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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-25

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: August 7, 1991

SUBJECT: Section 8: Amendment to Department Regulation 352.3(d) and
 the Effect on Public Assistance Households in Section 8 Rent
 Subsidy Programs

SUGGESTED DISTRIBUTION:	Public Assistance Staff Medical Assistance Staff Fair Hearing Staff Staff Development Coordinators
CONTACT PERSON:	1-800-342-3715 Income Support: Dottie O'Brien, extension 4-6853 Medical Assistance: County Representative, extension 3-7581 Food Stamps: County Representative, extension 4-9225 Energy Bureau: County Liaison, extension 4-9321
ATTACHMENTS:	Attachment A - Listing of Attachments - available on-line.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
91 ADM-1		352.3,		PASB	91 LCM-46
87 ADM-51		352.5		XII-D-all	ABEL Trans.
78 INF-17		387.11(c)(2)		XXIV-E-all	91-2
		387.12(e)(3)		FSSB	
				XII-G-3	
				XI-D-1	
				XI-D-2	

I. PURPOSE

The purpose of this administrative directive is:

- A. To advise local districts that Department regulation 352.3(d) has been amended to establish two Statewide shelter schedules for public assistance households who participate in the Section 8 Certificate Rent Subsidy program. One schedule (352.3(d)(2)(iii)) applies to Section 8 Certificate households without earned income. The second schedule (352.3(d)(2)(iv)) applies to Section 8 Certificate households with earned income. The amended regulation provides that the allowance for tenants of housing subsidized under the Section 8 Voucher Program and other Section 8 subsidy programs remains rent as paid up to the agency private rent maximum.
- B. To notify local districts of the additional impact of this regulatory change on Section 8 certificate households who pay for heat and or water separate from their rent. Such households will not be eligible for a public assistance fuel for heating allowance or water allowance on or after the effective date of this regulation.
- C. To inform local districts that households whose shelter type code is "08 - Subsidized Housing" must be recoded. Those households identified as participating in the Section 8 Certificate subsidy program must be rebudgeted according to the appropriate schedules set in 352.3(d)(2)(iii) or (iv). Any associated food stamp case must also be rebudgeted.
- D. Shelter Type "08" does not distinguish Certificate Program participants from other Section 8 tenants, such as Voucher Program participants. Therefore public assistance households that participate in these Programs must be identified and recoded so that these households that participate in a rent subsidy program other than the Section 8 Certificate Program will not be affected. Section IV-B of this Directive will detail the steps to be taken in these cases.
- E. To notify local districts of the necessity of a cooperative effort by the Department, local social services districts, the Public Housing Authorities (PHA) or other community agency administering the U.S. Department of Housing and Urban Development (HUD) Section 8 programs, and the public assistance households participating in the Section 8 Certificate Program to ensure a smooth transition into the new schedule for the affected households.

II. BACKGROUND

The PHA administering the HUD Section 8 Certificate program calculates the rent by applying a three-pronged test, with tenants paying the highest of:

1. 10% of gross income;
2. 30% of adjusted gross income; or,
3. The public assistance shelter and fuel grant.

Since the shelter allowance is about one-half of the total grant, HUD's Section 8 budgeting methodology produces rents for public assistance tenants participating in Section 8 non-Voucher programs of about 50% of their income, considerably more than the 30% maximum paid by all other Section 8 tenants.

The regulatory change is intended to correct this inequity.

Section 8 Voucher Program participants will not be subject to the new, lower schedules because the "third prong", the agency shelter and fuel grant, is not used in the Voucher Program rent calculation. The voucher amount can be combined with the agency maximum shelter and fuel grant to increase the purchasing power of the tenant. A reduction in the public assistance shelter allowance in these cases would mean these households had less money available for rent. In contrast, non-Voucher Program participants always have the same total amount available for shelter, since a change in the public assistance shelter allowance is met by an offsetting change in the Section 8 non-Voucher Program subsidy.

Likewise, the "project-based" Section 8 programs, such as moderate and substantial rehabilitation programs and Section 8 new construction programs, are not subject to the new schedules, since the fiscal impact on them is uncertain at this time.

III. PROGRAM IMPLICATIONS

The establishment of the shelter standards for public assistance tenants who participate in the Section 8 Certificate Program will result in significant savings for the Department and local districts and after the initial change will result in administrative simplification.

The decrease in the standard of need for the affected households will result in ineligibility for some households. This change will also impact Food Stamps and certain Medical Assistance cases.

IV. REQUIRED ACTION

The schedules contained in 352.3(d)(2)(iii) (referred to in this transmittal as Schedule 1) and in Department Regulations 352.3(d)(2)(iv) (referred to in this transmittal as Schedule 2) supersede the private housing schedules in 352.3(a) (see Energy this Section) and the fuel for heating schedule contained in 352.5(a) for affected households.

The effective date of the regulation is October 1, 1991. All verification, notification must be done in time to allow rebudgeting of the affected cases for October 1, 1991.

A. Budgeting of Affected New and Active Cases

Local districts must budget a shelter allowance for all cases whose members participate in the Section 8 Certificate Program equal to the amount shown in the appropriate statewide Schedule 1 or Schedule 2. Schedule 1 is the appropriate schedule for cases where there is no earned income present that would be budgeted (i.e., would be subject to the work expense disregard). Schedule 2 is the appropriate schedule for cases with earned income present that is required to be budgeted.

