02 INF 31 Attachment

Temporary Assistance Questions and Answers

Index

Budgeting

1. Q. Are minor children living in a supportive living arrangement, entitled to student earnings disregards?

A. Yes. The supportive living arrangement is within the intent of what 18 NYCRR 352.20(a) considers "dependent" children for the purpose of the student disregard.

2. Q. Does initial earned income budgeting apply to sanctioned filing unit members?

A. Yes. The LDSS must monitor and budget the income of all filing unit members, including sanctioned individuals. If a sanctioned individual reports the initial earnings timely, the district would not determine any overpayment for the administrative processing period. This applies regardless of whether the sanction is incremental or a percentage reduction.

3. Q. Are wages paid by VESID to sheltered workshop participants counted as income for TA?

A. Yes. Wages, including those from a sheltered workshop, are counted as income. VESID may also provide stipends. Those stipends reasonably expected to meet the cost of participating in the program, such as transportation costs, uniforms, etc., are not budgeted. The portion of a stipend that exceeds the cost of participation in the program is budgeted as unearned income.

Payments may include both wages and stipends. In such cases, workers must determine the gross wages and budget that amount as earned income.

4. Q. If a TA recipient stops and starts different jobs several times, would the individual be entitled to an administrative delay each time?

A. Not if the employment is considered to be temporary. Any employment that lasts less than 30 days is not considered permanent employment (see 95 INF-19, p. 13 #1). Districts must calculate overpayments when the employment is of a temporary nature. This is done to discourage clients from continuously stopping and starting employment to thwart a district from counting earnings.

However, if the stopping and the starting are due to changes in employers (i.e. taking a better job), this is considered continuous employment and no overpayment would be calculated for the initial job.

For example, John accepts a part-time job as a dishwasher. He reports the receipt of his first paycheck timely. Two weeks into the job, John receives an offer to work full-time as an office assistant. As long as he starts the second job within thirty days of leaving the first job, this would

be considered continuous employment and no overpayment would be calculated for the initial job.

Note: If the second job involved an increase in pay, John would also receive the administrative processing period for the increased income amount from the second job.

5. Q. If a TA recipient receives his initial pay during the second half of the month of May, would budgeting the earnings be delayed until June 16? Would there be no overpayment to be calculated for May and June 1 through 16?

A. There would be no overpayment for May presuming the client reported the income timely. There would also be no overpayment from June 1 through 15. If the income is not budgeted for June 16, there will be an overpayment beginning June 16. Please also note that there may be an overpayment for the second half of June even if the income is budgeted for the 16th if full monthly rent was paid on June 1.

6. Q. How is initial/increased earned income received during the SNA 45-day application period treated?

A. A SNA applicant is recognized as a recipient from the date an "Action Taken on Your Application..." (LDSS-4013) notice has been sent to the individual telling him/her that the application for TA has been approved. If the LDSS-4013 has not been sent, the individual is still an applicant and the income is considered for initial eligibility. If the LDSS-4013 has been sent, the individual is a recipient and initial/increased earnings budgeting policy (01 ADM-13) is applied to the case.

For example, an individual applies for SNA on March 1. The applicant is determined eligible on March 10th, and a LDSS-4013 is sent. The recipient is in receipt of initial/increased earnings on March 14. The administrative period is two payment cycles (March 1 to 15 and March 16 to 31) and the case can be closed/reduced after March 31 with appropriate timely and adequate notice.

The same policy is applied to FA. However, a FA applicant is recognized as a recipient from the date all conditions of eligibility are satisfied, regardless of noticing date.

7. Q. How do we budget the rent contributions given to the recipient by a non-TA non-legally responsible individual in the household?

A. In accordance with 18 NYCRR 352.16(a), if the non-TA non-legally responsible individual's contribution is specifically earmarked for shelter, the contribution amount is deducted from the TA household's actual shelter expense. This is designed so that the TA household's out of pocket shelter is reflected in the TA budget with the appropriate shelter allowance. This policy also applies to shelter contributions from non-TA non-legally responsible relatives outside of a TA household.

Additionally, this policy is applied regardless of whether the shelter contribution is made directly to the shelter provider or to the TA household.

