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 | ADMINISTRATIVE DIRECTIVE |  
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TRANSMITTAL: 91 ADM-23

TO: Commissioners of  
 Social Services

DIVISION: Medical  
 Assistance

DATE: July 25, 1991

SUBJECT: Treatment of German Reparation Payments Received  
 by Institutionalized Individuals

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SUGGESTED DISTRIBUTION:	Medical Assistance Staff Fair Hearing Staff Staff Development Coordinators
CONTACT PERSON:	MA Eligibility County Representative at 1-800-342- 3715 extension 3-7581 or in New York, 212-417-4853.
ATTACHMENTS:	None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-36		360-4.6	Chapter 817	<u>MARG</u> p.	GIS 90MA051
88 ADM-25		360-4.9	of Laws of	153.1	
87 ADM-27			1990 SSL 131-n OBRA '90 Section 4715 (P.L. 101- 508)		

I. PURPOSE

This Directive informs social services districts of a policy change in the treatment of German Reparation payments received by institutionalized individuals.

The federal Omnibus Reconciliation Act of 1990 (OBRA 1990; P.L. 101-508) and Chapter 817 of the Laws of 1990 provide that German Reparation payments are disregarded in the post-eligibility treatment of income under the Medical Assistance (MA) program. This change is effective January 1, 1991.

II. BACKGROUND

When a person eligible for MA is in a medical facility and subject to chronic care budgeting, most of his or her monthly income must be applied toward the cost of care in the facility, unless there is a spouse or dependent family member(s). This includes most income which was considered unavailable for the purpose of determining the person's MA eligibility. The process of determining the person's financial liability toward the cost of his or her care in the facility is referred to as post-eligibility treatment of income and resources.

In the past, German Reparation payments were considered available income in the post-eligibility treatment of income. As such, these payments were available to be applied toward the personal needs allowance (PNA), community spouse monthly income allowance (CSMIA), and family member allowance(s), as well as toward the person's cost of care in the facility. If German reparations payments were retained beyond the month of receipt, they were considered exempt as a resource only if they had been received and saved while the person was in the community and could be separately identified.

As a result of OBRA 1990 and Chapter 817 of the Laws of 1990, German Reparation payments must not be considered available in the post-eligibility treatment of income and resources. They can no longer be applied toward the PNA, CSMIA, family member allowance(s), or the cost of care. If German reparations payments are retained beyond the month of receipt, they must be considered exempt resources whether received while the person was in the community or after becoming institutionalized. Interest earned on these resources must be considered available income.

III. PROGRAM IMPLICATIONS

Previously, German Reparation payments were included with other available income in chronic care budgeting. Since German Reparation payments are now excluded from income in chronic care cases, they will no longer be applied toward the PNA, CSMIA, family member allowance(s)

or the cost of care. Therefore, social services districts with institutionalized applicants/recipients who receive German Reparation payments, may see an increase in MA expenditures.

By disregarding reparation payments from the Republic of Germany, institutionalized individuals will have disposable income in addition to the PNA. When retained beyond the month of receipt, German Reparation payments will be excluded as resources. However, since any interest accrued on these payments will be countable income, districts will need to monitor these excluded resources and include any interest in the budgeting process. To ensure that these payments are identifiable, they should be separated from other resources.

Amendments to Department regulations (18 NYCRR 360-4.6(b) and 360-4.9(a)) excluding German Reparation payments in the post-eligibility treatment of income and resources are being filed.

VI. REQUIRED ACTION

As advised in a GIS message dated November 26, 1990 (90MA051), effective January 1, 1991 social services districts must no longer consider German Reparation payments in the post-eligibility treatment of income. These payments must not be applied toward the PNA, CSMIA, family member allowance(s), or the cost of care.

For institutionalized persons, German Reparation payments which are retained beyond the month of receipt are exempt as resources. However, any interest accrued on these excluded payments must be considered available unearned income.

When determining the otherwise available income (OAI) of a non-applying community spouse, any German Reparation payments received by the community spouse must be counted as income.

All cases active on or after January 1, 1991 involving institutionalized individuals who are in receipt of German Reparation payments must have their eligibility and liability recomputed.

When there is a change in MA liability the appropriate notices must be sent to the client and, if appropriate, to the community spouse. The social services district must also send the provider a copy of any client notice reflecting an adjustment in the client's Net Available Monthly Income (NAMI) to allow the provider to bill MMIS appropriately.

VI. SYSTEM IMPLICATIONS

Effective January 22, 1991, an edit was put on MBL for Budget Types 07-10 which prevents the entry of German Reparations income (unearned income source code 28) belonging to the institutionalized individual (chronic care indicator = 'X').

When retained beyond the month of receipt, German Reparation payments are excluded as resources and should not be entered on MBL. Any interest accrued on these payments however, should be entered using unearned income source code 03 - Dividends, Interest, or Periodic Receipts from Stocks, Bonds, Mortgages, Bank Statements, Trust Funds, Annuities, Credit Unit, Estates, etc.

VIII. EFFECTIVE DATE

The provisions of this Directive are effective August 1, 1991 and are retroactive to January 1, 1991.

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Jo-Ann A. Costantino  
Deputy Commissioner  
Division of Medical Assistance