



**NEW YORK STATE  
OFFICE OF TEMPORARY AND DISABILITY  
ASSISTANCE**

40 NORTH PEARL STREET  
ALBANY, NY 12243-0001

**Andrew M. Cuomo**  
*Governor*

**Administrative Directive**

**Section 1**

<b>Transmittal:</b>	11-ADM-01
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Employment and Economic Supports (CEES)
<b>Date:</b>	March 1, 2011
<b>Subject:</b>	Penalty for Failure to Comply with Temporary Assistance (TA) Program Requirement to Pursue Supplemental Security Income (SSI)
<b>Suggested Distribution:</b>	Temporary Assistance Directors Food Stamp Directors Employment Coordinators Medicaid Directors Staff Development Coordinators Finance Staff Fair Hearing Officers
<b>Contact Person(s):</b>	Center for Employment and Economic Supports Bureau of TA at (518) 474-9344 TA New York City Representatives at (212) 417-4500 For Employment related questions contact an Employment Services Advisor or the Employment and Advancement Services Bureau at (518) 486-6106
<b>Attachments:</b>	<a href="#">Attachment A – Guidelines for SSI Referrals</a>
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

**Filing References**

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
01 INF 12 08 ADM 5 07 ADM 6 06 ADM 6 94 ADM 10 04 ADM-05 01INF 12 07 LCM 04		18 NYCRR 351.2(e) 352.23(a) 351.26(a) 352.2(b) 352.30(f) 369.2(h) 370.2 (b) (5) 352.30 (a) 352.30 (f) 370.2(b)(5)	Social Services Law § 131-c, 131(7)(b) and 131-a	TASB Chapters 10 and 13	GIS 07 TA/DC011

## Section 2

### I. Summary

Any Temporary Assistance (TA) applicant or recipient, who in accordance with *08 ADM-05 SSI-Screening/Identification, Referral and Tracking Requirements*, is determined to be potentially eligible to qualify for Supplemental Security Income (SSI), must pursue SSI as a condition of initial and continued TA eligibility.

18 NYCRR 352.30(f) states that an SSD must impose an incremental sanction when any applicant for or recipient of TA refuses to cooperate in applying for or accepting SSI benefits for himself or herself, or for a member of the public assistance household, the needs of such individual shall be eliminated from the grant. If, however such individual is physically or emotionally unable to complete the SSI application process, DSS shall provide any services which are necessary to insure that the individual is assisted in making the SSI application. In such instance, that individual shall not be denied public assistance and care. In addition, an applicant for or recipient of public assistance is exempt from complying with any requirement concerning eligibility for TA if the applicant or recipient establishes that good cause exists for failing to comply with the requirement, in accordance with 18 NYCRR 351.26 (a).

### II. Purpose

The purpose of this Administrative Directive (ADM) is to notify SSDs of the penalty that must be imposed when any TA applicant or recipient fails to comply with the TA eligibility requirement to pursue SSI.

### III. Background

18 NYCRR 369.2 (h) and 370.2 (b) (5), require that applicants for and recipients of Family Assistance (FA) and Safety Net Assistance (SNA) who are identified as potentially eligible for SSI must, as a condition of initial and ongoing TA eligibility, pursue SSI. The pursuit of SSI benefits includes applying for SSI, cooperating in the SSI application process, appealing an SSI eligibility denial when the SSD requires an appeal and if determined eligible for SSI, accepting SSI benefits.

Historically, (as reflected in 01 INF-12) the penalty for failing to pursue SSI benefits was either an incremental or prorata sanction. Effective July 7, 2004, the penalty for Family Assistance or Safety Net families was changed to a prorata sanction to support prorated SSI budgeting. An unfavorable appellate court decision with respect to the SSI proration policy (as communicated in 07 ADM-06 *Doe v. Doar- Unfavorable Appellate Court Decision on the Proration Policy Transmitted in 04 ADM-05 Temporary Assistance and Non-Temporary Assistance Mixed Households – Budgeting When the Family Includes an SSI Member*) reversed the SSI proration policy and reinstated the penalty for a family's failure to pursue SSI to an incremental sanction. Reflective of the *Doe v. Doar* decision OTDA amended 18 NYCRR 352.30(f) so as to instruct SSDs to impose an incremental sanction when any TA applicant or recipient fails to pursue SSI, without good cause, regardless of category, or budgeting methodology.