Schedule 1
LOCAL AGENCY MAXIMUM MONTHLY SECTION 8
RENT ALLOWANCES
By Family Size

(No recipient having earned income which is or may be subject to a work expense disregard under Section 352.19 of this Part)

Number of Children Under 18	Number of Persons Receiving Assistance in Household								Each Additional Person*
	1	2	3	4	5	6	7	8	
0	\$59	\$94	\$125	\$161	\$198	\$229	\$260	\$291	\$31
1	\$42	\$77	\$108	\$144	\$181	\$212	\$243	\$274	
2		\$60	\$ 91	\$127	\$164	\$195	\$226	\$257	
3			\$ 74	\$110	\$147	\$178	\$209	\$240	
4				\$ 93	\$130	\$161	\$192	\$223	
5					\$113	\$144	\$175	\$206	
6						\$127	\$158	\$189	
7							\$141	\$172	
								\$155	

*For each additional dependent child in the household under the age of 18 years, subtract \$17.

Schedule 2
LOCAL AGENCY MAXIMUM MONTHLY SECTION 8
RENT ALLOWANCES
By Family Size

(At least one recipient having earned income
subject to disregard as a work expense)

Number of Child- ren Under 18	Number of Persons Receiving Assistance in Household								Each Addi- tional Person*
	1	2	3	4	5	6	7	8	
0	\$98	\$133	\$164	\$200	\$237	\$268	\$299	\$330	\$31
1	\$81	\$116	\$147	\$183	\$220	\$251	\$282	\$313	
2		\$99	\$130	\$166	\$203	\$234	\$265	\$296	
3			\$113	\$149	\$186	\$217	\$248	\$279	
4				\$132	\$169	\$200	\$231	\$262	
5					\$152	\$183	\$214	\$245	
6						\$166	\$197	\$228	
7							\$180	\$211	
								\$194	

*For each additional dependent child in the household under the age of 18 years, subtract \$17.

The WMS codes that identify Section 8 Certificate participants, the method of arriving at the appropriate schedule (without earned income or with earned income), and the adjustment for the number of children under age 18 differ slightly for NYC and upstate. See Section V Systems Implications for the procedure.

Some examples will help to illustrate the result of these methods:

1. Section 8 Program - Certificate

- a. Henry and Catherine Tudor and their daughter Mary, age 4, are in receipt of public assistance and also participate in the Section 8 Certificate Program. They pay for heat separate from their rent.

They have no income other than public assistance.

Schedule 1 is the proper schedule for the Tudor family since no one in the public assistance household has earned income.

Their shelter allowance is \$108 per month because they have a three-person household with one child under the age of 18.

The following illustrates the effect of the regulation on the Tudor family's grant and the treatment of the HUD utility payment.

The Tudor family receives a HUD utility allowance of \$68 per month. They will be responsible for payment of their heating costs from their HUD utility allowance. They will not receive a public assistance fuel for heating allowance. Their shelter allowance will not be reduced by the HUD utility allowance.

The standard of need for the Tudor family is:

Basic	\$238
HEA	30
SHEA	23
Shelter	<u>108</u>
Total	\$399

The policy of reducing the household's shelter allowance by the amount of the household's HUD utility allowance has changed for the Section 8 Certificate Program participants.

That policy has not changed for Section 8 Voucher or Project based Section 8 or Section 236 Program participants. See the Public Assistance Source Book (PASB) at section XXIV-E. That procedure is illustrated in example 5 of this section.

- b. Annie Barrow and her children, Bonny and Billy (twins, age 8), receive public assistance and also participate in the Section 8 Certificate Program. Ms. Barrow pays for heat separately.

Ms. Barrow is employed part-time as an aide at her children's school. She earns \$320 per month.

Schedule 2 is the proper schedule for the Barrow family since there is earned income.

Ms. Barrow's rent is \$130 because her household is a three-person household with two children under the age of 18.

Ms. Barrow is entitled to a monthly HUD utility allowance in the amount of \$88 that must be used to meet her heating and other utility expenses. Although Ms. Barrow makes the payment to the utility providers rather than the landlord, it counts as rent paid. It will not reduce her shelter allowance. Ms. Barrow will receive a \$130 shelter allowance. She will not receive a fuel for heating allowance in her public assistance grant.

The Barrows' standard of need follows:

Basic	\$238
HEA	30
SHEA	23
Shelter	<u>130</u>
Total	\$421

- c. Mr. and Mrs. John Watson and their children Sherlock and Agatha (both children are under age 18) receive public assistance and participate in the Section 8 Certificate Program. They do not pay for heat separately. Their HUD utility allowance is \$29 per month.

No one has earned income, so Schedule 1 is the proper schedule to determine the shelter allowance.

Their rent allowance is \$127, since the household consists of four persons, two of whom are under the age of 18.

The standard of need for the Watson family follows:

Basic	\$307
HEA	38.70
SHEA	30
Shelter	<u>127</u>
Total	\$502

Note that the shelter allowance is not reduced by the HUD Utility Allowance.

2. Cooperative Case

a. Single Economic Unit

Trixie and Ralph Kramden, their daughter Edwina and Trixie's son Norton, are in receipt of public assistance and also participate in the Section 8 Certificate Program. They have no earned income.

Trixie and Norton are in an ADC case that is cooperatively budgeted with the PG-ADC case of Ralph and Edwina. They are a single economic unit.

Since there is a total of four persons on public assistance in the household with two children under age 18, the combined maximum shelter allowance is \$127.

The standard of need for the family follows:

	Trixie Kramden ADC (2 persons)	Ralph Kramden PG-ADC (2 persons)
Basic	\$153.50	\$153.50
HEA	19.35	19.35
SHEA	15.00	15.00
Shelter (\$127)	<u>63.50</u>	<u>63.50</u>
TOTAL	\$251.00	\$251.00

b. Single Economic Unit - Earned Income Present

Tina Turner and her two children Ike and Dwight reside with Tina's cousin Madonna and Madonna's son. The household participates in the Section 8 Certificate Program. Tina and Madonna state that they pool their income and share expenses including food.

They are a single economic unit even though there are no legal lines of responsibility between the cases.

