

Temporary Assistance Questions & Answers
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Budgeting

- 1. Q: Are minor children living under the parental control of another caretaker (relative or nonrelative), or living in a supportive living arrangement (institution) that exerts parental control over the child, entitled to student earnings disregards?**

A: Yes. Minor children living under the parental control of another caretaker or institution are considered "dependent children," for the purpose of the student earnings disregard.

Situations illustrative of when a caretaker or institution may be determined to be exerting parental control over a dependent child may include, but are not limited to, a caretaker who makes decisions about the child's finances, determines where the child lives, determines where the child attends school, is recognized as assuming the parental role for the child by schools, courts or other community institutions, is designated as the person responsible for making health decisions related to the child, or is receiving child support from one or both of the natural parents on behalf of the dependent child. For more information on student earnings disregards see 04-ADM-06.

- 2. Q: When Unemployment Insurance benefits (UIB) are reduced because of the federal government sequestration, what amount should be budgeted towards the recipients Temporary Assistance (TA) grant?**

A: Count what is actually received. This is not analogous to a garnishment.

- 3. Q: Are storage fees included in the TA budget standard of need?**

A: No, storage fees are not part of the TA standard of need and must not be included in the ABEL budget. SSL§131-a sets forth the items to be included in the TA standard of need, and storage fees are not included. However, even though the storage fees are not included in ABEL, if otherwise eligible, the Social Services District (SSD) is required to make provisions to pay the storage fees (usually by direct voucher).

- 4. Q: If someone cannot pay their rent because they are paying for multiple storage units to store their belongings, can the SSD allow the storage expense as a reasonable expense?**

A: No, storage expenses are not an allowable income deduction.

Child Support

- 5. Q: If an individual applying for or receiving TA is receiving child support for a child not residing with them, is the child support countable income?**

A: The child support for a child not residing with an individual applying for or receiving TA is not assignable child support, however it would be budgeted against the household's TA standard of need. SSDs should use unearned income code "99-Other" in ABEL. The household must be advised to have the child support directed to the child or caretaker not residing with the household.

For example, Ms. Drake applies for TA for herself. She receives \$50.00 per week in child support for her 18 year old daughter who lives with her grandmother. The child support is not assignable however it would be budgeted against Ms. Drake's TA standard of need.

Two months after Ms. Drake's TA case is opened her 18 year old daughter moves in with her. The daughter is not a mandatory filing unit member and chooses not to apply for TA. The child support of \$50.00 per week is not assignable as the daughter is not applying. The child support is no longer budgeted against the TA standard of need since the daughter is living in the TA household and it is assumed the child support is being used for the daughter.

- 6. Q: Are child support arrears used when determining TA eligibility?**

A: Child support arrears that are assigned to and received directly by the SSD must not be budgeted when determining the household's eligibility for TA because the TA applicant/recipient no longer retains any legal rights to the arrears due to assignment of the arrears to the SSD. Assigned arrears received by the SSD are used to recover TA assistance granted. Child support arrears that are not assigned to the SSD and are received by the applicant/recipient must be entered in the ABEL budget as unearned income code "99 - Other".

District of Fiscal Responsibility (DFR)

- 7. Q: How do you determine the DFR of a Domestic Violence (DV) victim when there is a lack of physical evidence to determine residency?**

A: You must rely on the "Legal Residence Statement," provided by the victim, unless information to the contrary is present.

8. Q: Are Probationers and Parolees treated the same in terms of the DFR Placement rule?

A: No, probation and parole DFR policies are different. This is primarily because the placement rule requires that a county be directly or indirectly involved in the placement for that county's SSD to be the DFR. In probation cases, the county is involved since these are county level officials (county courts or county probation) therefore in cases involving local probation the placement rule may apply. With Parole cases, it is state officials who are involved and they are not seen as directly, or even indirectly, representing a county's SSD. Therefore in cases involving parole the placement rule does not apply. For more information on DFR policies for parolees see 12 ADM-04.

Domestic Violence (DV)

9. Q: Can an SSD deny payment to a DV shelter when an applicant refuses to cooperate with eligibility requirements such as finger imaging, employment, D/A screening, assessment and treatment requirements, etc. without good cause and without a DV waiver?

