



**NEW YORK STATE**  
**OFFICE OF TEMPORARY AND DISABILITY**  
**ASSISTANCE**  
 40 NORTH PEARL STREET  
 ALBANY, NY 12243-0001  
**Andrew M. Cuomo**  
*Governor*

**Informational Letter**

**Section 1**

<b>Transmittal:</b>	12-INF-03
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office :</b>	Center for Employment and Economic Supports, Office of Temporary and Disability Assistance
<b>Date:</b>	March 9, 2012
<b>Subject:</b>	Temporary Assistance (TA) and Medicaid (MA) Benefits For Infants Residing With Their Incarcerated Mothers
<b>Suggested Distribution:</b>	Temporary Assistance Directors Medicaid Directors Child Support Enforcement Coordinators Support Collection Unit Supervisors IV-D Attorneys Fair Hearing Staff Staff Development Coordinators
<b>Contact Person(s):</b>	Temporary Assistance Bureau 1-800-343-8859, extension 4-9344 Medicaid Local District Support Upstate: (518) 474-8887 NYC: (212) 417-4500
<b>Attachments:</b>	<a href="#">Attachment A – Confidentiality Agreement</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.
95 ADM-4, 00 INF-6		18 NYCRR 350; 360-2.2			

## Section 2

### I. Purpose

The purpose of this release is to clarify policy and protocols that social service districts (SSDs) must adhere to when processing applications on behalf of infants who are born to incarcerated mothers at a State Department of Corrections and Community Supervision (DOCCS) facility.

### II. Background

In 1995, OTDA released 95 ADM-4 which advised SSDs that there are programs within the State prison system which allow infants who are born to incarcerated mothers to remain with the mothers and that such infants may be eligible for Temporary Assistance (TA) and Medicaid (MA) benefits.

Currently there is one nursery in a DOCCS prison within the State. There are less than 27 children (bed capacity) residing in this nursery.

Bedford Hills Correctional Facility in Westchester County, New York houses the oldest prison nursery in the country. Pregnant inmates are given prenatal care and parenting classes. In an effort to create bonds between mother and child, some women are permitted to keep their infants with them in prison for up to 18 months after birth. An inmate with an infant in the facility nursery may apply and be found eligible for TA and MA benefits for the child.

OTDA has recently received inquiries from SSDs and DOCCS regarding the procedures established in 1995 for this facility.

This release clarifies the TA and MA policy and protocols contained in 95 ADM-4.

### III. Program Implications

#### Temporary Assistance

The State correctional facility from which SSDs may receive applications is:

**Bedford Hills Correctional Facility**  
247 Harris Road  
Bedford Hills, New York 10507-2400

When the infant of the incarcerated inmate needs to apply for assistance, the mother of the infant, with the assistance of a DOCCS counselor, will complete an application on behalf of such infant. SSDs are no longer required to negotiate a Memorandum of Understanding (MOU) with DOCCS allowing DOCCS staff to conduct eligibility interviews on behalf of the SSD. Rather, SSDs should work with DOCCS staff to coordinate the application and eligibility determination process. If necessary, SSD staff may interview the incarcerated parent by phone or arrange for teleconferencing.

Each SSD must advise OTDA by April 15, 2012, of a local contact who will work with DOCCS staff to accommodate the application and documentation of eligibility with respect to these applications. If OTDA is not notified by that date, the TA Director of the SSD will be established as the contact person. A list of SSD contacts will then be furnished to DOCCS. Contacts may be sent to Greg Nolan at [Greg.Nolan@otda.state.ny.us](mailto:Greg.Nolan@otda.state.ny.us).

The DOCCS primary contact is:

Marlyn Kopp  
ADSP (Assistant Deputy Superintendent for Programs)  
Bedford Hills Correctional Facility  
247 Harris Road  
Bedford Hills, NY 10507-2400

Phone: (914) 241-3100  
Email: [Marlyn.Kopp@doccs.ny.gov](mailto:Marlyn.Kopp@doccs.ny.gov)

DOCCS secondary contact is:

Joseph Joseph  
DSP (Deputy Superintendent for Programs)  
Bedford Hills Correctional Facility  
247 Harris Road  
Bedford Hills, NY 10507-2400

Phone: (914) 241-3100  
Email: [Joseph.Joseph@doccs.ny.gov](mailto:Joseph.Joseph@doccs.ny.gov)

Training on the TA application and documentation process was recently completed for DOCCS staff by SUNY Rockefeller.