Tina is self-employed and earns an average of \$120 per month from the sale of items she crochets, "Home Sweet Home" samplers and lace collars.

Even though Tina's earned income (after allowed deductions) can be applied only against the needs of her unit, the cases are co-operatively budgeted so the presence of earned income in either case means that the shelter allowance to be budgeted is the amount set in Schedule 2, the earned income schedule.

Since there is a total of five people on public assistance in the household, with three children under age 18, the combined maximum shelter allowance is \$186.

The budgets follow:

	Tina and 2 Children (all of the children are under age 18)	Madonna and 1 Child (all of the children are under age 18)
Basic	\$227.40	\$151.60
HEA	28.62	19.08
SHEA	22.20	14.80
Shelter (\$186)	<u>111.60</u> (3/5 of \$186)	<u>74.40</u> (2/5 of \$186)
Total Needs	\$389.82	\$259.88

c. Separate Economic Unit

Rebecca Howe and her son, Robin (age 2) reside with Sam Malone and his daughter, Diane (age 3). They participate in the Section 8 Certificate Program.

All household members are on public assistance. Rebecca and Sam state that they do not pool their income. Rather, each unit is economically separate from the other. There are no legal lines of responsibility, the worker applies Danks budgeting (See PASB XII-D) and does not pro-rate the Basic allowance, the Home Energy Allowance (HEA) or the Supplemental Home Energy Allowance (SHEA).

However, the treatment of the shelter allowance is different from the usual Danks cases. Usually, the shelter allowance would be pro-rated across both cases. But Schedule 1 and Schedule 2 are based on a percentage of the actual Basic, HEA and SHEA. Since the Basic, HEA and SHEA are not pro-rated, the shelter allowance also cannot be pro-rated.

Each unit receives the shelter allowance based on the appropriate schedule and according to the number of persons in that unit.

Rebecca is employed part-time as a waitress. Sam is unemployed and receives \$100 per month disability benefits from the Fraternal Association of Pretty Poor Pitchers and Players, an organization of former baseball players.

Their budgets are as follows:

	Rebecca and Robin	Sam and Diane
Basic	\$179	\$179
HEA	22.50	22.50
SHEA	17	17
Shelter	<u>116</u> (2 persons, one child, with work expenses)	<u>77</u> (2 persons, one child, no one working)
Total Needs	\$334	\$295

Note that Rebecca's unit receives a shelter allowance based on Schedule 2 because she has earned income. Because there is no earned income, Sam's unit receives a shelter allowance based on Schedule 1.

3. Temporary Absence

Ms. Bunker receives ADC for herself and her son, Archie (age 6). Her daughter Edith (age 3) is in foster care. The services plan calls for Edith's return home. The household has no earned income.

Ms. Bunker participates in the Section 8 Certificate Program. The family's rent allowance is calculated as follows:

2 persons = \$77 (1 child under age 18)

Ms. Bunker's heat and utilities are included in her rent. She is entitled to no HUD utility allowance.

The standard of need for the Bunker family follows:

Basic (for 2)	\$179
HEA (for 2)	22.50
SHEA (for 2)	17
Shelter (Based on 2)	<u>77</u>
	\$295.50

91 ADM-1 directs districts to continue the fuel and shelter portion of the grant when a child is placed in foster care and the services plan calls for the return of the child. That policy is intended to enable the family to retain the shelter and prevent a delay in the return of the child because of inadequate shelter.

Households that participate in the Section 8 Certificate rent subsidy program will not be faced with unaffordable housing when a child or children are temporarily absent in foster care because HUD will adjust the tenant payment based on the household members included in the Basic, HEA and SHEA. Since the needs of the child(ren) in foster care are not included in the Basic, HEA and SHEA, the household's public assistance rent allowance must be the appropriate amount from Schedule 1 or Schedule 2 for the number of persons included in the Basic, HEA and SHEA. However, the child(ren) in foster care are still considered temporarily absent from the home.

4. Agency Maximum is Less Than Section 8 Certificate Rent Allowances Schedule

Amended Department regulation 352.3(d)(ii) sets the shelter allowance for PA tenants who participate in the Section 8 Certificate Program at the appropriate Section 8 Local Agency Maximum Monthly Rent Allowance Schedule 1 or Schedule 2 (IV.A above).

It is unlikely that the Section 8 Rent Allowance Schedule will ever result in a shelter allowance that exceeds the private rent maximum. If that should occur, however, the shelter allowance cannot exceed the agency heat included private rent maximums.

5. Non-Certificate Voucher and Project Based Section 8 and Section 236 Program

The Andrews family is in receipt of public assistance and also participates in the Section 8 Voucher Program. They reside in Erie County.

They pay \$295 per month more for their apartment than their Section 8 voucher amount. They pay for oil heat. The agency private shelter without heat maximum for that size household is \$242. The HUD utility allowance is \$89 (\$295 - 89 = \$206).

The Andrews family (5 persons) budget follows:

Basic	\$379
HEA	47.70
SHEA	37
Shelter	206
Fuel	75
Total	\$744

For non-Certificate program households, the HUD utility allowance does reduce the household rent obligation.

The Andrews family receives a shelter allowance of \$206 because participants in the Section 8 Voucher Program (and other non-Certificate programs) are entitled to rent as paid up to the agency maximum. They are also entitled to a fuel allowance, if appropriate.

6. McMullen v. Perales (Self-maintaining non-legally responsible caretaker)

Mrs. Mason of Onondaga County is in receipt of an ADC grant on behalf of her two nieces, Sally and Sandy James. She is not on the public assistance case and has earned income which is not budgeted for the children's needs. Presently, the children receive a shelter without heat allowance of \$214, the maximum allowed and a natural gas fuel for heating allowance of \$54 (allowance for 2 in case). Mrs. Mason pays the balance of the \$220 Section 8 certificate rent (\$6). At recertification, Mrs. Mason provides a copy of her Section 8 certificate lease documenting her \$220 contribution to the rent and a copy of the fuel for heating bill in her name. The shelter allowance should be adjusted for the dependent children using the new Schedule 1 (no earned income by the public assistance members) and no fuel allowance given.

