Temporary Assistance Questions and Answers

TABLE OF CONTENTS

General

1. Question: Can an individual applying for Temporary Assistance (TA) elect to apply for TA only and refuse to apply for Medicaid (MA)?

Answer: Yes, this is correct for all categories of TA; 97-ADM-20 advises that applicants must indicate on the Common Application that they are applying for MA. Social Services Districts (SSD's) should not assume that an individual is not applying for MA. If an applicant fails to indicate on the TA application whether he or she is applying for MA, the SSD should ask whether the applicant wishes to apply for MA.

2. Question: Can the SSD provide TA or Emergency Assistance for Adults (EAA) for applicant or recipient transportation expenses related to a Supplemental Security Income (SSI) hearing?

Answer: No, because there is no authority to pay a TA or EAA applicant or recipient's cost for transportation related to an SSI hearing.

3. Question: Which SSD is responsible for the cost of burying an indigent who was incarcerated at the time of his/her death?

Answer: The SSD that would have been responsible for providing TA to the deceased is responsible for the burial. An individual does not gain residence in the county of incarceration while in jail or prison. Since the residence of the prisoner does not change with his/her incarceration, the responsible SSD is the SSD in which the deceased formerly resided prior to incarceration. If the deceased did not reside in New York before incarceration, then the SSD he/she died in is responsible for the indigent burial.

4. Question: If a child legally adopted by someone other than the biological parent(s) moves in with the biological parent, is the child a required filing unit member?

Answer: Yes, the child is a required filing unit member because there is a blood relationship. The basis for this answer is found in Title 18 New York Codes, Rules and Regulations (NYCRR) § 352.30(a).

5. Question: If the SSD conducts a computer match for a TA applicant/recipient directly with one or several financial institution(s), is the information obtained from the financial institution verified upon receipt or does the SSD have to obtain written documentation from the applicant/recipient of the information obtained from the financial institution?

Answer: As long as the matched data meet the following three criteria, there is no need to obtain paper documentation from the applicant/recipient. The criteria are:

- The match must be directly (there cannot be an intermediary) with a primary source (usually a bank or brokerage house);
- The data must be current (within 60 days of the case action); and,
- The SSD must believe the data is reliable.

(An example of this type of financial institution match that is verified upon receipt is the bank match NYC conducts directly with several financial institutions.)

SSDs are directed to 04 INF-20 for a discussion concerning which types of computer matches are deemed verified upon receipt.

6. Question: Can OTDA e-mail a copy of a State On-Line Query (SOLQ) screen that contains Social Security Numbers (SSNs) to the SSD worker?

Answer: No. OTDA cannot e-mail a SOLQ screen that contains SSNs. (See 10-LCM-11, Attachment 1 for questions and answers regarding SOLQ, specifically questions 21, 22, 23 and 24).

7. Question: A TA recipient has requested a copy of his or her SOLQ screens. Can this be mailed to the recipient?

Answer: The SOLQ screen can be made available to the recipient provided the SOLQ Screen was used to determine eligibility.

8. Question: Can an individual who has been incarcerated receive his or her expunged cash benefits?

Answer: Yes, as long as the individual requests the expunged benefits.

9. Question: Should the Common Benefit Identification Card (CBIC) of an incarcerated individual be disabled by the SSD?

Answer: No. Benefits are attached to the individual in the case who has payee status. If an incarcerated individual is the payee for a case with multiple active TA individuals, in order to access any benefit balance, another individual must become the payee on the case.

10. Question: Is a person on Home Incarceration eligible for TA?

Answer: No, an individual is ineligible for TA if on work release or in the Home Incarceration Program. OTDA considers the needs of the incarcerated individual to be the responsibility of the Department of Corrections.

11. Question: **Can a foster child who has been released from an institution but, who remains under the care and custody of the commissioner receive TA?**

Answer: No, the foster child is not eligible for TA or Emergency Assistance to Families (EAF), financial responsibility for foster care remains with the Office of Child and Family Services (OCFS).