SSDs must be aware of the following regarding TA applications:

- Normal TA application, eligibility and documentation guidelines apply to these applications. However, since the child and mother are in the care and custody of DOCCS, many eligibility variables may be easier to verify than normal.
- DOCCS staff will provide the three informational books to the parent. These are:
  - LDSS-4148A, Book 1, “What You Should Know About Your Rights and Responsibilities.”
  - LDSS-4148B, Book 2, “What You Should Know About Social Services Programs.”
  - LDSS-4148C, Book 3, “What You Should Know If You Have An Emergency – Book 3.”

- The application date is the date that the SSD receives the signed, completed application form from the designated person at the correctional facility.
- The application and accompanying documentation, including the Child Support Enforcement Referral, proof of the child's birth, a signed confidentiality release, a Social Security card or proof that an application for a Social Security number for the child has been made will be forwarded by the designated person at the correctional facility to the SSD. That SSD must accept and file the application, review the documentation and then determine eligibility for the child.

Please note that the current LDSS 2860 "Child Support Enforcement Referral," will soon be replaced with the new LDSS 4882 "Information About Child Support Services and Application/Referral for Child Support Services," which should be provided to the inmate to complete and returned to the child support program in the "district of fiscal responsibility" (DFR).

- In the rare instances that there is a delay in obtaining verification of birth, a statement from DOCCS as to the date of birth and relationship of the child to mother will constitute verification of age, citizenship and relationship until documentation may be obtained by the SSD. This is because in all instances, the child will be in the care of DOCCS or another penal institution at the time of birth. This is consistent with previously established OTDA alternative verification procedures (see 00 INF-6).
- The DFR for the infant continues to be the mother's district of residence at the time of her sentencing. At the time of application, DOCCS will verify the mother's district of residence on behalf of the SSD.
- The TA category of the infant will be Family Assistance unless otherwise not eligible (for example, by reason of application of the 60 month time limit).
- Even though the child may have been born in the SSD where the correctional facility is located, that SSD will not be the DFR unless it is the county where the mother resided at the time of her sentencing.
- Please note that the child support program in the DFR may contact the DOCCS contacts provided in the release to provide assistance in contacting the inmate regarding the referral and information about putative father's/noncustodial parents and, if necessary, to coordinate telephonic testimony in court paternity and support proceedings.
- In the event of an unresolved interjurisdictional dispute, the SSD in the county where the facility is located must accept and process the application. The SSD may request a fair hearing to resolve the dispute.
- Assigned authorization and certification periods on the Welfare Management System (WMS) will be 12 months. Recertification for the child while residing in the prison nursery will not be required unless the child is there beyond the 12 months: this will be a

very small percentage of cases in the nursery. Most newborns will be in DOCCS care for 12 months or less.

- Because the mother of the child is incarcerated, she is not eligible to receive TA for herself. The standard of need for the child will be based on a not-for-profit negotiated room and board rate plus the \$45 personal needs allowance (PNA). It is suggested that the room and board maximum (the total of the one person Basic, Home Energy Allowance, Supplemental Home Energy Allowance and Shelter maximum (with child rate)) for the district the facility is located within should be the rate set. For Bedford Hills Correctional Facility (Westchester County) this amount is \$506 (\$45 PNA and \$461 room and board). Only the child should be included for the Household (HH) and Case (CA) counts in ABEL (Please use ABEL shelter code 12 in the interim until a not-for-profit room and board code is developed).
- Since inmates are normally paid less than the standard \$90 work disregard, SSDs must enter \$90 in the earnings field on ABEL and then exempt it with the standard disregard. It is not necessary to obtain verification of these wages unless DOCCS notifies the SSD that there has been an increase over the \$90.
- The room and board payment must be made to the DOCCS facility and the PNA must be paid into the inmates account. The PNA must be provided to the inmate on behalf of the child for the child's incidental needs. The child support pass-through when one is appropriate will be paid to the inmate.
- The payments should be associated name payments (use screen 7 of the DSS- 3209). The pay type for the PNA is E-9 and the room and board payment type is 40.
- Copies of requests for information and client notices that are sent to the mother must also be provided by the SSD to the designated person in the correctional facility.
- DOCCS will be responsible for notifying the SSD whenever there is a change in the parent's or child's circumstances including the date the child is discharged from the nursery.