The Standard of Need for the James' children now is:

Basic	\$179.00
HEA	\$ 22.50
SHEA	\$ 17.00
Shelter	<u>\$ 60.00</u>
	\$278.00

The income from Mrs. Mason is not taken into consideration in the budgeting as she is a non-legally responsible relative and not in the case.

If the children are charged room and board, the shelter Schedule 1 allowances must also be used with the room and board budgetary methods.

B. DSS and PHA Cooperative Efforts to Identify Section 8/Public Assistance Households

Local Section 8 agencies have received instruction from their upstate and downstate directors for the implementation of the revised regulations that establish shelter schedules for Section 8 Certificate/public assistance households.

Section 8 agencies have been asked to provide lists of all Section 8 participants with public assistance income to the local social services agency by July 22, 1991.

Local social services offices must begin providing the recalculated public assistance budgets of the Certificate households by July 31.

Districts are asked not to hold completed budgets until all are done. Completed budgets should be forwarded to the Section 8 agency at least twice a week. Districts and Section 8 agencies may decide in a more or less frequent exchange.

Section 8 agencies will begin to provide the "Notification of Change to Tenant Rent and Housing Assistance Payment" to the landlord, tenant and the social services agency by August 10.

The information on the "Notification ..." will provide the household's actual rent responsibility. That information will not effect the public assistance budget amount but it will often effect the food stamps budget. (See Food Stamps this section).

Districts should assign a staff person to act as the contact person to coordinate the exchange of information and to address problems that may arise. That contact person should deal directly with a single contact person at the Section 8 office.

The following procedures should not be used unless the Income Maintenance Director, the social services liaison for Section 8

matters and the contact person at the Bureau of Income Support Programs determine that there is no other way to secure the necessary information. This will rarely, if ever occur.

C. Identification of Affected Households (When the PHA cannot or will not cooperate in identifying and budgeting affected households.)

Local districts must review cases with shelter type "08-Subsidized Housing" to determine if documentation is present which establishes the Section 8 program in which the household participates.

1. Section 8 Non-Certificate Program Participation Documented

If a household is determined to be participating in the Voucher Program, the worker must recode the shelter type from "08" to "38 - Subsidized Housing (Project Based and Section 8 Voucher Program, and Section 236)". No further action is needed.

2. Section 8 Certificate Program Participation Documented

If the household is determined to be participating in the Section 8 Certificate Program, the shelter allowance must be adjusted according to the schedules and procedures in Section IV.A. of this Directive. The new regulation and schedules are effective October 1, 1991. It is extremely important that notices be given to clients at the earliest possible date to enable the PHA to re-evaluate their income and adjust their rents. Failure to do so will result in rents exceeding maximum allowances and may lead to evictions.

A copy of the recalculated budget must be sent to the client along with Attachment E, "Section 8 Tenants: Read This Carefully To Make Sure Your Welfare Grant Isn't Cut By Mistake" and Attachment F, "Take This to Your Section 8 (HUD) Worker".

The recalculated budget showing the household's new public assistance shelter allowance is important documentation that the PHA or other Section 8 administrator needs in order to adjust the Section 8 Certificate participant's shelter obligations. In households where there are two or more public assistance cases, all budgets should be provided to the PHA together or at least cross-referenced.

3. Documentation Lacking

In cases where documentation needed to determine the program in which the household participates is lacking, districts must notify the household that the documentation

is needed. As stated in C.2 above, the household should receive Attachment E and Attachment F. A budget showing the new shelter allowance should be done (but not stored) and provided to the household so that if they are Section 8 Certificate program participants, the PHA will have all of the information needed to adjust the household's shelter obligation.

No case should be closed for failure to provide the requested documentation. The household must be informed in writing of the needed documentation. If the household fails to provide it and does not show good cause for that failure, the new shelter allowance based on the Maximum Monthly Section 8 Rent Allowance Schedule (352.3(d)(2)(iii) or (iv)) must be included effective October 1. If the adjusted shelter allowance results in a grant reduction or in the ineligibility of the household, Timely and Adequate Notice must be given. In no case should a budget using either of the Maximum Monthly Section 8 Rent Allowance Schedules have a "from date" which is earlier than the effective date stated in the Directive.

D. Informational Mailings

1. Notice to PHA's Statewide

This Department has notified PHA's of the establishment and impact of the Certificate Rent Allowance Schedule. Attachment C is a copy of that notice.

2. a. When No PHA/DSS Match Can Be Done

Notice to Affected Households

Attachment D, "Important Notice to Public Assistance Households Who Participate in Section 8 Rent Subsidy Programs" OR Attachment E, "Section 8 Tenants Read This Notice Carefully to Make Sure Your Welfare Grant Isn't Cut By Mistake" must be reproduced locally and sent to all households determined to be Section 8 Certificate Program participants and to households where the worker has been unable to make a determination. Either attachment is acceptable for district use but Attachment E is strongly recommended. All blank spaces must be filled in before the notice (Attachment D or E) is sent.

A copy of the household's PA budget based on the new Maximum Monthly Section 8 Rent Allowances schedule must be sent so that the PHA will have the information necessary to recalculate the household's shelter obligation.

b. Request for HUD (Section 8) Information and Action

Attachment F, "Request For HUD (Section 8) Information and Action" must be sent to the affected households at the same time as Attachment D or E.

