

Notice of Adoption

Temporary and Disability Assistance, Office of
(SUBMITTING AGENCY)

- This adoption will amend the NYCRR.
 This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice. change in text

1. Action taken:

Amendment of §§ 350.3(c), 351.2(l)(4)(iii), 351.20(b)(3), and 351.22(a)-(b)(2) of Title 18 NYCRR

"X" box if the rule was originally proposed as a consensus rule making.

2. Effective date of rule:

- Date this notice is published in the *State Register*.
 This is a "rate making" as defined in SAPA §102(2)(a)(ii), and, is effective as follows:
 Date of filing. _____
 Other date (*specify*): _____
 Other date (*specify*): _____
 _____ days after filing.

3. Statutory authority under which the rule was adopted:

Social Services Law §§ 20(3)(d), 34(3)(f), 131(1), 132(4)(a)-(b), 134-a(3), 349-a(2), and 355(3); Chapter 133 of the Laws of 2021; and Chapter 144 of the Laws of 2021

4. Subject of the rule:

Public Assistance (PA) eligibility interviews by telephone or other digital means at PA applicant's or recipient's request

5. Purpose of the rule:

See attached Addendum

6. Terms and identification of rule :

A. I.D. No. of original notice of **proposed** or **emergency/proposed** rule making: TDA-43-21-00006 - EP

B. Comparison of the proposed rule to the adopted rule (CHECK ALL THAT APPLY):

No changes were made to the proposed rule.

● *Text/Summary does not need to be republished in the State Register. If the last previously published RIS, RFA, RAFA or JIS remain adequate and do not require correction, SKIP ITEMS 9-12 and do NOT attach any such statements. If any of the most recently published statements were deemed inadequate or required correction, complete Item 9, 10, 11, or 12 as applicable, do NOT attach previously published statements. Be sure to complete C (if applicable), and D, as well as remaining Items 7-8 and 13-14.*

Nonsubstantive changes were made in [Parts, sections, subdivisions or paragraphs]:

● *Text/Summary is required to be republished in the State Register. Attach the original of the text as adopted (if proposed as full text, submit full text; if proposed as a summary, submit a summary) typed in scannable format. Do not skip Items 9-12; revised statements or explanatory statements are required.*

Text attached.
 Summary attached.

This is a "rate making" as defined in SAPA §102(2)(a)(ii) and, pursuant to SAPA §202(7)(b), the agency elected to submit an original copy of a description of the substance. Substantial revisions were made in the following Parts, sections, subdivisions or paragraphs:

C. List the publication date and I.D. No. of any previously published notice(s) of **revised** rule making:

Publication date: _____, I.D. No. _____ -
 Publication date: _____, I.D. No. _____ -

D. Signed certification of adoption and full text of the rule are attached:

Signed certification of adoption (scanned pdf).
 Full text of the rule (MS Word).

7. The text of the final rule and any required statements and analyses may be obtained from:

Agency contact Richard P. Rhodes, Jr.
 Agency name New York State Office of Temporary and Disability Assistance
 Office address 40 North Pearl Street, 16C
Albany, NY 12243-0001
 Telephone (518) 486-7503 E-mail: richard.rhodesjr@otda.ny.gov

8. Additional matter required by statute:

Yes (include below material required by statute).

No additional material required by statute.

9. Revised Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RIS contains:

The full text of the Revised RIS.
 A summary of the Revised RIS.

B. A **statement is attached** explaining why a revised RIS is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RIS.
 This is a technical amendment exempt from SAPA §202-a.

C. A revised RIS is **not** attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

10. **Revised Regulatory Flexibility Analysis (RFA) for small businesses and local governments**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RFA contains:

The full text of the Revised RFA.

A summary of the Revised RFA.

B. A **statement is attached** explaining why a revised RFA is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RFA.

The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency’s findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C. A revised RFA is **not** attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

11. **Revised Rural Area Flexibility Analysis (RAFA)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RAFA contains:

The full text of the Revised RAFA.

A summary of the Revised RAFA.

B. A **statement is attached** explaining why a revised RAFA is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RAFA.

The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency’s findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C. A revised RAFA is not attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

12. **Revised Job Impact Statement (JIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised JIS contains:

The full text of the Revised JIS.

A summary of the Revised JIS.

B. A **statement is attached** explaining why a revised JIS is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published JIS.

The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency’s findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

C. A revised JIS is **not** attached because:

This rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

This rule was proposed by the State Comptroller or Attorney General.

13. **Assessment of Public Comment** (includes legislative comments)

(COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

- Attached is an assessment of public comment.
No particular form is required, and it need **only** include comments not addressed in any previously published assessment for this rule. However, the assessment must be based on any written comments received by the agency or any comments presented at any public hearing held by the agency about this rule (include legislative comment). It must contain a summary and an analysis of the issues raised and significant alternatives suggested, a statement of the reason(s) why any significant alternatives were not incorporated, and a description of any changes made as a result of such comments.
- An assessment is not attached because no comments were received.
- An assessment is not required because this action is for a “rate making” as defined in SAPA §102(2)(a)(ii).