A: The SSD is responsible for the DV shelter payment of an individual up to the point of non-compliance with any statutory or regulatory requirements relating to the receipt of such public assistance and care. After that time the shelter would be ineligible for payment for that individual. If there are other family members on the application, who are otherwise eligible, a payment may be made for their share of the needs.

For example: Individual and 2 children in shelter for 'bed nights' 1/1-1/31, individual excused by SSD from employment assessment on 1/10, misses rescheduled employment assessment on 1/20 without good cause or waiver. SSD pays for the individual's 'bed nights' 1/1-1/19, if otherwise eligible. SSD pays for the children for 'bed nights' 1/1-1/31, if otherwise eligible.

10. Q: Does a Domestic Violence victim's "Sworn Statement," need to be notarized?

A: No, in the interests of confidentiality and victim access to supportive services, the SSD must not seek to have the statement notarized. However, please note the Domestic Violence Liaison (DVL) must make clear either verbally or in writing that as with all other TA eligibility information provided by an applicant or recipient, the sworn statement is considered their oath under the penalty of perjury.

11. Q: What steps can be taken to protect the identity and case information for a victim applying for, or in receipt of, TA when the victim is concerned that their batterer is employed by the SSD and/or has connections to obtain Welfare Management System (WMS) case information from staff within the SSD?

A: The address of a DV victim can be protected by using the NYS Department of State's Address Confidentiality Program, the SSD's address, or another secure address as the DV victim's address in WMS, and the real address can be put in a secured case record. The Social Security Number (SSN) can be omitted from WMS by entering "2-SSN Applied For" in the SSN field of the 3209, with the actual number in the secured case record. The "Care Of" field of the 3209 can be used to direct mail or systematic matches to a central person in the SSD. The Lifeline field of the 3209 must be filled with a "N."

If necessary, accommodations for in-person interviews can be made at an agreed upon safe location outside the SSD building, a secure paper case record can be maintained without using WMS, and benefits can be issued outside of the EBT system such as by check.

Drug & Alcohol (D/A)

12. Q: Is a TA applicant/recipient who has been deemed "unemployable" by another government entity (i.e. Supplemental Security Income (SSI), Social Security Disability (SSD), Worker's Compensation, etc.), and receiving benefits from said entity, exempt from TA drug/alcohol screening, assessment and treatment requirements?

A: No, per 18 NYCRR 351.2(i), all heads of household and adults applying for or receiving TA, (including those in receipt of SSI, SSD, etc.), are subject to D/A screening. Based on this screening, if warranted, the applicant/recipient must be referred for an assessment by the SSD contracted Credentialed Alcoholism and Substance Abuse Counselor (CASAC) to determine if D/A treatment is appropriate. If the assessment indicates an individual is abusing drugs and/or alcohol and is unable to work because of the abuse, the individual must be referred to the appropriate level of care and would be subject to a sanction if non-compliant.

13. Q: Can an individual who is otherwise exempt from employment requirements be required to participate in D/A treatment?

A: Yes, when a D/A assessment indicates an individual is abusing drugs and/or alcohol and is unable to work because of the abuse, the individual must be referred to the appropriate level of care and would be subject to a sanction if they do not comply.

14. Q: Can an SSD continue to pay for an individual to remain in a Congregate Care level II (CCII) facility after the individual has completed D/A treatment?

A: No. For an individual to meet the criteria necessary to stay in a CCII facility, he or she must maintain a connection to a treatment program for a minimum of one hour per week. Therefore, if a CASAC has determined that an individual no longer needs D/A treatment, (coded for employment purposes able to work and no longer in need of D/A treatment), this requirement is no longer being met and the SSD cannot continue to pay for the individual's stay in the CCII facility.

We have seen situations where a TA recipient completed their stay in a congregate care facility, but remained in the facility's housing. In this case, the individual would be a tenant of the facility and rent up to agency maximum monthly shelter allowance, or negotiated room and board, can be paid.

15. Q: If an applicant was sanctioned for their 1st occurrence for failure to take part in D/A treatment with an individual reason code of MX1 and is now being sanctioned for their 2nd occurrence for failure to attend D/A treatment as a recipient, would the individual level reason code be a PX1 or a PX2?

A: The individual level reason code would be a PX2. Sanctions for failing to take part in D/A rehabilitation are sequential and without distinction as to whether an individual is an applicant or recipient.