#### **IV. Program Implications**

Amended 18 NYCRR 352.30(f), requires that a SSD must impose an incremental sanction when any applicant for or recipient of TA refuses, without good cause, to cooperate in pursuing SSI for himself or herself, required filing unit members, or any person (s) the applicant, recipient, or representative indicates wishes to receive TA and who reside(s) in the same dwelling unit.

If, however, the TA applicant or recipient is determined physically or mentally unable to complete the SSI application process, the SSD must provide any necessary services required to assist the individual in meeting all of the SSA's application requirements. The SSD must also assist the individual in appealing an SSI eligibility denial when the district determines such appeal is required, and if approved for SSI, assist the individual in accepting the benefits.

An SSD must not deny any TA applicant or reduce or discontinue a recipient's TA benefits on the basis of failing to pursue SSI if the individual is physically or mentally unable to pursue SSI benefits for himself or herself, required filing unit members, and any person (s) the applicant, recipient, or representative indicates wishes to receive TA and who reside(s) in the same dwelling unit.

#### **V. Required Action**

1. As a condition of initial and continuing TA eligibility, an SSD must require all TA applicants and recipients who are identified as potentially eligible to qualify for SSI to pursue SSI benefits. SSDs must continue to utilize 08 ADM-05 "*SSI-Screening/Identification, Referral and Tracking Requirements*" to determine the SSD's and TA applicant/recipient's responsibilities in the identification and tracking of individuals who may qualify for SSI.
  - Note: Consistent with 06 ADM-06, individuals who are required by the SSD to pursue SSI benefits as a condition of TA eligibility are to be coded as exempt and cannot be required to participate in either TA or FS work activities until the SSD determines, based on the documentation available, that the individual is no longer exempt from work requirements and is not required to pursue SSI benefits as a condition of eligibility for TA. For TA purposes, individuals who are required to apply for SSI as a condition of TA eligibility would generally be assigned an employability code of ~~43~~—Incapacitated/Disabled (SSI application filed)-Exempt", unless the district determines that another employability code is more appropriate based on case specific circumstances.
2. An SSD must impose an incremental sanction when any applicant for or recipient of TA refuses without good cause to pursue SSI benefits for himself or herself, required filing unit members, or any persons the applicant, recipient ,or representative indicates wishes to receive TA and who reside in the same dwelling unit. An incremental sanction imposed against a single individual will result in a denial or discontinuance of TA. An incremental sanction imposed against a multi-person household will remove the ineligible individual from both the TA household (HH) and case (CA) count which reduces the amount of the TA benefit.

3. An SSD must not impose any sanction when a Non-Parent Caregiver (NPC) who does not want to apply for TA or is not in receipt of TA refuses to pursue SSI benefits for himself or herself.
4. SSDs must continue to monitor a TA applicant and recipient's compliance with the requirement to pursue SSI at application and recertification as prescribed in 08 ADM-05 *SSI – Screening/Identification, Referral and Tracking Requirement*.
5. An SSD must not deny an applicant or reduce or discontinue a recipient's TA benefits for failure to comply with pursuing SSI, if the individual is physically or mentally unable to pursue SSI benefits for himself or herself, required filing unit members, or any persons the applicant, recipient, or representative indicates wishes to receive TA and who reside in the same dwelling unit.
6. An SSD must not deny a TA applicant for failure to pursue SSI if the individual's failure occurred prior to applying for TA.

## **VI. Additional Information**

08 ADM-5 *SSI – Screening/Identification, Referral and Tracking Requirements* includes an attachment –“Guidelines for SSI Referrals”. The penalty section of the attachment has been revised to conform to 18 NYCRR 352.30(f) and can be found in attachment A of this document.

## **VII. Effective Date**

Immediately

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### **Issued By:**

**Name:** Russell Sykes

**Title:** Deputy Commissioner

**Division/Office:** Center for Employment and Economic Supports