wherever the client designates as detailed in Section IV-J. above.

These notices will be provided by the domestic violence liaison or any other designated party as defined by the local SSD.

Attachments E.1 and E.2 are the notices that must be used to notify the individual about the decision to waive one or more of the public assistance program requirements.

E.1. "Notification of Decision On Waiver To Allow a Temporary Delay in Public Assistance Requirement(s) (Adequate Only)" is used to inform the individual about an initial decision on a waiver or waivers. This form can also be used when all existing waivers will be extended or will be ended and the individual agrees in writing to the termination of the waiver(s).

E.2. "Notification of Decision On A Continuation of Waiver(s) To Allow A Temporary Delay In Public Assistance Requirement(s) (Timely and Adequate)" is used when an (or all) existing waiver(s) will be terminated or when some, but not all waivers will be extended. In other words, this notice must be used when any waiver will be terminated without the individual's written agreement.

These forms should be reproduced locally. When reproducing, please be sure to copy the correct Conference/Fair Hearing (Adequate) or (Timely and Adequate) onto the back of the companion face page.

X. SYSTEMS IMPLICATIONS

There are plans to use WMS to collect this data through a new subsystem. Individuals would need the proper security to access this data.

XI. FISCAL IMPLICATIONS

The administrative costs associated with the Domestic Violence(DV) Liaison should be reported as F17 function code expenditures and claimed on the Schedule D-17 "Distribution of Allocated Costs to Other Reimbursable Programs" (DSS-3274). The costs from the Schedule D-17 are to be brought forward to a DSS-3922 form entitled, "Financial Summary For Special Projects" labeled "DV Liaison" and reported on the appropriate lines. For individuals who are otherwise eligible for TANF funding, the costs will be reported in the Total Column and claimed at 100% Federal Share.

For individuals who are ineligible for TANF, their costs should also be reported in the Total Column and claimed at 50% State share and 50% Local share. Costs should be allocated between TANF and non-TANF programs on the basis of Case counts. Reimbursement is available up to the limit of the allocation with these costs being outside the SSD administrative cost cap.

SSD staff that work on DV Liaison functions on a part-time basis must complete a time study to allocate their costs between the DV Liaison staff and the other function(s).

NOTE: The following is a clarification on the February 12, 1998 letter from Patricia A. Stevens regarding the DV funding plans and allocations to support the Family Violence Option:

1. The February 12, 1998 letter from our Division referenced that screening costs will be captured by the Income Maintenance RMS. This will not result in any separate identification of these costs nor a separate claiming process for the screening costs. Since the screening is a small part of the overall eligibility process, there is little likelihood a DV screening many occur at the time of the Random Moment sample.
2. The allocation attached to the February 12 letter is being clarified at this time as well. The amount to be utilized for training (\$300,000) will be used at the State level to fund the actual training of the DV liaisons. therefore, there is \$4.7 million available to fund the local district DV liaisons and your allocation can be determined by adding together the minimum \$5,000 floor column and the \$4,410,000 allocation balance by the number of adults column.

XII. EFFECTIVE DATE

The provisions of this directive are effective April 1, 1998.

XIII. EXAMPLES

Example 1 - EMPLOYMENT

Ms. Smith and her two children apply for public assistance. At her intake interview, the examiner explains the new screening requirements including drug/alcohol screening and domestic violence (DV) screening. Ms. Smith declines to complete the DV screening form since it's voluntary. The examiner then schedules an appointment for Ms. Smith to go to Child Support and Employment.

The next day, Ms. Smith reports to the Employment Unit. The employment worker discusses her plans for working and child care. Ms. Smith then indicates that she is being stalked by her ex-boyfriend with whom she used to reside and claims he follows her to work and harasses her. She claims she lost her last job due to his harassment. The employment worker then mentions the DV screening form and asks Ms. Smith if she wants to complete the form at this time. She completes the form and answers yes to the DV questions and wants to be referred to DV liaison. At this point, the employment and child support requirements are suspended and Ms. Smith is referred to the DV liaison for assessment. The domestic violence liaison notifies the employment and child support units of the results of the assessment.

Example 2 - EMPLOYMENT

Al and Lisa Gray and their three children apply for public assistance. At the interview, the examiner explains the new screening requirements for drug and alcohol (D/A) and domestic violence (DV). Both decline to fill out the DV screening form since it's voluntary. During the interview, the examiner notices that Al dominates the conversation and answers all of the questions and speaks for both of them. Both are given the drug/alcohol screening form. Al checked three "yes" answers and Lisa checked "no" to all the D/A questions. Al was then referred to D/A assessment and Lisa was referred to employment.

When Lisa went to employment, she told the employment worker that Al sometimes physically abuses her after he's been drinking. She claims she lost her last job because she missed so much time due to the abuse. Al was determined unable to work due to alcohol abuse. After completing the DV screening form, Lisa is referred to the DV liaison for assessment and the employment action for her was suspended pending the outcome of the assessment. The DV liaison notifies the employment unit of the results of the assessment.