Electronic Benefit Transfer (EBT)

16. Q: Do EBT restrictions which state that individuals cannot use their EBT cards to buy anything or withdraw cash at certain places apply to private clubs such as the Fraternal Order of Eagles, Loyal Order of Moose and Veterans of Foreign Wars?

A: No. New restrictions on EBT transactions apply to liquor stores, casinos, gaming establishments, and establishments which provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state. These restrictions would only apply to the establishments listed above if they were licensed by the Gaming Commission to participate in charitable gaming (i.e., if the organization offers bingo games which benefit a charity), or if the location makes the venue available for performances in which the performer disrobes or performs in an unclothed state for entertainment.

17. Q: Are casinos located within an Indian reservation considered a prohibited location for EBT use?

A: Yes, EBT restrictions apply. All casinos, video lottery facilities, and gaming places like Off-Track Betting (OTB) or bingo parlors are prohibited locations.

18. Q: Are recipients subject to an Intentional Program Violation (IPV) for using their EBT card at prohibited places?

A: No. Businesses that are prohibited from accepting EBT transactions and that nevertheless allow a public assistance recipient to use an EBT card, to purchase items, or to withdraw cash at these locations may lose their license or have to pay a fine.

Emergency Assistance for Adults (EAA)

19. Q: Are shelter arrears payments made under EAA limited to a total period of six-months once every five years?

A: No. The dollar amount of the payment made under EAA is not limited to the maximum monthly shelter standards, or to the five year limit described above. Per 18 NYCRR 397.5(l)(3) and 06-INF-25 up to four months of shelter arrears may be paid under EAA for individuals in receipt of SSI to prevent eviction or foreclosure when no other housing accommodations appropriate for the individual are available in the area.

20. Q: Is EAA for shelter arrears available to an 18 year old SSI recipient that lives with his mom and 2 siblings (ages 21 and 13).

A: The EAA recipient must be the individual with the primary responsibility for payment of the monthly rent or mortgage for the dwelling. An SSI recipient who contributes a portion of such payment is not considered to have primary responsibility and the shelter arrears could not be paid through EAA.

Energy Questions

Fuel Allowance

21. Q: Can a Non-Parent Caregiver (NPC) who is the payee for a case in receipt of a fuel allowance request that payments be restricted to their energy vendor?

A: Yes.

22. Q: If a parent in receipt of SSI is grantee for their children, can the case receive a fuel allowance?

A: If the SSI parent is customer and tenant of record, then the case can receive a fuel allowance.

23. Q: If a parent in receipt of SSI is grantee for his or her children and receives the fuel allowance, can the SSD restrict the fuel allowance and the Home Energy Allowance (HEA)/Supplemental Home Energy Allowance (SHEA)?

A: The fuel and the domestic energy costs may be restricted for administrative ease. However, the HEA and the SHEA cannot be used to calculate the amount of the domestic energy restriction. Instead, the restricted amount must be any one of the following:

- An average monthly domestic energy usage amount based on billings exclusively for domestic energy.
- An average monthly domestic energy usage amount supplied by the energy provider.
- On combined domestic energy and heating bills, non-heating months (June, July and August) are to be used to determine the average monthly domestic energy usage amount, since these months represent domestic energy usage only. The average of these three months may be used, or the SSD may select only one of the months.
- In cases where there is more than one domestic energy provider, the average monthly billing amount of each provider must be combined to determine the household's total average monthly billing amount.

EAA/SSI

24. Q: If a parent in receipt of SSI with children in receipt of Family Assistance (FA) is approved for a utility arrears payment, can that payment be issued through the Children's FA case? Can the six month guarantee be paid through that case?

A: No, that EAA payment and any subsequent payments made on the guarantee must not be made through the FA case and must be made on an EAA case.

25. Q: What is the correct category of assistance for a household applying for utility arrears where a boyfriend and girlfriend have a child in common, the boyfriend is the customer and tenant of record, and the girlfriend is in receipt of SSI?

A: Because the boyfriend is the only customer and tenant of record, he is the applicant, this is a Non-Temporary Assistance (NTA) household, and assistance would be provided under Emergency Assistance to Needy Families with Children (EAF). If this couple were to get married, the wife would meet the customer and tenant of record requirement

and would be the applicant. The category of assistance must then be EAA as the wife is in receipt of SSI. For more information on EAA factors of eligibility see NYCRR 18 §397.4.