8. Q. Is a recipient, who provides daycare in her home and receives a federal food supplement to provide food to the children she cares for, eligible for the five-dollar a day per child childcare disregard? Is the federal food supplement budgeted as income?

A. In the case of applicants for or recipients of TA who provide family day care in their own home, childcare income of five dollars per day for each child, excluding their own child, must not be applied against the standard of need. Family day care also includes informal childcare and group family day care. This federal food supplement is not budgeted as income.

9. Q. How is a case budgeted when a SNA individual who lives with a spouse is admitted to a congregate care level ll facility?

A. Provided that the individual intends to return to the home, the individual admitted to the congregate care level II facility is considered temporarily absent from his/her home. The budget will include a shelter and fuel amount for the temporarily absent person. For the ABEL budget to properly allocate the fuel and shelter for the household a worker must indicate the number of temporary absent household members in the ABEL DP-CA field and leave the DP-HH field blanks. The temporarily absent person should not be included in the ABEL HH or CA fields. The temporarily absent person is also not included in the basic needs because he or she will receive a Personal Needs Allowance (PNA) while in the Level II facility. Additional information can be found in 90 ADM-18 and 92 ADM-1.

10. Q. Some SNA cases with children are not getting the percentage earned income disregard. Why doesn't ABEL require an entry in the disregard indicator field for case types 16 and 17?

A. Due to local district input, ABEL has been changed and now requires an entry in the "I" field. This change was transmitted to districts in ABEL Transmittal 02-2.

For SNA recipients with applying children, or children who would apply but for their ineligible status, use "2-Calculate with Disregard".

For SNA applicants without children, use disregard indicator "6". This will allow the $90 but not the percentage disregard.

11. Q. Can employed under twenty-one year old parents who are in school and on their own be eligible for the student income disregard?

A. No, they are not dependent children.

12. Q. How are crime victims compensation payments treated for Temporary Assistance recipients?

A. We recently received federal guidance regarding the treatment of crime victims compensation payments based upon federal statute. These payments are normally not provided when they would duplicate any of the benefits provided through a TA grant that is at least partially funded with federal funds. The federal guidance directed us to discuss the treatment of these payments with the State's Crime Victim's Compensation Board. We are currently doing this and expect to release more detailed guidance when these discussions are completed. In the interim, should any district have questions regarding an actual case, please contact the Division of Temporary Assistances, Central Team.

13. Q. Are bona fide loans considered as exempt income for TANF funded non-cash Safety Net Assistance (case type 12)?

A. Yes. Please refer to page 3 of 97 ADM-21.

14. Q. Is a resident in a nursing home entitled to a personal needs allowance?

A. Yes. Under 18 NYCRR 352.8 (c)(1)(i) and Public Assistance Source Book XII D-13-I, $40.00 can be authorized monthly.

Aliens

15. Q. What is the "battered alien" provision?

A. Under the Violence Against Women Act (VAWA), a battered spouse or child of an U.S. citizen may self-petition the US Immigration and Naturalization Service (INS) for lawful permanent residency, using an I-360 form. Under the PRWORA, if an I-360 petition is approved or if the INS determines that a "prima facie case" has been made for approval, an alien who is a battered spouse, battered child or the child of a battered spouse can become a qualified alien. The basic requirements for the self-petitioning spouse are:

(a) Must be legally married to the U.S. citizen or lawful permanent resident batterer. A self-petition may be filed if the marriage was terminated by the abusive spouse's death within two years prior to filing. A self-petition may also be filed if the marriage to the abusive spouse was terminated within two years prior to filing by divorce related to the abuse.

(b) Must have been battered in the United States unless the abusive spouse is an employee of the United States government or a member of the uniformed services of the United States.

(c) Must have been battered or subject to extreme cruelty during the marriage, or must be the parent of a child who was battered or subjected to extreme cruelty by the U.S. citizen or lawful permanent resident spouse during the marriage.

(d) Must have entered into the marriage in good faith, not solely for the purpose of obtaining immigration benefits.

The basic requirements for a self-petitioning child are:

(a) Must qualify as the child of the abuser as "child" is defined in the INA for immigration purposes.
(b) Any relative credible evidence that can prove the relationship with the parent will be considered.