The public assistance worker must fill in the client's name and residence address on the "Request for HUD (Section 8) Information and Action" before sending it out to the client.

c. Notice of Case Action

(1) No Response to the Mailing

When an affected or potentially affected household has not responded with verification from HUD that they have recalculated the total tenant payment, or that the household participates in the Voucher Program, the local district must send the "DSS-4015: Notice of Intent to Change Benefits: Public Assistance, Food Stamps, Medical Assistance Coverage and Services (Timely and Adequate)" with this reason:

"A new regulation tells how much social services can allow for rent and fuel for households that have a rent subsidy under the Section 8 Certificate Program. Under that regulation your allowance for rent and fuel is \$_____. We asked you for information about your rent subsidy but you did not respond. Tell your worker right away if you are not in the Certificate Program".

In addition, districts must enclose with each DSS-4015 to affected cases, a copy of the Attachment E: "Section 8 Tenants: ..." or Attachment D: "Important Notice to Public Assistance Households ...". (It is acceptable to use either but Attachment E is strongly suggested.)

3. Response to the Mailing Received

If the household provides verification of participation in a program other than the Certificate Program, the only necessary action is to change the shelter code to the appropriate "Subsidized Housing" code that will identify the case as unaffected by this regulatory change. (See Section V, Systems Implications).

If the household verifies Section 8 Certificate program participation and the HUD rent recalculation is also verified, compare the HUD statement amount to the public

assistance shelter arrived at by applying the new schedule in 352.3(d) Schedule 1 and Schedule 2. They should be the same, but if they differ, the agency calculation based on Schedule 1 or Schedule 2 must prevail.

E. Notice Language

The DSS-4015: Notice of Intent to Change Benefits: PA, FS, MA Coverage and Services (Timely and Adequate)" must be sent to inform the household of their new grant amount based on the implementation of the Maximum Monthly Section 8 Rent Allowances in 352.3(d)(2)(iii) or (iv).

The following grant reduction reason language is suggested for all households where the social services Section 8 information exchange has identified the household as a Certificate household or the client has provided the necessary information.

"A new regulation tells how much social services can allow for rent and fuel for households that have a rent subsidy under the Section 8 Certificate Program. Under that regulation your allowance for rent and fuel is \$_____. See the attachment to this notice for more information."

(Add if appropriate)

You will no longer get a public assistance fuel for heating allowance.

You will no longer get a public assistance water allowance.

(Add to all Section 8 Certificate reasons)

If you are not in the Section 8 Certificate Program, tell your public assistance worker right away.

Attachment G, "More Information About This Change" must be sent as an attachment to the Timely and Adequate notice.

F. Affected Cases With Earned Income

Cases with earned income will have more money to be considered by HUD when calculating the tenant's rent responsibility, namely the earned income disregards. The formula used by the Department to arrive at Schedule 2 (352.3(d)(2)(iv)) for Section 8 non-Certificate Program participants considered the \$90 disregard by adding \$39 to each amount in Schedule 1 (352.3(d)(2)(iii)).

Consequently, affected cases that have earned income and are eligible for an earned income disregard other than the \$90 disregard may have their rent recalculated by HUD in an amount in excess of the Maximum Monthly Section 8 Rent Allowances

schedule set in 352.3(d)(2)(iv). The rent allowance in such cases must still be the rent as set in 352.3(d)(2)(iv) Schedule 2, the Section 8 Rent Allowance schedule for households with earned income.

Households that fail without good cause to make a complete and timely report of income will lose their earned income disregards. Since the income would normally be subject to the disregard, such households will have their shelter amount determined based on Schedule 2, the earned income schedule.

ENERGY

For households that participate in the Section 8 Certificate Program, the applicable amount from Schedule 1 or Schedule 2 (see Section IV.A) represents the rent and fuel for heating allowance. These households cannot receive a separate fuel for heating allowance. The following will describe procedures for restrictions and mismanagement determination:

I. Restricted Payments

A. Voluntary Requests

1. Districts continue to have the discretion to approve or deny voluntary restriction requests from the recipients. However, requests from ADC recipients must be honored as long as the recipient's cash grant is adequate. The grant is considered adequate if:
 - a. For a heat only account, the cash grant is equal to or greater than the recipient's HUD utility allowance,
 - b. For a domestic only account, the cash grant is equal to or greater than the recipient's average monthly domestic energy bill, or
 - c. For a combined heat and domestic account, the cash grant is equal to or greater than the recipient's HUD utility allowance plus the recipient's average monthly utility costs.
2. Restricted Amounts for Voluntary Requests
 - a. Heat only accounts: An amount equal to the recipient's HUD utility allowance is removed from the recipient's grant.
 - b. Domestic energy only accounts: The average monthly cost of the recipient's domestic energy is removed from the grant.

- c. Heat and domestic combined accounts: An amount equal to the recipient's HUD utility allowance plus the average monthly cost of domestic service is removed from the grant.

B. Restricted Payments as a Result of Mismanagement

1. Non-Utility Energy Costs

When the agency must make a non-utility energy payment because of recipient mismanagement, the recipient may be placed on vendor using the same method for voluntary requests.

2. Utility-Related Costs

- a. Heat only: An amount equal to the recipient's HUD utility allowance must be removed.
- b. Domestic only: The recipient's HEA and SHEA or the recipient's average monthly domestic costs, whichever is less, is removed from the grant.
- c. Combined heat and domestic accounts: The combined amount of "a" plus "b", as outlined above, is removed from the grant.

II. Households With Vendor Restriction

The restricted amounts for households that are on vendor restriction effective October 1, 1991 must be re-examined according to the procedures set in I.A and B above (affected households).

III. Determination of Mismanagement (Utility-Related)

Recipients receiving utility-related emergency assistance may receive this assistance as a non-recoupable grant if he/she has:

- A. Paid an amount equal to the HEA and SHEA to the month's domestic bill;
- B. Applied an amount equal to the recipient's HUD utility allowance to the heating portion of the bill, if applicable;
- C. Applied the monthly shelter allowance to shelter costs; and
- D. There is no other evidence of mismanagement.