26. Q: Can an SSD issue a letter of guarantee for an SSI recipient who has an outstanding utility bill from more than 10 months ago and is therefore ineligible for an arrears payment, if the utility will accept the guarantee to establish service?

A: Yes. If no EAA arrears payment can be made for an SSI recipient, and the utility company will agree to establish service based on a six month guarantee, the SSD may do so. In this scenario, prospective responsibility begins on the date that service is established and runs to the end of the 6th month billing period. However, the SSD has the option to rehouse the individual or family to viable housing in which utility costs are included and therefore no service would need to be established in the SSI recipient's name. For more information on viable housing see GIS 14 TA/DC048.

Non-Utility vs. Utility

27. Q: Can an SSD pay to restore service, or prevent the shut off of, a natural gas account that is only used for cooking?

A: Yes, natural gas (like electric), is a utility, and is therefore payable under SSL§131-s regardless of whether it is used for cooking, heating, or domestic energy.

28. Q: Can an SSD pay to restore service, or prevent the shut off of a non-utility domestic energy (such as propane for cooking only) account?

A: No. Non-utility domestic energy, such as propane for cooking or hot water is not an allowable payment.

Cold Weather Period

29. Q: Is there a cold weather period for utility emergencies?

A: No. Regardless of whether the utility is heat or non-heat, utility disconnects are considered emergencies year round.

30. Q: Is there a cold weather period for non-utility fuel emergencies?

A: Yes. Each SSD determines its own cold weather period which must be uniformly applied to all applicants for non-utility fuel emergencies. To encourage uniform application of the SSD cold weather period, it is recommended that SSDs identify their

cold weather period and memorialize the information in written SSD local policies. For more information on cold weather period see GIS 14 TA/DC048.

31. Q: Is there a cold weather period for heating equipment repair and/or replacement?

A: No. There is no cold weather period for heating equipment repair and/or replacement. It is an additional need, and is evaluated in accordance with 18 NYCRR 352.4(d), 352.6(e), 352.7(b), 372.4(b) and 397.5(h).

32. Q: Can an SSD deny an application for assistance for non-utility fuel for heating hot water during a cold weather period?

A: Non-utility domestic energy, such as propane for heating hot water, is not payable regardless of the time of year.

Utility Arrears Payments

33. Q: If a woman is applying for assistance with emergency utility arrears, but the customer of record is her spouse who is no longer living with her, can she get assistance?

A: She may only receive assistance for the time period of the arrearage in which she met the customer and tenant of record requirements. Therefore, if her estranged spouse was still living with her during a portion of the arrears period, she met the customer and tenant of record requirement during that time, and could receive assistance for that period of the arrears only. If the spouse was deceased rather than estranged, the woman would meet the customer of record requirement regardless of when the spouse passed away.

34. Q: Are there any special situations, such as the presence of a DV that would have any effect on utility emergency policies regarding the customer and/or tenant of record status?

A: No, there are no special situations that alter the requirements for, or the methods to determine, the customer and/or tenant of record status. For more information on how customer and tenant of record are defined see the TA Energy Manual Section I.

35. Q: If an NTA household applies for assistance with a utility emergency and has previously been denied for failure to enter into a Deferred Payment Agreement (DPA) with their utility provider, could that household be denied for failure to utilize an available resource?

A: No. At the time the household files a new application they must, if appropriate, be asked again to pursue a DPA. If they refuse to do so, the application can then be denied for failure to pursue a resource.

36. Q: An applicant for assistance with utility arrears has separate gas and electric companies, and has a pending repayment agreement for a prior utility emergency payment to the electric company. If the applicant applies for assistance with a gas emergency, could they be eligible for assistance with the gas emergency?

A: Yes, they are eligible if the payment agreement is current, or brought current. If the payment agreement is delinquent and not brought current, they are not eligible for assistance with the gas emergency. This is the case regardless of what account or utility company a prior utility arrears payment was made to.

Customer and Tenant of Record

37. Q: If a homeowner charges rent to an individual residing with them, can the renter be considered the tenant of record?