A person who entered the United States before August 22, 1996 and receives a prima facie determination or is granted a self-petition is eligible for TANF funded assistance and Medicaid. If they arrived on or after August 22, 1996, they are eligible for Safety Net Assistance (SNA) and possibly State-funded Medicaid.

If a victim is in the process of becoming a documented alien and can obtain an affidavit form from INS, this would make him/her eligible for TA, if otherwise eligible.

16. Q. Are permanent alien residents with expired green cards still eligible for TA benefits?

A. Permanent resident status does not lapse and is not in jeopardy merely because the Permanent Resident Alien Card (I-551 green card) has expired. If an alien with an expired green card applies for benefits, districts may grant benefits based on the permanent resident status of the expired green card. At the same time, districts must request verification of the alien's status from INS using the G-845 form. District should also advise the alien that he/she needs to renew his/her green card. INS will provide proof of temporary status while the new green card is being processed.

17. Q. A mother who is an alien with the status of lawfully admitted for permanent residence lives with her U.S. citizen husband and their children. She entered the U.S. on/after 8/22/96. Her husband has 40 qualifying quarters of work. What is the lawfully admitted for permanent residence alien's category? What WMS State and Federal Charge claiming code is used? Is the lawfully admitted for permanent residence alien eligible for TA, MA and FS?

A. A lawfully admitted for permanent residence alien who entered the United States on/after 8/22/1996 with 40 qualifying quarters (husband qualifying quarters can be used for alien) is not eligible for federal Family Assistance benefits until after they have been in the U.S. for 5 years. The alien would be eligible for State SNA benefits. Since the remaining household members are FA eligible, this case would be budgeted as a co-op case. The state and federal charge code for the lawfully admitted for permanent residence alien is code 60-TANF Ineligible Alien. The lawfully admitted for permanent residence alien will be eligible for State SNA, Food Stamps and State Medicaid.

Sanctions

18. Q. Does an individual continue to be considered an SSI recipient when the SSI benefit is reduced to zero due to a SSI sanction?

A. When an SSI recipient is sanctioned from the SSI program for intentionally making false statements or misrepresenting material facts, a durational sanction can be imposed. If an SSI durational sanction is imposed, the individual would not be eligible for any SSI benefits for the time period of the sanction. In this circumstance, the individual would no longer be considered a recipient of SSI for cash benefits but would continue to be a recipient for SSI Medicaid benefits. Please refer to 01 INF-20.

19. Q. Can a child be sanctioned for non-compliance with substance abuse rehabilitation?

A. Only heads of households including minor head of household and adult applicants and recipients must be screened for substance abuse and, if they screen positive, must be assessed by a credentialed drug and/or alcohol counselor. If the assessment determines that treatment is required, the head of household or adult applicant/recipient is required to comply or they are sanctioned. Therefore, a child under age 18 (or under 19 if attending secondary school full time) cannot be sanctioned for non-compliance with substance abuse treatment requirements. However, a 16-year-old, or older, child who is not attending school is subject to employment requirements. Substance abuse treatment may be part of the employability plan. A client's refusal to comply with the employability plan, including the substance abuse treatment, will result in an employment sanction.

20. Q. Why does failure to pursue Supplemental Security Income (SSI) as an available resource, result only in an sanction, whereas failing to pursue other resources results in case ineligibility?

A. SSI benefits are only applicable to the SSI recipient whereas, other resources are applicable to the entire household**.**

21. Q. Is an individual's Drug/Alcohol assessment used to determine if a Milne sanction should be pursued, since the assessment may be used in determining the individual's employability status?

A. The consideration of a sanction for a voluntary quit (formerly termed a Milne sanction) is made without regard to the individual's employability status. It must be determined if the individual had "good cause" to terminate the job and that he did not do so to qualify for initial or increased TA. The burden of proof is on the applicant/recipient. However, the individual should be screened for substance abuse according to normal procedures and be referred for an assessment if appropriate. If information from the individual and/or the employer

indicates that substance abuse was involved in the termination of employment, this information should be used to determine whether good cause exists.

22. Q. If a person in a PA household has been disqualified due to an IPV and the rest of the household remains eligible, must the household request to have the disqualified person put back in the household and case count at the end of the disqualification period?