IV. Other Implications

Although these households no longer receive a fuel allowance, districts should continue to enter the appropriate fuel type code in the ABEL budget in order to insure accuracy in the mass

authorization of HEAP benefits to PA households. Please note that documentation of customer and tenant of record status is still required prior to entering fuel type codes I-9. Districts should attempt to keep fuel type codes, HEAP vendor ID, and customer account numbers current on these cases. Districts should note that all other provisions of energy policy outlined in 87 ADM-51 are still applicable to these households.

FOOD STAMPS

Food Stamp cases affected by the policy stated in the ADM must be rebudgeted.

It may be necessary to wait for the "Notification of Change to Tenant Rent and Housing Assistance Payment" that will verify that Section 8 agency has adjusted the household's portion of the rent obligation. This is because when a public assistance/Certificate household has a non-public assistance household member with income or when the household is entitled to a HUD utility allowance, the actual rent amount for food stamps will be different from the public assistance certificate shelter allowance.

Rent payments made directly to a landlord by HUD are excluded as food stamp income. When such payments are made directly to a landlord, they are also not allowed as a food stamp shelter cost. The household's out of pocket rent expense is allowable as a food stamp shelter cost.

HUD utility payments that are paid directly to a landlord are excluded as food stamp income. When such payments are made directly to the household or utility provider, they are counted as food stamp income. Households that pay their own heat/air conditioning or utilities are entitled to claim such costs as food stamp shelter expenses. Households billed separately and regularly by their landlord for actual usage of heat/air conditioning or utilities are entitled to the appropriate standard heating/air conditioning and/or utility allowance(s). Households billed only for excess costs are entitled to claim only the excess costs as a shelter expense.

MEDICAL ASSISTANCE

The changes to Department regulations 352.3(d) as described in this Directive indirectly impact the Medical Assistance Program. These changes result in a reduction of the PA Standard of Need for certain PA recipients.

In compliance with the decision in Atchinson v. Berger, the Department is required to use the PA Standard of Need or the MA Income Standard, whichever is higher, when determining Medicaid eligibility for ADC and SSI-related individuals and parents residing with their dependent child(ren) under the age of 21. As a result of this regulation change, the PA Standard of Need for certain MA-only applicants/recipients may be reduced below the MA Income Standard in some counties.

As a reminder, MA workers should be aware that in instances where the PA Standard of Need is reduced below the MA Income Standard, MA eligibility must be determined using the higher MA Income Standard. Please note that some HR-related persons may lose eligibility because the PA level to which their income is compared will be lower.

The budget logic is not currently programmed to determine eligibility for cases affected by this new policy. You will be notified by MBL Transmittal when this capacity is available.

V. SYSTEMS IMPLICATIONS

A. WMS Upstate

Three new Shelter Type codes have been added to ABEL: 38 - "Subsidized Housing (Project Based and Voucher Section 8 Program; and Section 236)"; 39 - "HUD Certificate Program, without earnings"; and 40 - "HUD Certificate Program, with earnings". A new data element called "HUD Child Count" and displayed on the PA budget input screen as "HC" has also been added. An entry in this field is required in conjunction with Shelter Codes 39 and 40 to indicate the number of children less than age 18 in the PA Household. In cases that are cooperatively budgeted the "HC" field must show the total number of children less than age 18 in the household not just the number of children less than age 18 in the case. ABEL will automatically compare the new shelter standard from the appropriate schedule to the private rent maximum (with heat) and allow the lesser of the two as described above in section IV.A. example 4.

Section IV.A. example 5 illustrates the use of the HUD utility allowance to reduce the household's rent obligation for participants in the Voucher and other non-Certificate HUD rent subsidy programs. This is done offline from ABEL and the net remaining rent obligation is entered on ABEL. If the HUD utility allowance actually exceeds the rent obligation, a "negative rent" situation is created where the excess utility allowance counts as income. To support this policy, Unearned Income Source Code 54 has been redefined to "Negative Rent/HUD Utility Allowance" and is allowed on PA budgets in appropriate circumstances.

All cases currently coded with Shelter Type 08 - "Subsidized Housing" must be recoded and rebudgeted with one of the three new shelter type codes. This includes cases which are confirmed as continuing in one of the non-Certificate programs as the current code 08 will become unavailable.

Please see ABEL Transmittal 91-2 for complete details of these changes.

B. WMS NYC

Current Shelter Type 08 has been relabeled "Subsidized Housing - Certificate Program." A new Shelter Type = 09 labeled "Subsidized Housing - Voucher Program/Project Based Section 8/Section 236" has been added to ABEL. Workers should be aware that new Shelter Type 09 will be budgeted as Shelter Type 08 is currently budgeted. For Shelter Type 08 budgeting, ABEL will automatically calculate the shelter allowance based upon the input or non-input of earned income which will determine whether new Schedules 1 or 2 is used and the number of individuals less than 18 years of age. Workers will be inhibited from the input of a PA Shelter Amount for Shelter Type 08.

In addition a new income source = 91 labeled "HUD Utility Allowance-Payment Made to Client or Utility Company" has also been created. The full amount of the HUD Utility Allowance should be input as FS income via usage of program indicator F for both Shelter Type 08 and 09 situations. For Shelter Type 09 situations the amount by which the HUD Rent Subsidy and HUD Utility Allowance exceed the actual shelter expense charged by the landlord (negative rent situation) should be input as PA income via usage of program indicator P. The negative rent situation is not applicable to Shelter Type 08 situations.

Forthcoming page replacements to the ABEL Budgeting Manual will contain complete details on these changes.