12. Question: **Is it a conflict of interest for the SSD examiner conducting the eligibility interview to assist the applicant with the completion of the application?**

Answer: No, there is nothing that prohibits an examiner from assisting the applicant to complete the application.

13. Question: **When an application for EAF is made and an immediate need is claimed, what notice is the SSD required to provide to the applicant?**

Answer: If an applicant indicates in writing that he or she is only applying for a special allowance or assistance to meet an emergency/immediate need, and is not seeking ongoing TA, Supplemental Nutrition Assistance Program (SNAP) or Medical Assistance, an LDSS-4002 "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance," notice must be used to adequately notify applicants and providing any additional notice(s) is not necessary. The SSD must list on the LDSS-4002 the exact actions they are taking to meet the need or if assistance is denied, the notice must specify the reason for such denial.

However, if an applicant <u>does not</u> indicate in writing that he or she is applying only for a special allowance or assistance to meet an emergency/immediate need, the household must also be provided with the following notices:

- LDSS-4002: "Notice of Acceptance/Denial to Meet an Immediate Need or Special Allowance"
- LDSS-4013A: "Action Taken on Your Application: Public Assistance, SNAP and Medical Assistance Coverage (Part A)"
- LDSS-4013B: "Action Taken on Your Application: Public Assistance, SNAP and Medical Assistance Coverage (Part B)"

<u>Budgeting</u>

14. Question: **What is an Unemployment Insurance Benefits (UIB) forfeiture penalty and how does it affect TA eligibility and budgeting?**

Answer: Forfeiture is a penalty imposed by the Department of Labor (DOL) against a UIB claimant for intentionally concealing information

affecting unemployment eligibility and is administered by withholding otherwise payable UIB for a specified period. The forfeiture of UIB must be satisfied before a claimant can receive any UIB. The forfeiture is in addition to any UIB overpayment that must be repaid.

The SSD must consider the UIB "gross weekly benefit rate," forfeited as a result of the UIB forfeiture or the "gross weekly benefit amount," during the repayment of a UIB overpayment, in determining the applicant's initial eligibility or the recipient's continued eligibility. If the applicant/recipient still would be eligible for some assistance after taking into consideration the UIB gross weekly benefit the household would have received, such assistance (minus the UIB gross weekly benefit amount) is to be granted provided the applicant/recipient is otherwise eligible.

UIB claimants must comply with UIB eligibility requirements during the forfeiture penalty period in order to satisfy the penalty: A TA applicant/recipient who fails to comply with any such UIB eligibility requirements is deemed to have failed to apply for and utilize a benefit or resource that would eliminate or reduce the need for TA in accordance with 18 NYCRR § 351.1(b)(2)(iii), 351.2(e), 351.21(f)(2) and 352.23(a), and thereby would be ineligible for TA.

15. Question: **If a Safety Net Assistance (SNA) recipient who is single and living in a residence, moves into a Congregate Care Level II Treatment Facility, is he or she considered temporarily absent from the home?**

Answer: Yes, depending upon the individual's intent, he or she may be considered temporarily absent and the standard of need must include: a shelter allowance for the residence, a shelter allowance for the Congregate Care Level II facility, and a fuel allowance if appropriate. However, the Basic, Home Energy Allowance (HEA) and Supplemental Home Energy Allowance (SHEA) are not included in the standard of need as the applicant or recipient will receive a personal needs allowance (PNA). If the temporary absence extends beyond a six-month period, the absent recipient must submit satisfactory evidence that his or her continuing intention is to return to the TA household and that he/she is prevented from returning to the TA household because of illness or other good cause.

16. Question: **What is the definition of a "day" for eligibility of a visitor's allowance?** (For example: Would a mother whose children are in foster care and who visit her daily after school from approximately 6:00pm to 8:00pm and on weekends, but without any overnight visits, be eligible for a visitor's allowance?)

Answer: A visit during the day, no matter the duration of the visit, would qualify as eligible for a visitor's allowance. A visitor's allowance can only be provided when the TA parent does not have custody of the child.