A. For an IPV, the disqualified individual must reapply at the end of the disqualification period. This is longstanding policy that was not changed by welfare reform. The IPV policy is found in 94 INF-11 question 4. The general sanction policy for multi-person filing units is found in 92 ADM-31.

23.Q. If an applicant who had committed an IPV fails to indicate such on the application (page 12 of the LDSS-2921 Rev.8/01), can the applicant be charged with filing a false instrument?

A. Yes, the applicant can be charged with filing a false instrument. It would be best to discuss the charge with the District Attorney to see if the charge will be pursued by law enforcement.

24. Q. A client who is currently on a durational work rules sanction is being removed from the case due to an IPV disqualification. When the IPV disqualification period is over and the client is added back to the case, can we continue the durational sanction?

A. That depends on the employment sanction durational period. The employment sanction period continues to run while the individual is disqualified for the IPV period. The district cannot stop the clock on the running employment sanction and start it again when the IPV disqualification is over. However, if the IPV period is shorter than the remaining employment sanction period, when the IPV is over and the individual reapplies:

- the single individual will be ineligible for the remainder of the employment durational period and until he's willing to comply, or
- the member of a multi-person household will cause the pro-rata benefit reduction to be taken for the remainder of the employment sanction durational period and until he is willing to comply. If the durational period of the employment sanction ends prior to the IPV, the individual must demonstrate his/her willingness to comply with employment requirements prior to receiving assistance, unless it is determined that he is exempt.

Shelter and Utilities

25. Q. What payment type is used for the emergency shelter payments made during the 45-day application period of Safety Net Assistance (SNA)?

A. Emergency shelter payments are to be coded as payment type "52-Emergency Allowance to Forestall Eviction". Since these payments are one-time only emergency payments, the tracking system does not count them for the State 60 month time limit. If a rent payment for the current month is being made, it is coded as payment type "10-Shelter" and is counted toward the State 60 month time limit.

26. Q. If the mortgage payment of the homeowner increases as a result of a reverse annuity, is the higher mortgage amount included in the standard of need?

A. A reverse annuity mortgage should not result in a higher shelter cost since the property owner is receiving a payment based on the equity of the property. These payments are considered a bona fide loan. Therefore, reverse annuity proceeds are disregarded as income/resources for federally participating categories (case types 11 and 12) and counted as unearned income for non-federally participating categories (case types 16 and 17). Please refer to 01 INF-8 for additional information.

27. Q. Is failure to honor a shelter repayment agreement given as the result of a prior EAF approval (money owed for arrears over the maximum) grounds for denying a subsequent EAF request?

A. No. Although the EAF recipient is obligated to repay the amount over the shelter maximum, he or she is not required to complete the shelter arrears repayment form. That form is for shelter arrears paid under Emergency SNA only. For those emergency SNA applicants who must sign the form in order to have the arrears paid, failure to keep the terms of the repayment agreement is grounds for denial of a subsequent request for shelter arrears under Emergency SNA. The EAF applicant is like any other applicant who owes the agency money. For example, a former TA recipient's case is closed while still owing an overpayment balance. He agrees to pay a certain amount per month, but does not. That would not be grounds for denying assistance, including emergency assistance, in the future**.**

28. Q. Do counties have the authority to pay the first month's rent for an applicant/recipient for apartments in other states or is payment just limited to transportation and moving expenses only.

A. There is no authority to pay for the individual's basic needs such as rent in another state. Furthermore, there is no authority to pay first months rent unless in the current month, even within New York State.

29. Q. Should Public Housing accept a security agreement for EAA?

A. The Social Services Law section 143-c is clear that SSI recipients entering public housing cannot receive a cash security deposit. Any provision of security for TA or SSI applicants or recipients residing in public housing must be made only through a security agreement. Cash payments cannot be made, nor can any security escrow accounts be established for this purpose in any public assistance program. While State public housing authorities are required by State law to accept such agreements, federal housing authorities are under similar obligation. However, cash can still not be paid for TA/SSI applicants/recipient in these dwellings.

30. Q. Can security deposits be issued for single residency occupancy housing?

A. Rent security agreements may be issued to secure permanent applicant/recipient housing. 93 ADM-10 sets forth the requirements, policy and methods of issuing security agreements or, if necessary, security deposits.