VI. EFFECTIVE DATE

The effective date of this directive is October 1, 1991.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance

Listing of All Attachments

- Attachment B - Amended Department Regulation 352.3(d) - not available on-line.
- Attachment C - Dear Administrator Section 8 Program - available on-line.
- Attachment D - Important Notice to Public Assistance Households Who Participate in Section 8 Rent Subsidy Programs - available on-line.
- Attachment E - Section 8 Tenants: Read This Carefully to Make Sure Your Welfare Grant Isn't Cut by Mistake - available on-line.
- Attachment F - Take This To Your Section 8 (HUD) Worker - available on-line.
- Attachment G - More Information About This Change - available on-line.

Administrator
Section 8 Housing Agency

Dear Administrator:

This is to advise you of an important addition to 18 NYCRR 352.3(d) that establishes statewide shelter allowance schedules for public assistance households that participate in the Section 8 Existing Housing Program (Certificate). The effective date of the new schedules is October 1, 1991. This proposed change was published in the State Register on February 27, 1991, and reflects comments made on an earlier version published in the State Register on September 5, 1990. The amended regulation was adopted May 21, 1991.

Briefly, the amended regulation establishes a flat grant for Section 8 certificate holders and eliminates the separate fuel allowance. This eliminates the need for Section 8 administrators to calculate the welfare rent amount. You now will have to calculate only the greater of 10% of gross income or 30% of adjusted income. This change should greatly simplify rent calculations for these tenants, while allowing them full use of utility allowances and reimbursements.

The new shelter schedule in 18 NYCRR 352.3(d) will in most cases be less than the shelter allowances that public assistance recipients are currently receiving. For that reason, the shelter allowances of many Section 8 Certificate Program participants who receive public assistance will be reduced as a result of the new schedule. The reduction in the shelter allowance will necessitate an interim re-examination of family income.

We understand that the Department of Housing and Urban Development may be issuing instructions regarding the re-examination of the affected cases. If the identification and re-examination of these Section 8 Certificate/Public Assistance households can be accomplished by interagency referral and cooperation, the impact on the household, the PHA staff and social service staff is likely to be minimized.

In social services districts where inter-agency identification and rebudgeting cannot be done, public assistance households which participate in the Certificate Program (and those households for which the worker is unable to determine whether they are in the certificate program) will receive one of the attached notices "Important Notice To Public Assistance Households Who Participate in Section 8 Rent Subsidy Programs" or "Section 8 Tenants: Read This Notice Carefully to Make Sure Your Welfare Grant Isn't Cut by Mistake". They will also receive a form that they will be told to bring to their Section 8 worker to complete. A copy of that form is also attached. If re-examination is based upon individual notice, you can expect a large number of requests from affected households for re-examination of family income and establishment of new total tenant payments.

Public assistance households that participate in the Voucher Program or in the various "project-based" programs will not be affected by the addition to the regulation. Those households who participate in the Voucher Program or other Section 8 programs and are not affected by this change may need verification from you to prove to their public assistance worker they are not in the affected program.

We have advised social services districts to contact the PHA's and administrators which serve their district to try to arrange an agreeable method of identifying Section 8 households that receive public assistance and to distinguish between Certificate and other program participation. Such cooperative arrangements will minimize the impact on Section 8 administrators, social services districts and tenants, while enabling housing authorities to meet the August 15 deadline for requests to HUD for additional funding.

We understand that in some areas, PHA's and social services districts already have procedures in place to identify Section 8 program participants to assist in the eligibility determination for Home Energy Assistance Program (HEAP) benefits. We hope those or similar procedures can be employed to identify public assistance/Section 8 Certificate households.

We know that some Section 8 agencies have been able to produce reports of Section 8 households with public assistance income. The report shows the name of the head of household, the address, the municipality, zip code, program Code C (Certificate) or V (Voucher) and the utility allowance amount. If the social services agency is given at least that information they will be able to identify and rebudget the vast majority of their cases and promptly provide you with copies of the revised public assistance budgets. In some cases, the social services agency may need to contact you for more information. For example: if the Section 8 head of household is not a public assistance case member, the worker may have to ask you for the names of other household members in order to identify the public assistance case.

We have enclosed a sample public assistance budget for your information. We have noted on the budget some information you may find helpful.

The effective date of the recalculation should be the same day that the new regulation is effective (October 1, 1991).

We believe this change will be beneficial to many recipients, since it will reduce the rent cost of public assistance recipients to the amount paid by persons with similar income levels who are not receiving public assistance. It will also qualify many recipients for increased amounts of food stamps.

We have enclosed a copy of 18 NYCRR 352.3(d) for your information. We hope this letter and the accompanying information will enable you to set up procedures which will ease the transition for both the tenants and your agency staff.

Thank you for your cooperation.

Sincerely,

Barbara Wellman, Director
Bureau of Income Support Programs

Attachments

IMPORTANT NOTICE TO PUBLIC ASSISTANCE HOUSEHOLDS
WHO PARTICIPATE IN SECTION 8 RENT SUBSIDY PROGRAMS

Please be sure to read this!

If you are in the Section 8 Certificate Program your Public Assistance rent allowance will go down on October 1, 1991!!!

This is because the Social Services regulation which tells local district social services offices how much of a rent allowance can be included in your budget has changed.

Section 8 bases your rent on your income. Since your public assistance shelter allowance will go down, the amount you have to pay for rent will also go down.

If you are not in the Section 8 Certificate Program your public assistance shelter allowance should not go down because of the new schedule.

The information in your case tells social services that you participate in a Section 8 rent subsidy program. But it does not tell if you are in the Certificate or one of the other Section 8 Rent Subsidy Programs.