Shelter Related

17. Question: Can a shelter allowance be provided when a unit in which a household resides does not have a Certificate of Occupancy (CO)?

Answer: Yes, SSL § 131-a(2)(b) and 18 NYCRR § 352.3 provide the authority for a shelter allowance. Eligibility for a shelter allowance is not conditional to residing in a housing unit having a valid CO or a rental permit. SSDs cannot add this requirement for providing the shelter allowance to an otherwise eligible recipient. If it comes to the attention of the SSD, it would be appropriate to provide the local code enforcement with a referral indicating that a CO has not been obtained for the specific address.

18. Question: Can the SSD withhold rent payments to a landlord if the rental property is dangerous, hazardous, or detrimental to life or health?

Answer: Social Services Law § 143-b(2) authorizes a SSD to withhold payment of a shelter allowance to landlords when there is a violation of law which is dangerous, hazardous or detrimental to life or health. Section 143-b of the Social Services Law, also referred to as the Spiegel Act, provides a mechanism for SSDs and TA recipients to deal with substandard housing that is dangerous, hazardous, or detrimental to life or health. The TA recipient would still be eligible for a shelter allowance.

19. Question: If a person is living in and purchasing a home using a land contract, is he or she entitled to a shelter allowance for the taxes if the taxes are still in the seller's name?

Answer: If the land contract states that the client is responsible to pay the taxes, then the client is entitled to a shelter expense for the taxes.

Earned Income Disregard (EID)

20. Question: Will Family Assistance (FA) households that reach the State 60-month time limit and are otherwise eligible to receive SNA continue to receive the EID?

Answer: Yes, The EID continues unchanged as long as the household includes a pregnant woman or dependent child who is applying for

or is in receipt of SNA, or if the only child (or all children) cannot be included in the case because the child:

- receives SSI;
- receives an exempt adoption subsidy;
- is an ineligible alien;
- is in a lump sum period of ineligibility; or,
- is temporarily in foster care and expected to return to the household.

21. Question: **A TA recipient with reported wages began a second part-time job, but did not report it. When calculating an overpayment, should the SSD allow the disregards for the reported wages, but budget the unreported income prospectively without disregards?**

Answer: No, earned income disregards apply to "individuals" and not to the household. Therefore, if an individual with earned income fails to make a timely report of another income source (earned or unearned), that "individual" would not be eligible for earned income disregards for wages from either job. This is based on 18 NYCRR § 352.19(b)(3) and § 352.20(c)(3).

22. Question: **Does a household in which all of the children are in foster care get the EID?**

Answer: Yes. Children in foster care are considered to be temporarily absent from the TA household, unless the permanency planning goal is not to return the children to the TA household.

Resources

23. Question: **An FA applicant transferred real property valued at $30,000.00 to her former spouse for $1.00 approximately one month before applying for FA benefits. The former spouse now charges the applicant and her two children monthly rent of $550.00. Can this application be denied due to the applicant's transfer of real property?**

Answer: No, the voluntary transfer of property does not affect eligibility for FA. If this was an SNA case, the presumption would be that the applicant transferred the property for the purpose of qualifying for TA and the applicant would be ineligible for one year from the date the property was transferred, unless the applicant could overcome the presumption.

24. Question: **An FA recipient reports the purchase of a second vehicle. The Kelley Blue Book Value of this vehicle is $2,700.00. The**

recipient claims the car is not worth the book value and submits a signed receipt stating the vehicle was purchased (paid in full) for $1,600.00. The vehicle is registered and insured; but the recipient claims the car no longer runs (agency investigators have verified the car currently appears to be non-operational). Should the case be closed due to excess resources?

Answer: No, the recipient must be allowed the opportunity to provide an estimate from a reputable dealer stating the value of the vehicle. If the recipient provides an estimate of value of the vehicle from a reputable dealer, the worker will have to make an eligibility decision based on the stated value.