Example 3 - EMPLOYMENT

Karen White and Marty Blue, single individuals who live together, apply for public assistance. Since there are no children involved, they must have two individual cases. Karen and Marty are interviewed separately. Both are screened for domestic violence. At Karen's interview, she indicates that Marty verbally abuses her and threatens her life. She claims she has tried to leave on many occasions but is afraid of his reaction and his violent temper. She claims she has tried to work at minimum wage jobs but he always manages to harass her at work and makes it difficult for her to keep a job. Karen agrees to complete the DV screening form and is referred to a DV liaison for assessment and the employment action is suspended pending the outcome of the assessment. The DV liaison notifies the employment unit of the results of the assessment.

Example 4 - CHILD SUPPORT

Bev Lewis applies for public assistance for herself and her family. In the household is her 16 year old daughter, Karen (who is a full-time student) and Karen's 2 year old son. At the interview, both Bev and Karen are screened for DV. Only Bev completes the screening form and screens negative. The examiner then refers Bev to the employment unit and refers both Bev and Karen to the child support unit.

Both Bev and Karen go to separate child support interviews. At Karen's interview, she says that she never filed for child support because her boyfriend threatened her and on one occasion physically

attacked her on her way to family court. She did file a complaint with the police but did not pursue the child support issue because she was afraid. The child support worker refers Karen to the DV liaison for a DV screening and assessment and the child support and employment actions are suspended pending the outcome of the assessment. The DV liaison notifies the child support unit of the results of the assessment. Note: Karen is screened for DV because she is subject to PA requirements.

#### Example 5 - DISABILITY

Maureen Cummings and her two children are recertifying for Family Assistance. At the interview, the examiner mentions the new DV screening requirement. Maureen isn't interested in completing the DV screening form at this time. The examiner tells her she needs to go to the Employment Unit to see about work. Maureen blurts out that she can't work because she's too stressed out at home. She just was let go from her last job because she couldn't handle the stress. She tells the examiner that she's currently seeing a counselor. The examiner proceeds to obtain more information on her living situation and Maureen reveals that she's stressed out from a prior violent relationship that she's still recovering from. The worker mentions that Maureen can request a disability review in relation to employment requirements. Note: This is not a current DV safety situation so she would not be referred to a DV liaison.

#### Example 6 - CHILD SUPPORT WAIVER

Mary Rose applies for public assistance for herself and her son, daughter and boyfriend. At her intake interview, Ms. Rose indicates that her ex-husband, who is the father of her son, threatens to harm her if she tries to get child support payments from him. She states that her boyfriend is her daughter's father, but that her daughter's paternity has not been legally established. The public assistance worker screens Ms. Rose for domestic violence and refers her to the domestic violence liaison for an assessment. The domestic violence liaison grants Ms. Rose a waiver of all of the child support requirements with respect to her son, and also determines that the SSD must not pursue any child support activities for her son while the waiver is in effect. The public assistance worker refers Ms. Rose to the child support enforcement unit, where she will be required to cooperate to establish her daughter's paternity. The worker does not make a child support referral for Ms. Rose's son, and Ms. Rose is not sanctioned for failing to comply with child support requirements with respect to her son.

#### Example 7 - GOOD CAUSE

June Davis receives Family Assistance for herself and her husband and son. Ms. Davis reports to her child support worker that Mr. Davis has moved out of their home and, due to the circumstances of their separation, she cannot make the required court appearance to establish

a child support order against her husband. (She claims to have panic attacks when she sees her ex-husband.) The worker screens Ms. Davis for domestic violence. Ms. Davis does not affirm domestic violence but does claim good cause for refusing to cooperate to obtain support for her son.

After investigating the good cause claim, the child support worker makes a determination that Ms. Davis has good cause for refusing to cooperate, but further determines that the child support enforcement unit may pursue support without risking harm to Ms. Davis or her son. Ms. Davis is not sanctioned for her refusal to participate in the child support process.

---

Patricia A. Stevens  
Deputy Commissioner  
Division of Temporary Assistance



---

CONTACT  
PERSON: | Call 1-800-343-8859 and ask for the following:  
| Temporary Assistance: Team I, 3-0332;  
| Team II, 4-9344; Team III, 4-9307;  
| Team IV, 4-9300; Team V, 3-1469;  
| Team VI, 212-383-1658  
|  
| Your Children and Family Services Regional  
| Office Director:  
| BRO - Linda Brown (716) 847-3145  
| RRO - Linda Kurtz (716) 238-8201  
| SRO - Jack Klump (315) 423-1200  
| ARO - Bill McLaughlin (518) 432-2751  
| MRO - Fred Levitan (212) 383-1788  
|  
| Medical Assistance:  
| Sharon Burgess (518) 473-5536  
|  
| Bureau of Financial Services:  
| Regions I - IV -- Roland Levie (518) 474-7549  
| Region V - Marvin Gold (212) 383-1733  
|  
ATTACHMENTS: | Attachment A: Contact Persons/List of Attachments  
| (available on-line)  
| Attachment B: Universal Notification Handout  
| (not on-line)  
| Attachment C: Screening Form (not on-line)  
| Attachment D: Model Assessment Tool (not on-line)  
| Attachment E: Notice of Waiver Determination  
| (not on-line)  
| E.1. - Adequate Only  
| E.2. - Timely and Adequate