31. Q. Before the children were put in her care, a landlord grantee for several nieces and nephews had rented upstairs rooms, with the use of a kitchenette and the main floor of the house, to an unrelated FA family. The landlord, nephews and nieces function as a separate economic unit from the other FA case. Although basic needs do not have to be co-oped, does the rent have to be co-oped?

A. The landlord has a business relationship with the other FA household that was in place when she took the children in to her care. Therefore, the rent should not be co-oped.

32. Q. Is energy reconciliation required for cases in which the amount restricted in the ABEL budget for heat and domestic energy is the amount paid to the energy provider?

A. Energy reconciliation must be completed once a year and when an energy restriction is terminated or when a TA case closes, (Energy/ HEAP Manual, Section IV, page 27).

33. Q. How is a utility arrearage payment request handled if part of the arrearage includes energy used for a business (self-employment)?

A. 18 NYCRR 352.5(e) and 352.5(f) expressly provides for districts to make payments for the restoration of services to the applicant's/recipient's dwelling unit and for space outside the unit (shared meter). If a utility account with a disconnect or a shut-off is classified by the utility company as a "commercial" account (presumed not a dwelling unit) and not a "residential" account (presumed a dwelling unit), a district must not authorize arrears to satisfy it. If the status of the account is

questionable, districts must contact the utility company to determine the type of account (commercial vs. residential). There is no authority in Law or Regulation to prorate the share of utility service used to conduct business inside the dwelling unit of an applicant/recipient, such as childcare or a home office. However, there is authority to prorate the dwelling unit's share of shared meter situations. For example, a building contains a small grocery store and an apartment and the electric service to the store is metered through the apartment and is included in the resident's utility bill, on a residential account. If the account is a residential account and the services to operate a commercial business is provided through the same as the dwelling unit, (a shared meter) situation, the district must follow the shared meter procedures as outline in Section XI of the Energy/Heap Manual. The account is a residential account and the service to operate a commercial business is provided through the same meter as the dwelling unit, (a shared meter) situation, the district must follow the shared meter procedures as outlined in Section XI of the Energy/HEAP Manual. For example, a building contains a small grocery store and an apartment and the electric service to the store is metered through the apartment and is included in the resident's utility bill. If the account is residential, and the tenant of the dwelling unit provides day care in his/her dwelling unit (not a day care center), the district must not prorate or determine a cost of doing business for the self-employed day care provider to determine the amount to authorize.

34. Q. Are second mortgages and home equity loans considered as shelter costs?

A. Yes, costs required to be paid in order to retain the applicants/recipient's housing are considered as part of the applicants/recipient's total shelter cost. As such, the local district must provide a monthly shelter allowance in the total amount actually paid by the applicant/recipient, but not in excess of the appropriate shelter schedule maximum of such district for each family size.

Resources

35. Q. Does RFI provide information about workers compensation benefits or New York State disability benefits?

A. No, RFI does not provide information about workers compensation or New York State disability benefits. RFI provide information about wages, UIB, unearned income and Social Security Benefits.

36. Q. Can the medical bills of a child not in the household be considered to shorten a period of lump sum ineligibility?

A. If the absent parent has the obligation to meet the child's medical expenses and the expenses are not reimbursed by insurance or some other source, the amount paid should be considered to shorten a period of ineligibility.

37. Q. Can the local district pay for the filing of a deed for a recipient?

A. The district has no regulatory authority to pay for filing a deed, however, under SSL 106-a the local district may file the deed, if they have a lien, at no cost to the recipient in order to preserve the value of the property. By filing the deed for the recipient, the district will ensure that any lien LDSS places on the property will have the appropriate deed filed which will maximize the value of the property.

38. Q. Can a homeless household be required to use their Earned Income Tax Credit (EITC) toward the cost of temporary housing?

A. Yes, when it becomes available. All available resources must be utilized to meet immediate needs.

39. Q. An applicant had an accident on private property and was injured. The homeowner's insurance carrier issued the individual a check for $1,000 for medical expenses. Is the $1,000 income or a resource?

A. The $1,000 is a resource. If the individual actually paid unreimbursed medical expenses with the money, it would not be considered at all.