25. Question: **If a vehicle is registered in the name of a TA applicant, but is titled to both the TA applicant and a non-applying individual, is the vehicle considered a resource?**

Answer: The vehicle would be considered a resource only if the non-applying individual listed on the title is agreeable to sell it. If the non-applying individual refuses to sell the vehicle, it is an unavailable resource and is not countable.

Child and Spousal Support

26. Question: **If an individual who has to pursue spousal support as a requirement for TA states they do not know the whereabouts of their estranged spouse and the Court orders the SSD to provide the address of the estranged spouse to the Court; will the SSD be violating its confidentiality obligations by providing the address information to the Court?**

Answer: No, SSL § 136 requires that the names and addresses of TA recipients are confidential unless the purpose for which the information is requested fits within the exception of "within the purposes of the administration of the TA program." As the pursuit of an available resource (spousal support) falls under 18 NYCRR § 352.23 as a legitimate TA purpose, releasing the spouse's address to the court fits within that exception. Note that this question does not pertain to child support. If child support is sought for a child, the TA program is authorized under child support regulations to access address information. (18 NYCRR § 347.19)

27. Question: **Is a child support pass-through prorated when the case appears on the MRB/A exception list and the case was closed in the middle of the payment month?**

Answer: No, the child support pass-through payment is not prorated.

28. Question: Should child support reimbursement be used to satisfy or reduce TA overpayment claims?

Answer: Yes. Child support reimbursement must be used to satisfy or reduce TA overpayment claims. When determining the amount of an overpayment that should be satisfied or reduced due to child support reimbursement, the SSD must review the period of the overpayment, and determine the amount of child support collected without regard to a pass-through payment as reimbursement for the same period. If the amount of child support collected for the period is less than the overpayment amount, the overpayment must be reduced by the amount of the child support reimbursement. If the amount of child support collected for the period is more than or equal to the overpayment amount, then the overpayment must be satisfied in the Cash Management Subsystem (CAMS).

29. Question: Is the LDSS-4279 "Notice of Responsibilities and Rights for Support," a required document when an individual indicates they are willing to cooperate?

Answer: Yes, the process for good cause remains the same and the LDSS-4882 "Information about Child Support Services and Application/Referral for Child Support Services," does not replace the LDSS-4279.

30. Question: How is the Child Support Enforcement Unit (CSEU) made aware that the TA worker has provided the client with the LDSS-4882? (Is the TA worker responsible for notifying CSEU of this action?)

Answer: After the TA worker provides the client with the LDSS-4882, it is the client's responsibility to complete the LDSS-4882 and return it to the CSEU. The CSEU does not require notification that a client has been provided with the form. Should the client choose not to complete the LDSS-4882 and/or appear at CSEU, the client would be sanctioned for non-compliance with child support. Cooperation with child support is determined by the CSEU. It is strongly recommended that the LDSS-2859 "Child Support Information Transmittal," be used for TA and CSEU to exchange information.

31. Question: When a client fails to return the LDSS-4882 what action must the agency take on the case?

Answer: When CSEU notifies TA through use of the LDSS-2859 that an applicant/recipient has not cooperated with child support, TA must impose an IV-D sanction which results in a 25% reduction in the standard of need. The non-compliant individual is also ineligible for MA.

Domestic Violence (DV)

32. Question: An individual went to the SSD office and was referred to a DV shelter, having never been a recipient of TA, and reporting he or she had lived in a different SSD until he or she requested DV shelter assistance. Is the SSD where the individual applied responsible to handle the case as "where found" due to the emergency?

Answer: The SSD where the applicant lived at the time of the DV incident is the fiscally responsible SSD, however, any emergency needs must be met by the where found district.

33. Question: An individual applying for TA has entered a DV shelter but he or she has income sufficient to make him or her ineligible for TA. Is the SSD responsible for the payment of the shelter stay?

Answer: The SSD must budget the case using the correct shelter code and actual cost of the DV shelter. If the applicant is not still eligible for TA, then he or she is not eligible to have their DV shelter stay paid for by the SSD. The SSD must inform the applicant that the denial of TA includes the cost of the shelter stay.