### **Food Stamp Implications**

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

### **Medicaid Implications**

For Medicaid purposes, SSDs are no longer required to negotiate a Memorandum of Understanding (MOU) with DOCCS. Rather, as mentioned, SSDs should work with DOCCS staff to coordinate the application and eligibility determination process.

Application

An incarcerated mother with an infant in the facility nursery may apply for TA/MA or MA-only for the infant. In most instances, MA will be authorized as a result of the infant's eligibility for TA. Infants determined ineligible for TA must have their eligibility for MA determined separately as required by Department Regulation 360-2.2 using standard procedures. Infants who qualify/apply for MA-only should have their eligibility determined as if the infant was residing in the community, as a household of one. The infant is considered to be living in the home of an ADC-Related (ADC-R) relative since the mother of an infant in a correctional facility nursery is involved in the day-to-day care of the child and in the decision making about the child. The case category will be ADC-R based on the deprivation of continued absence of the infant's father.

To apply for Medicaid only, the mother or her authorized representative with the assistance of a DOCCS social worker will complete the State-prescribed form, the DOH 4220, Access NY. To apply for TA/MA the mother or her authorized representative with the assistance of a DOCCS social worker, will complete the State-prescribed form, the DSS 2921: "Application for Temporary Assistance, Medical Assistance, Food Stamps, Services," on behalf of the infant applying for assistance.

For Medicaid purposes, a face-to-face interview is not required.

Any corrections staff designated to act as an authorized representative must complete the Confidentiality Agreement (Attachment A).

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

Each application forwarded to the District of Fiscal Responsibility (DFR) must include the name and telephone number of the designated person at the correctional facility.

The application and accompanying documentation, including the Child Support Enforcement Referral, proof of the child's birth, a signed confidentiality release and an SS-5: "Application for a Social Security Card" completed for the infant or proof that application for a Social Security number has already been made for the infant must be forwarded to the DFR by the designated person at the correctional facility. The DFR must accept the application and accompanying documentation and determine eligibility for the infant.

#### DFR

The DFR for an infant residing with an incarcerated mother continues to be the district where the mother most recently legally resided prior to incarceration. At the time of application, DOCCS will verify the mother's district of residence on behalf of the SSD. Even though the infant may have been born in the SSD where the correctional facility is located, that SSD is not the DFR unless it is the county where the mother resided at the time of her sentencing. In the event that the mother did not have a legal residence at the time of sentencing, the where-found district (that is, the sentencing district), is the district of fiscal responsibility.

#### Notification of Change

DOCCS will be responsible for notifying the SSD whenever there is a change in the parent's or infant's circumstances, including release dates.

#### Information Requests and Notices

Copies of requests for information and client notices that are sent to the mother must also be provided by the SSD to the designated person in the correctional facility.

#### Managed Care Implications

Infants residing with their incarcerated mothers are excluded from Medicaid Managed Care. When an application for TA/MA or MA-only is submitted to the SSD, the SSD must insure that the unborn/newborn is coded with a 90 exclusion code (using "INCAR" in the worker field) in the Restriction/Exception subsystem to prevent managed care enrollment or reenrollment. This exclusion should have an end-date equal to the period approved for the infant to remain with the incarcerated mother in the facility.

If the SSD finds a case of an unborn/newborn with a Medicaid managed care enrollment already in place, the managed care enrollment line should be deleted in the Prepaid Capitation Plan (PCP) subsystem. If the baby has already been born, the deletion of the enrollment line should be followed by a request to the plan to void any managed care premiums they received on behalf of the newborn. The current rules regarding recovery of payment from plans apply.

#### **Issued By**

**Name:** Phyllis Morris

**Title:** Acting Deputy Commissioner

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