State 60-Month Time Limit

40. Q. Should the LDSS close the whole case when a person who has complied with the SNA requirements and is pending transfer to case type 17, fails to do work experience assigned by the employment unit?

A. No. The only employment activities that are conditions of eligibility for Temporary Assistance applicants are job search and employment assessment. Only recipients can be assigned to a work experience program and it is never a condition of case eligibility. This individual is subject to an employment sanction. A conciliation notice must be sent to determine if there was good cause for the failure to comply.

41. Q. When a Family Assistance (FA) case is re-categorized as Safety Net Assistance (SNA), will the signature(s) on the original application/recertification suffice for Interim Assistance reimbursement (IAR)?

A. Yes, the signature(s) on the common application/recertification is adequate to support IAR from a case that is recategorized from FA to SNA.

42. Q. State Law and regulations exempt a family from the State 60-month time limit on the basis of hardship when the adult family member is unable to work because of an independently verified physical or mental impairment. Does "independently verified" mean that the

district must only use the medical documentation brought in by the recipient and is prohibited from making a referral to a physician of their own choosing? Many districts contract with a medical provider for the purpose of obtaining medical documentation of a person's inability to work for employment purposes. Can the district still do this for time limit exemption purposes?

A. "Independently verified" does not mean that the district must only use the medical documentation brought in by the recipient. Any time an applicant or recipient claims a mental or physical impairment the district shall notify the individual verbally or in writing of the opportunity to provide medical documentation within 10 calendar days of the notice. A district may also refer the individual to a health care practitioner certified by the New York State Office of Disability Determinations. The local district has sole discretion in determining whether any documentation provided by the individual or by the individual's practitioner is sufficient evidence of the claimed or declared impairment. This is the procedure districts would use in determining whether or not an adult qualifies for a time limit exemption.

43. Q. A two-parent household has reached the State 60-month time limit. One parent is receiving SSI and the other is not work exempt. Is this family exempt from converting to non-cash Safety Net Assistance?

A. The exemption from non-cash Safety Net Assistance is for recipients of Safety Net Assistance. It is not applicable to non-recipients. When a two-parent household reaches the State 60-month time and one parent is on SSI and the other is not work exempt, the household is considered a one parent household for the purposes of granting an exemption to the Safety Net Assistance 24-month time limit. The household would receive non-cash Safety Net Assistance.

44. Q. If a case is initially exempt from time limits at the 60th month, and then loses that exemption, the Repayment Agreement and Assignment of Future Earnings must be signed. The case must be reviewed for the changes generated by the category, but do we need to have the adults sign the SN Supplement Application?

A. Yes. However, if the able-bodied adult does not qualify for a time limit exemption that would allow the family to remain in FA, the district must assess whether the adult is now exempt from work activities. Adults who are exempt from participation in work activities under DOL Reg 1300.2 do not have to file an application for SNA. If otherwise eligible, they should be categorized as cash SNA effective at the end of the State 60-month time limit. In two-parent households, the SNA application requirement applies if at least one of the adults is able-bodied.

WMS

45. Q. What WMS pay type should be used when replacing incorrectly expunged Food Stamp benefits?

A. When replacing expunged Food Stamp benefits, use pay type 94-FS Retroactive Benefit.

46. Q. What WMS pay type should be used when replacing expunged cash benefits?

A. When replacing expunged cash benefits use pay type 69-Cash Grant Unrestricted with the appropriate Payment Period. Please note you must also document in the case record the date the expunged cash benefits were reissued, the time period that the reissuance was for and the amount of the cash benefits that were reissued.

47. Q. Is it appropriate to use the "co-op number" field for related services cases (Not Childcare) for all TA caseloads that have an active services case?

A. Yes, It is appropriate to use the "co-op case numbers" field for related services cases. No reports are generated based on that field, therefore, there is no problem with using the field for other purposes.

48. Q. What is the relationship code for a minor head of household who has a child and is living in an adult supervised home?

A. The proper relationship code is "18-none".

Temporary Absence

49. Q. Is a child who is placed in a detention center funded by Services (not foster care) considered temporarily absent?

A. If the detention center is similar to a jail and the child's movements are completely limited, (no weekends out, no freedom of movement, etc.), the child is ineligible. Otherwise, the child can be considered temporarily absent, provided that the plan is for the child to return to the family home.