34. Question: The DV shelter has submitted a bill that includes the three children of the victim. The father has physical custody of the children and the children visit their mother two weekends a month. The shelter indicates they held beds for the children and that the children were physically there for three nights at a time, twice a month (for a total of 12 nights during the total shelter stay). Can the SSD pay for the nights the children were not at the shelter?

Answer: The SSD cannot pay for any of the children's shelter stay. The SSD can only provide a visitor's allowance for those days the children were at the shelter.

35. Question: A TA applicant indicates that he or she is a victim of DV and reports that he or she resides with the batterer. Why would a Domestic Violence Liaison (DVL) give the individual a partial employment waiver?

Answer: There is no requirement under the Family Violence Option (FVO) that a victim leave his or her abuser for the DVL to grant a waiver. The reason for any DV waiver is based on the details of the individual's situation. Issuance of the DV waiver indicates the DVL has found the applicants claim of DV to be credible and has determined that (based on the applicant's situation) participation in employment requirements needs to be limited to activities that do

not place the individual at further risk of harm, or make it more difficult to change his or her situation when he or she is ready.

36. Question: **A 17 year old with an infant lives with her parents and the family receives TA. The 17 year old has completed high school but is not complying with employment requirements. During conciliation, the 17 year old informs the worker she cannot go to the jobs program she has been referred to because she is a victim of DV and the batterer goes to the same program. She is not the head of household. Can she meet with the DVL?**

Answer: Yes, any person required to comply with TA program requirements must be screened for DV and meet with the DVL if the individual requests such a meeting. There is no requirement that a person be the case head of household to be eligible for a DV waiver.

37. Question: **A man is applying for TA for his three grandchildren. He says he cannot seek child support from the mother because she has threatened him with removal of the children from his custody. He has domestic incident reports and a stay away order. Can he request a waiver when the situation does not involve an intimate partner relationship?**

Answer: Yes, he can get a waiver as seeking support places him at risk. He should be referred to the DVL for an evaluation and waiver decision. The FVO does not apply only to married, formerly married or intimate partner situations.

38. Question: **What information should the district provide a DV shelter regarding an applicant/recipient's TA case?**

Answer: DV shelter providers often indicate they are not aware of the decisions made on the TA cases of their residents. 18 NYCRR § 408.5(d) (3) addresses this concern. The SSD responsible for providing TA to a victim of DV must advise the residential program, as soon as practicable, of the amount of TA received or to be received by the victim and of any available income the victim is determined to have. The residential program must use such information in calculating the fees, if any, owed by such victim.

The State does not have a required form or method for notifying the provider of this information. Regardless of the method chosen, general confidentiality concerns when providing client information by email (not all email transmissions are sufficiently secure for the transmittal of confidential information) must be considered. Only the information needed, such as the applicant/recipient's name; the amount of the cash grant; and other known income, should be shared with the provider and the provider must use the information only for the purpose intended.

Substance Abuse Issues

39. Question: **If an adult FA applicant fails to comply with the drug/alcohol assessment, can TA be provided for the remaining household members?**

Answer: Yes, the case can be opened with an individual non-durational (pro-rata) sanction and an individual disposition status code of 07 for the non-compliant adult. The adult remains sanctioned until compliance. The other members of the household, if otherwise eligible, receive TA only through non-cash SNA.

40. Question: **Which agency decides a recipient's employability status when the treatment program considers the individual unemployable due to a substance abuse issue and the local SSD determines the individual employable?**

Answer: Although the final decision is the SSD's, the SSD and the treatment provider are responsible for determining which services are in the best interest of the individual involved.

41. Question: **What documentation is the SSD entitled to receive from the client's substance abuse treatment program?**

Answer: The treatment program is required to develop a treatment plan for the individual, which is to include an expected date of availability for work related activities and provide a copy of such plan to the SSD responsible for payment. The treatment program is to provide (at a minimum of every three months) a treatment progress report to the SSD responsible for payment of the TA recipient's treatment program. The treatment program must request the approval of the SSD responsible for payment, prior to changing the individual's level of treatment.