THIS IS WHAT YOU MUST DO

- o You must contact the office that handles your (HUD) Section 8 rent subsidy benefit and tell them that social services is going to lower your shelter allowance and that you need to have your rent obligation adjusted. Bring or send the attached notice to your Section 8 office.
- o If you are not in the Section 8 Certificate Program and you get this notice, your public assistance worker might think you are in the Certificate Program. You should contact your worker right away to talk about why you got this notice.

You might have to give your public assistance worker proof that you are not in the Certificate Program. If you don't your public assistance rent allowance may go down.

- o To have HUD change your budget or to get proof you are not in the Certificate program bring or send the attached notice and budget to your HUD office.
- o Then you must let your public assistance worker know what HUD tells you. Call your public assistance worker _____ at _____ by _____ to let her/him know what HUD said.

SECTION 8 TENANTS: READ THIS NOTICE CAREFULLY
TO MAKE SURE YOUR WELFARE GRANT ISN'T CUT BY MISTAKE

Our records show that Section 8 helps pay your rent. There are different kinds of Section 8 programs. Our records don't have enough information about your Section 8 program. If you are in the CERTIFICATE Program, a change in the Social Services rules will mean that your rent allowance will be going down on October 1, 1991. This will not hurt you because, with a Section 8 Certificate, if your income goes down, the rent you have to pay your landlord also goes down. In fact, this change in the rules may help you. You will probably get more food stamps as a result of having a smaller public assistance grant.

Only people with Section 8 CERTIFICATES should have their public assistance budgets changed. People with Section 8 Vouchers or other kinds of Section 8 subsidies are not covered by the change in the rules. But everyone who gets this notice should contact his or her worker.

We want to make sure that, if you are in the Section 8 Certificate program, the rent you have to pay to your landlord goes down at the same time that your public assistance grant is reduced and that you get any increase in food stamps that you are entitled to.

We want these changes to go smoothly. We also want to make sure that you don't end up with too little money in your budget to pay your rent. To make sure that you are not hurt by these changes, read and follow the directions below.

THIS IS WHAT YOU MUST DO:

- o Contact the office that handles your Section 8 rent subsidy right away. If you have any question about what office to contact, call your public assistance worker _____ at _____ or local legal aid office at _____.
- o When you call the Section 8 office, ask what kind of Section 8 program you are in. IF they say you are in the CERTIFICATE program, tell them that social services is going to reduce your rent allowance. Tell them that you will need to have them adjust the amount of rent you pay your landlord. Take or send the attached notice and budget to the Section 8 office and have them fill it out.
- o If the Section 8 office tells you that you are not in the Certificate program, ask them what kind of program you are in. EVEN IF YOU ARE NOT IN THE CERTIFICATE PROGRAM, YOU MUST TAKE OR SEND THE ATTACHED NOTICE TO THE SECTION 8 OFFICE. This is so that your public assistance worker doesn't reduce your budget by mistake.
- o Let your public assistance worker know what the Section 8 office tells you. Call him/her at _____ by _____. Once the attached form is filled out by the Section 8 worker, you must get it to your worker at Social Services right away.
- o Don't forget to check your food stamps. If you don't get an increase as of the date your rent allowance was reduced, call your caseworker to find out why.

IMPORTANT: IF YOU GET THIS NOTICE AND YOU DO NOT GET A RENT SUBSIDY AT ALL, DO NOT IGNORE THE NOTICE. Call your worker right away. Ask why you got this notice. Your worker might think you are in the Section 8 program. To make sure your rent allowance doesn't get reduced, you must contact your worker to correct any wrong information that might be in your file.

Client's Name _____ Client Address _____

TAKE THIS TO YOUR SECTION 8 (HUD) WORKER
REQUEST FOR SECTION 8 (HUD) INFORMATION AND ACTION

Dear Section 8 Worker:

Social Services has told me that my allowance for rent might go down because of a new public assistance regulation that you have been told about.

- o If I am in the Certificate Program, please refigure my rent subsidy benefit starting October 1, 1991.
- o If I am not in the Certificate Program, I need proof for my public assistance worker.

Attached is a copy of my public assistance budget showing what my new shelter allowance will be (if I am in Section 8 Certificate Program).

Please complete the information below and send it back to me as soon as possible.

Thank you.

NOTIFICATION OF ACTION TAKEN ON YOUR SECTION 8 BENEFIT

_____ You are in a Certificate Program and your total tenant payment (TTP) has been adjusted.

This change does not affect you because you are not in the Certificate Program. You are in:

_____ the Section 8 Voucher Program

_____ the Section 8 Project Based Program

_____ the Section 236 Program

_____ other (please explain) _____

Take this information to your worker at social services.

Signature of Section 8 Worker

Telephone #

Name/Address of Section 8 Agency

Date

Section 8/DSS Client Name

Residence/address

More Information About This Change

We have been told by the local Section 8 office that you are in the Section 8 Certificate Program.

That means that your household's allowance for shelter and fuel must change to the amount in a new social services regulation (rule) starting October 1, 1991.

The new rule tells the amount that social services can allow for rent (and fuel). It also says that public assistance cases in the Section 8 Certificate Program cases cannot get a separate fuel allowance even if the household pays for heat separately.

BUT, THESE CHANGES WILL NOT HURT YOU!

This is because:

1. With a Section 8 Certificate, if your income goes down, the rent you must pay your landlord also goes down. Your Section 8 office knows about this and will change your Total Tenant Payment.
2. If Section 8 provides a utility allowance to your household, social services will not count it against your public assistance grant. You will be able to pay your heating bills with that money.
3. Most public assistance/Certificate Program households that also get food stamps will get more food stamps because of this change. This is because there will be less public assistance income to count in the food stamps budget.

So, at first you might think that you will have less money because of this change. But, we think most people will be better off!

IF YOU ARE NOT IN THE SECTION 8 CERTIFICATE PROGRAM, TELL YOUR PUBLIC ASSISTANCE WORKER RIGHT AWAY.