50. Q. Is a parent out of the household due to military service considered temporarily absent?

A There has been no change in the treatment of parents who are in the military service. Normally, the needs, income and resources of the individual are counted in full (see NYCRR 349.4), as the parent is considered temporarily absent. However, this only remains true as long as the person does not establish residence elsewhere (i.e. he/she no

longer has an intent to return to the family). When the person does establish residence elsewhere, the district must petition for child support.

51. Q. Does Temporary Assistance recognize the concept of an emancipated minor?

A. No. Emancipation may allow the minor to secure his or her own medical treatment and other rights normally associated with adult status. However, when the emancipated minor is requesting Temporary Assistance, it is correct to look to legally responsible relatives to meet, or to help meet the cost of providing TA to the minor.

52. Q. Can a payee receive Temporary Assistance benefits for a child who is absent from the household due to attendance at school or substance abuse rehabilitation?

A Yes. The child would be considered temporarily absent. This is true provided that the intent is for the child to return to the payee's household and the child is otherwise eligible.

53. Q. Does the Temporary Assistance concept of temporary absence apply to both applicants and recipients?

A. Yes, provided that the temporarily absent person intends to return to the applicant's household. Please note that children in foster care are considered temporarily absent only if they were placed from an active TA case and the Child Service's Plan calls for the child to return to the home.

Recovery

54. Q. Can the EBT PC Admin Repayment function be used if the recipient gives permission for repayment of Food Stamps?

A. Yes. This can be done when a client voluntarily gives the local district permission to access the balance in his/her Cash and/or Food accounts in whole or part, to repay a Cash and/or Food claim or claims. The amount debited from the account must not exceed the total amount of the claim or claims.

55. Q. Can an MA overpayment be recovered via recoupment from a TA grant?

A. No. The LDSS cannot recover MA overpayment from the TA grant. Neither can a FS overissuance be recouped from a TA grant.

56. Q. Can diversion payments be subject to recovery?

A. In appropriate circumstances SSDs still retain the ability to recover assistance by any means legally available including the execution of a lien on applicant owned real property. Diversion payments are subject to

the same conditions and amounts as specified in Part 352 of Office Regulations. For example, Part 352.7 (g) (3) of Office Regulations authorizes the recoupment or recovery of shelter arrears paid to applicants of EAF which exceed the agency shelter maximum standard. If the applicant does not immediately become a recipient of recurring TA, recovery must be pursued. If the individual later becomes a recipient of TA and there is an outstanding balance on the excess arrears payment, a recoupment must be initiated. (See PASB Section X-D-1)

57. Q. Can legal fees, interest or other fees, resulting from establishing a judgment for an outstanding Temporary Assistance (TA) overpayment against a former TA recipient, be recouped if the former TA recipient again becomes an active TA recipient?

A. No, 18 NYCRR 352.31(d) authorizes the recovery of overpaid assistance by recoupment. Legal fees, interest and other fees are not assistance authorized by SSL or regulation. The local district would have to pursue recovery mechanisms, other than recoupment, to recover additional fees, interest, etc.

58. Q. Is a signed "Repayment Agreement" (LDSS-4529) and "Assignment of Future Earnings" (LDSS-4530) valid for the life of the case, regardless of category changes?

A. Yes. The signed agreement and assignment are valid for the period(s) a case is categorized SNA.

Application Issues

59. Q. If a newborn requires an extended hospital stay after birth, when is the newborn added to the case?

A. Temporary Assistance benefits for eligible children born to current recipients of Temporary Assistance shall be provided from the date of birth, upon provision to the district of verification of birth, application for a SSN, cooperation by the parent with child support enforcement (if appropriate), etc. This is true provided that the child will go home after the necessary hospital stay**.**

60. Q. An SNA applicant applies on July 8 and is denied for failure to comply on July 15. The client reapplies on July 17. Office regulation 350.4 (b) indicates that a new application is not required since the client is reapplying within 30 days of the denial. Does this mean the 45-day rule is based on the original application date (July 8)?