Interim Assistance Reimbursement (IAR)

42. Question: **In a household of two or more (case type 16 or 17) in which one person is approved for SSI how do you determine the amount of IAR?**

Answer: You would use the incremental budgeting method. See 08-ADM-11.

43. Question: **Why would the SSD receive information on the Government to Government Service On-line (GSO) for IAR payments made more than once for the same client where the payment has been paid to the district? Why does this client continue to**

appear on the acknowledgement screen after the district has submitted the payments made?

Answer: This is an example of incorrect re-loading of a Grant Reimbursement Code (GRC) to the Website, which occurs when a case goes into a non-payment status and OTDA re-posts the GRC. The OTDA program loads a GRC whenever it identifies an initial or Post Eligibility (PE) case. It identifies SSI cases that go into a non-pay status as a potential PE case and re-posts the case to eIAR. This is causing GRCs to be added to some records that were already paid. This also explains why some SSDs receive an additional request on their Website for the same person. When a notice is received more than once for a client and the SSD has already received payment, the SSD would enter zero on the GSO.

44. Question: Where can the SSD find SSD IAR contacts in New York?

Answer: IAR contact information for each SSD is located through CentraPort. On CentraPort, under "Links," go to "Directories," "County Profiles," then click on the individual SSD. The IAR contact person is listed for each SSD.

45. Question: Can the SSD recover as IAR a payment made to a recipient as a result of a fair hearing (FH) decision that corrects an underpayment of TA which occurred prior to the beginning of the Interim Assistance (IA) period but the check date is issued during the IA period?

Answer: 18 NYCRR § 352.31(f) provides for a correction of an underpayment to current TA recipients. When an underpayment correction is issued to a TA household due to a FH decision *within* the IA period, and the payment amount represents payment(s) for a period *prior to the IA period*, the underpayment amount is not recoverable for IA. The underpayment is a restoration of benefits.

When an underpayment correction amount is issued to a TA household due to a FH decision *within* the IA period, and the payment amount represents payment(s) for a period *within the IA period*, the underpayment amount is recoverable for IA. The underpayment is considered a payment for basic needs. The underpayment amount represents IA recoverable payment(s) that the household should have (and did) received during the IA period, and must be recovered in accordance with 08 ADM -11.

When an underpayment correction amount is issued to a TA household due to a FH decision *after* the IA period, and the payment amount represents payment(s) for a period within the IA period the underpayment amount is not recoverable. For example, the IA period is 1/8/2007 to 6/30/2011. A FH decision is received

by the SSD to issue an underpayment correction on 6/15/2011. The check date for the underpayment correction is 7/6/2011. Since the check date is dated after the IA period, the underpayment amount is not recoverable.

46. Question: Can IA be recovered from child support collected and kept by the SSD?

Answer: Yes, child support collected and retained by the SSD under an assignment of support rights is a source of recovery for TA payments issued to an assistance unit. TA assistance payments are identified in 09 ADM-4.

Alien Issues

47. Question: If an individual cannot remember his or her Alien registration number making a Systematic Alien Verification for Entitlement (SAVE) clearance problematic, but the SSD receives an alien identification match in SOLQ, is the SOLQ match sufficient to determine alien status?

Answer: An alien must provide proof to the SSD in the form of an immigration document issued by the United State Citizenship and Immigration Services (USCIS) as a condition of eligibility for benefits. Neither Federal nor State law allow a SAVE inquiry or SOLQ query to be substituted for an actual immigration document.

48. Question: An ineligible alien who has an active SNA case and is currently employed, lives with her nineteen-year-old daughter and her daughter's one-year-old child who have an active FA case. Co-op budgeting is applied to the SNA and FA cases. Does the ineligible alien in receipt of SNA receive the earned income disregard?

Answer: No. Only SNA households that include a pregnant woman or a dependent child applying for or receiving SNA or SSI, are eligible to receive the earned income disregard.