14. **Referenced material** (check one box):

- No information is being incorporated by reference in this rule.
- This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

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15. **Initial Review of Rule** (SAPA §207)

(SELECT AND COMPLETE ONE)

- A. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____, which is no later than the 3rd year after the year in which this rule is being adopted.
- B. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:
 - Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period; or
 - An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.
- C. As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2027, which is no later than the 5th year after the year in which this rule is being adopted.
- D. Not Applicable. This is a “rate making” or a “consensus rule,” or a repeal of a rule.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Richard P. Rhodes, Jr. Signature /s/ Richard P. Rhodes, Jr.

Address N.Y.S.O.T.D.A., 40 North Pearl Street, 16C, Albany, NY 12243-0001

Telephone (518) 486-7503 E-mail richard.rhodesjr@otda.ny.gov

Date 01/25/2022

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.

5. *Purpose of the rule:*

To update state regulations in accordance with Chapter 133 of the Laws of 2021 and Chapter 144 of the Laws of 2021 by allowing interviews to be conducted by telephone or other digital means at the PA applicant's or recipient's request.

Subdivision (c) of § 350.3 of Title 18 NYCRR is amended to read as follows:

(c) A personal interview with the applicant or a designated representative is required in all cases to establish eligibility for public assistance. Interviews must ordinarily be scheduled within seven working days, except when there is indication of emergency need, in which case the interview must be held at once. The social services district may allow an interview via telephone or other digital means at the request of the applicant or recipient.

Part 351 of Title 18 NYCRR is amended as follows:

Subparagraph (iii) of paragraph (4) of subdivision (l) of § 351.2 is amended to read as follows:

(iii) Social services districts must make the screening form available for voluntary client completion[, in writing,] at the application and recertification interview. Such screenings may be conducted by telephone or other digital means at the request of the applicant or recipient. However, the district must accommodate clients who wish to provide this screening information verbally when completion is not possible due to literacy problems. The district must also accommodate clients who wish to provide this screening information at another time when completion is not initially possible due to risk of danger to themselves, for example due to the presence of the batterer at the time of the initial screening. The district must provide the screening form to any individual who at any time is identified as a victim of domestic violence, or otherwise requests such screening.

Paragraph (3) of subdivision (b) of § 351.20 is amended to read as follows:

(b) In connection with periodic redetermination of eligibility, the social services district shall:

(3) interview the recipient in a face-to-face interview, or may interview the recipient by telephone or other digital means at the request of the recipient, in order to verify factors of eligibility, including those related to:

The Title for § 351.22 and the Index for Part 351 are amended to read as follows:

§ 351.22 Action to be taken upon failure to appear at face-to-face interviews or failure to participate in an interview by telephone or other digital means, or upon determination of ineligibility or of change in degree of need.

Subdivisions (a)–(b) of § 351.22 are amended to read as follows:

(a) In all programs of public assistance, there shall be face-to-face recertification interviews, or, there may be interviews by telephone or other digital means at the request of the recipients, and contacts as needed in excess of the minimum required by Office regulations shall be made in cases where there is indication of change in need or resources.

(b) *Failure to appear at the face-to-face interviews or comply with an Office approved alternative recertification requirement or failure to participate in an interview by telephone or other digital means.* If a recipient fails to appear, participate via telephone or other digital means, or comply with an Office approved alternative recertification requirement, without good cause, the social services official must send a 10-day notice of proposed discontinuance of assistance on a form required by the Office.

(2) If the recipient appears for a face to-face, telephone or digital interview during the 10-day notice period, an interview must be arranged. If it is determined that the recipient is eligible for continued assistance, the 10-day notice of proposed discontinuance must be nullified.

Assessment of Public Comment

The office of Temporary and Disability Assistance (OTDA) received one public comment relative to the regulation following its publication in the October 27, 2021 issue of the *New York State Register*. The following represents a summary and analysis of the comment

OTDA received the following comment **supporting** the regulation:

Comment:

Allowing interviews to be conducted by telephone or other digital means to establish eligibility for public assistance provides an option that is more convenient for many clients and allows for greater administrative efficiency.

Response:

OTDA agrees with this comment.



Office of Temporary and Disability Assistance

KATHY HOCHUL
Governor

DANIEL W. TIETZ
Acting Commissioner

BARBARA C. GUINN
Executive Deputy Commissioner

CERTIFICATION

I hereby certify that the attached amendments of § 350.3(c) and §§ 351.2(l)(4)(iii), 351.20(b)(3), and 351.22(a)–(b)(2) of Title 18 of the *Official Compilation of Codes, Rules, and Regulations of the State of New York* are duly adopted by me, Acting Commissioner Daniel W. Tietz, on this date pursuant to authority vested in the New York State Office of Temporary and Disability Assistance by Social Services Law §§ 20(3)(d), 34(3)(f), 131(1), 132(4)(a)–(b), 134-a(3), 349-a(2), and 355(3) and Chapter 133 of the Laws of 2021 and Chapter 144 of the Laws of 2021. These amendments shall be effective upon publication of the Notice of Adoption in the *New York State Register*.

The Notice of Emergency Adoption and Proposed Rule Making relative to the regulatory amendments was published in the *New York State Register* on October 27, 2021 under I.D. No. TDA-43-21-00006-EP.

The first readoption of the regulatory amendments was effectuated through a Notice of Emergency Adoption published in the *New York State Register* on January 19, 2022 under I.D. No. TDA-43-21-00006-E.

No other publication of prior notice is required by statute.

/s/ Daniel W. Tietz

1/24/22

Daniel W. Tietz
Acting Commissioner

Date