A: No, an individual residing with a homeowner is not considered a tenant of record. A tenant of record is the person who has primary responsibility for payment of the monthly rent or mortgage for the dwelling unit. Individuals who contribute a portion of the monthly rent/mortgage, to the person who has primary responsibility for payment of the monthly rent/mortgage for the dwelling unit, are not considered a tenant of record.

38. Q: In a household with two adults who are not married to each other, but who both meet the customer and tenant of record requirements, who must sign the repayment agreement for an Emergency Safety Net Assistance (ESNA) or EAF payment?

A: Although both must sign the application, only one would be required to sign the repayment agreement as neither is legally responsible for the other. It would be up to the applicants to determine which of them would sign the repayment agreement. For more information customer and tenant of record, and repayment agreements, see 06 INF-21, Question 12.

Other Energy Questions

39. Q: If someone applying for help with a utility emergency is also applying for ongoing assistance, are they treated as an NTA or TA household?

A: The applying household is treated as NTA because they are not yet in receipt of TA.

40. Q: In what instance is pay type “13 - Guaranteed Utility Account Payment” used? Does it replace the “E7 – Electricity” or “58 - Natural Gas” pay types for on-going pay lines?

A: Pay type “13 – Guaranteed Utility Account Payment,” is only used when making a payment for the 6 month guarantee period after that period has ended and there is a balance due. This pay type does not replace the “E7 – Electricity” or “58 – Natural Gas.”

41. Q: Can an SSD dictate the means by which an individual pays their energy bill for ease of documentation? For instance, if the local grocery store is known to issue clear receipts at the time of payment, can the individual be directed to pay there?

A: There are multiple methods of bill payment, and multiple means of documenting payments. An SSD may suggest a payment location, but not require a specific one.

42. Q: When an energy reconciliation is conducted on a closed case, and it is determined an underpayment exists, may the SSD apply the underpayment to a repayment agreement the individual still owes money on?

A: SSL §131-s(1) (utility) and SSL §131-w (shelter) state that repayment agreements may be enforced in any manner available to a creditor. As such, a creditor can always offset a credit against a debit. Therefore, there is no prohibition against applying an underpayment which would otherwise have been due to the individual to a TA repayment agreement.

43. Q: May an SSD ask an applicant for assistance with a utility arrears payment to provide proof of recently paid bills or other proof of how they have spent their money as a condition of eligibility?

A: An applicant for assistance with utility arrears does not need to verify how their money was spent in order to qualify for a utility arrears payment. They must be asked to document their available resources, but must not be asked to provide proof of how they spent their money.

General

44. Q: If individuals are active on WMS, and listed as deceased by the Social Security Administration (SSA), is the death match data verified upon receipt?

A: Yes, SSA death match data is verified upon receipt. Please note that closing or removing the individual from a TA case will still require timely and adequate notice.

45. Q: Are both the worker and supervisor's signature required on the authorization document of a case subjected to an SSD's approved Case Supervisory Review (CSR) plan?

A: Yes, both signatures are required. The SSD must ensure the signature requirements found in 18 NYCRR 351.7 and the Fiscal Reference Manual Volume I, Chapter 3 "Signature Requirement," are met.

46. Q: The NYS Office of Temporary and Disability Assistance (OTDA) released 12 ADM-01 "Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs," as a result of the addition of section 392 to the Social Services Law. This directive instructed SSDs to provide all Non-Parent Caregivers (NPCs) with information relating to financial assistance programs and how to apply for them, as well as information on OTDA or SSD funded resources, including those that provide supportive services to NPCs. Attachment A to 12 ADM-01, also provided SSDs with the required information to be disseminated. SSDs were directed to add the information to their website, to post the information in their waiting areas or to provide the information as a handout. Does OTDA have a recommendation as to which method SSDs should use to distribute the information?

A: All methods listed above are acceptable in disseminating the information. However, to positively ensure that that this information gets to these individuals, providing the information as a handout is strongly encouraged.

47. Q: If the Probation office requires an individual to wear a pre-trial monitoring bracelet, is that individual still eligible for TA?

A: Yes, prior to conviction, they would be eligible for TA benefits if otherwise eligible. Individuals who have been convicted and are on Work Release or are in the Home Incarceration Program are considered to be the responsibility of the State Department of Corrections and are not eligible for TA.