A. No. The 45-day period would start July 17. It does not mean the 45-day period would revert to the earlier application date. The regulation cited above only indicates that a new application form is not required. The application will have to be registered to reflect the reapplication. The application may also need to be updated if there have been changes

since the individual filed the original application. The individual must initial any changes, and re-sign and date the application with the changes.

61. Q. If a required filing unit member returns to the household and must be included in an existing filing unit, is that person considered an applicant and subject to applicant requirements?

A. Yes. Although it is the local district's decision whether intake or undercare should handle the inclusion of the individual, the new individual is considered an applicant and subject to applicant rules. For example, if the individual has earned income and has not been in receipt of assistance in the last four months, the earned income disregards should be given only to the new member if the filing unit is eligible without them.

All eligibility rules that would apply to any other applicant would apply to the individual being added to the existing filing unit. Failure to comply with eligibility requirements will result in the denial of the individual and the closing of the TA case provided that the applicant is a required member of the filing unit.

62. Q. Children were living with their grandmother who was receiving assistance for them (OTG case). The children moved to another county to live permanently with their mother. Does the transitional rule apply or must the mother apply for the children because she is a new payee?

A. Both rules apply. The mother would have to submit an application under 18 NYCRR 350.4 (a) (3). Unless exempt, the mother would be a mandatory filing unit member and be included on the application. If the family is eligible, the children would be the responsibility of the from county during the transition period, while mom would be the responsibility of her district of residence.

63. Q. If an applicant is denied and then the district reconsiders their action and determines that it was incorrect, does the individual have to reapply?

A. No. The denial notice must be withdrawn and the original application and application date must be used. This is true whether the reconsideration is within 30 days of the denial or more than 30 days after the denial.

Category

64. Q. If a child is living with a non-relative caretaker, can the category of assistance be FA?

A. No. TANF funded assistance FA, non-cash SNA (FP) and EAF, cannot be provided to needy children who are not currently living with a caretaker relative. TA may be provided to an eligible child in the care of a non-relative in SNA-FNP. Maintenance of effort (MOE State/Federal Charge Code 63 or 64) may not be claimed.

65. Q. When a TA case that receives the $50.00 child support pass-though payment goes to a non-cash category, does the child support pass through payment continue? If so, what is the method of payment?

A. Yes. The child support pass-though payment will continue, provided that the absent parent continues to pay support. The section of SSL that mandates restrictions for SNA non-cash cases does not apply to the child support pass-though and therefore the method of payment would remain as cash.

66. Q. Can an individual who meets the FA age requirement and lives on his/her own be categorized as FA?

A. No. FA can only be provided to a family that includes a minor child living with a parent or caretaker relative, or to a pregnant woman. A minor child living on his/her own is not eligible for FA unless she also a pregnant minor or he/she is a parenting minor.

Other

67. Q. If a recipient complies with the negative action of a discontinuance notice on or before the effective date, is the notice (negative action) rescinded?

A. That depends on the reason for the negative action. If the person failed to recertify or failed to provide verification and then does so by the effective date of the notice, the notice should be cancelled. If the person failed to comply with employment, and the matter was not resolved at conciliation, the notice would not be cancelled unless the person requested a fair hearing and won. If no fair hearing is requested or the client loses the fair hearing, that non-compliance "instance", 1st, 2nd, etc counts even if the person will now comply. If there is a durational period attached, then the period must be exhausted.

Drug/alcohol sanctions are similar to employment sanctions. The person can get TA if he/she takes part in appropriate treatment but unless the client is found to have good cause for the non-compliance action that prompted the notice, the notice would be valid to establish the instance of non-compliance.

68. Q. Must an individual be related to the payee or child of a Family Assistance or Safety Net Assistance-Federally Participating case, in order to be an Essential Person (EP) on that case?

A. No.

69. Q. Is it required that recipients be finger imaged at recertification?

A. According to 98 ADM-8, it is recommended that social services districts verify the identity of recipients with AFIS whenever possible such as at recertification, when recipients request a replacement CBIC card, or any other on-site, face to face meeting.

70. Q. When must a Temporary Assistance (TA) applicant/recipient be offered the opportunity to register to vote?

A. Every applicant/recipient of TA must be offered the opportunity to register to vote at every application and recertification for TA and when the applicant/recipient notifies the SSD of a change of address.