Liens

48. Q: If a lien is filed prior to May 31, 2014, and the individual reapplies for TA does a lien acknowledgement form need be signed for TA granted after June 1, 2014?

A: No, a 'Lien Acknowledgement' form, LDSS-5041, only needs to be signed for liens filed after June 1, 2014. For more information see GIS 14 TA/DC019

49. Q: Can an applicant be denied TA if he/she refuses to provide a lien on real property which he/she owns but does not reside?

A: No, the applicant must be granted the opportunity to make a good faith effort to sell the real property. If after six months the real property remains unsold, the case is closed, the real property is considered a resource, and any TA payments made for that period of time are considered an overpayment. For more information see TASB Chapter 19 Section B (2).

50. Q: If two applying individuals are required to sign a lien and both refuse to sign, how many are sanctioned? What if one individual out of two refuses to sign?

A: Failure to sign a lien results in an incremental sanction. If one individual refuses to sign a lien then one is sanctioned. If both refuse to sign the lien, both are sanctioned.

51. Q: Must a district take a lien at the beginning of the application process, or wait until a recipient becomes delinquent on a repayment agreement and collection proceedings are begun?

A: If your SSD uses property liens, then liens are part of the eligibility process and should be determined during initial eligibility review. However, eligibility is a continuous process and, if after the initial eligibility determination, the district becomes aware of a property and requires a lien, the household may execute the lien. If at that time the recipient fails to execute the lien, an incremental sanction would be imposed.

Non-Citizens

52. Q: How can an SSD verify the earned income of non-citizens who are undocumented or ineligible for a SSN?

A: Non-citizens who are undocumented, not legally present in the U.S., or who are otherwise ineligible for an SSN from SSA may have earned income. Their earned income may be “off the books,” or through the use of a fraudulent SSN, and since there may be no legitimate SSN, their income cannot be accurately detected through any OTDA electronic matching processes. SSDs must verify this type of income the best they can through their own investigation process and collateral contacts.

53. Q: What should an SSD do when a non-citizen applying for TANF funded assistance has a sponsor who states they refuse to provide financial support to the individual(s) they've sponsored?

A: When the local agency makes a determination that the sponsored non-citizen would, in the absence of assistance provided by the agency, be unable to obtain food and shelter, the application for assistance must be considered under the indigence exception. When processing an indigence situation case the SSD must budget only the amount of income and resources the sponsor actually contributes to the non-citizen.

54. Q: Is an Employment Authorization Document I-766 (EAD) sufficient proof that an individual has a satisfactory immigration status for benefit eligibility?

A: Yes, the EAD would be sufficient documentation if the card category and annotation shows that they are in a qualified, specially qualified or other satisfactory immigration status. SSDs should refer to the “Alien Eligibility Desk Aid,” LDSS-4579 for the specific EAD category and appropriate annotation.

55. Q: Should the SSD deny an applicant TA benefits when the Systematic Alien Verification for Entitlements (SAVE) system response states that the individual is a “Non-immigrant”?

A: No. The SAVE system only verifies the validity of the specific immigration document provided by the applicant/recipient. In other words, SAVE only answers the question: “Is the document itself a forgery or otherwise invalid document?”

SAVE does not determine immigration status or benefit eligibility. The SSD must determine benefit eligibility according to the underlying immigration status and TA eligibility rules as detailed on LDSS-4579, “Alien Eligibility Desk Aid.”

For example: a victim of severe form of human trafficking certified by the Office of Refugee Resettlement will appear as a “Non-Immigrant” on a SAVE system response, which is their accurate immigration status according to immigration law. However, according to federal and state public assistance laws, they are considered refugees, ‘Specially Qualified’ aliens, and eligible for all TA benefit programs, if otherwise eligible.

56. Q: If the SAVE validation comes back as negative after all 3 steps have been completed should the SSD take any action? (For example, call the police or the Department of Homeland Security U.S. Citizenship and Immigration Service (USCIS))

A: No, merely finding no record of a non-citizen in the SAVE database is not sufficient to determine that they are not lawfully present in the U.S. Only non-citizens that meet the following condition should be reported: non-citizens with a final USCIS Order of Removal.

When this situation is applicable to an applicant or recipient of TA, SSDs should report the name and the address of the individual, along with copies of the documentation establishing their being unlawfully present in the U.S., to OTDA by email at otda.sm.cees.tabureau@otda.ny.gov with a subject line of, “Non-Citizen Unlawfully Present in the U.S” or, by regular mail at;

NYS Office of Temporary and Disability Assistance
Bureau of Temporary Assistance – 11th Floor
40 North Pearl Street
Albany, NY 12243

57. Q: What is the impact when a non-citizen’s documentation is expired?

A: It depends on the non-citizen's underlying immigration status. Some immigration statuses, such as Lawful Permanent Resident (LPR), Refugee and Asylee remain valid after the immigration document that verifies the status has expired. Therefore, if a non-citizen in one of these statuses with an expired document applies for benefits, SSDs may grant benefits using the expired document. SSDs must still request verification of the non-citizen's documentation using the SAVE system as it is a requirement under federal law. SSDs should contact OTDA TA Bureau if they have questions regarding SAVE system responses on expired immigration documentation.

Other immigration statuses, such as Parolee, K and U visas, and Deferred Action for Childhood Arrivals (DACA), have fix periods of validity and expire along with the document verifying the status. Therefore, if a non-citizen in one of these statuses with an expired document applies for benefits, they would be ineligible for benefits until such time as they can produce valid documentation to prove satisfactory immigration status.

The SSDs should advise individuals with expired immigration documentation to pursue updated documents from USCIS. If financial assistance is needed they must be advised to file a Request for Fee Waiver, USCIS Form I-912, with USCIS. If the fee waiver request is denied, then the individual can request assistance from the SSD, including financial assistance to obtain verification of his/her immigration status under 18 NYCRR § 351.5(a).

58. Q: Is an SSD required to pay the fee for an applicant/recipient to replace an expired immigration document that is required as a condition of eligibility, for example an I-551 Permanent Resident card or Certificate of Naturalization?

A: Not initially. The SSD should advise them to file a Request for Fee Waiver, USCIS Form I-912, with USCIS. If the fee waiver request is denied, then the individual can request assistance from the SSD including financial assistance to obtain verification of his/her immigration status under 18 NYCRR § 351.5(a).

59. Q: What is the impact when a non-citizen states that they have lost, or are otherwise unable to produce their documentation?

A: The individual would be ineligible for TA benefits for failure to establish a satisfactory immigration status since each applicant and recipient is required, as a condition of eligibility for themselves or others, to furnish evidence to provide verification of those factors which affect eligibility and benefit level, including lawful residence in the U.S., if the applicant or recipient is a non-citizen.

Overpayments

60. Q: Is an SSD that is contracting with a collection agency to recover TA overpayments, allowed to release the individual's SSN to the collection agency?

A: Yes. SSNs are no more or less confidential/private/sensitive than other components of confidential case records. As with all confidential case records, the scope of data that any given user has access to, including that which is shared with a contractor performing functions on behalf of a county, should always be limited to only that which is required to perform their assigned job duties/defined function (following the security principle of “least privilege”).

In addition, and in accordance with 14 LCM-15 “Use and Protection of Confidential, Private, Personal and/or Sensitive Information,” prior to granting a third party individual access to any state information system or confidential information, local district management must ensure that a duly authorized representative of the third party individual’s organization and the specific individual(s) who will be granted access, sign a Non-Disclosure Agreement (NDA) that defines access terms and conditions. All such contracts must include clear language that requires the contractor to properly safeguard and maintain the confidentiality, privacy and security of all such information in accordance with all applicable federal and state laws and regulations.

Resources

61. Q: Is an educational 529 savings plan exempt from the TA resource limit?

A: Yes. A 529 plan is operated by NYS to make it easier to save for college and other post-secondary training for a designated beneficiary, such as a child or grandchild. Whoever purchases the 529 plan is the owner and controls the funds until they are withdrawn. The funds in the plan can be used to pay for: tuition, certain room-and-board expenses, fees, books, supplies and equipment required for enrollment or attendance. Since a 529 plan is established for the single purpose of paying for educational needs and cannot be used for any other purpose, those funds are exempt from the TA resource limit according to the provisions set forth in 18 NYCRR 352.16. Visit www.nysaves.org for additional 529 plan information.