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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-29

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: August 19, 1991

SUBJECT: Essential Persons

SUGGESTED
 DISTRIBUTION:

Income Maintenance Directors
 Corrective Action Coordinators
 Staff Development Coordinators
 Employment Coordinators

CONTACT
 PERSON:

Income Support Programs, Dottie O'Brien at
 1-800-342-3715, ext. 4-6853
 Food Stamps, Your County Representative at
 1-800-342-3715, ext. 4-9225

ATTACHMENTS:

Attachment A - "Essential Persons" Handout - available
 on-line
 Attachment B - Essential Person Examples - available
 on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-24	89 ADM-24	369.3(c)(2)	45 CFR	PASB	FSA-AT 91-1
87 ADM-46	87 ADM-46		233.20(a)	VIII-R-all	ABEL
85 ADM-44	85 ADM-44		(2)(vii)	FSSB	Manual
85 ADM-9				V-A-1.2	K-all
				V-A-2-all	
				X-C-2	
				XII-G-6	

I. PURPOSE

The purpose of this release is to inform social services districts of a change in federal Department of Health and Human Services' (HHS) policy on the subject of essential persons (EPs) and to provide instructions to carry out this change.

II. BACKGROUND

On January 24, 1989 HHS published final rules on the subject of essential persons. The new regulation imposed a much more restrictive definition that excluded many individuals from EP status who had been eligible under the old policy.

As a result of legal challenges, HHS issued new instructions (Family Support Administration (FSA) Action Transmittal 91-1) which allow us to reinstitute our previous EP policy and remove the restrictions of the current regulations that an EP must perform one of a small number of specific services.

III. PROGRAM IMPLICATIONS

The essential person policy change restores to the ADC head of household the ultimate decision as to who is essential to the household, without requiring that the EP perform a specific service.

Expanding the definition of essential persons will allow more PG-ADC/HR-PG recipients to be eligible for EP status in ADC cases, thus saving State and local costs.

Essential persons will no longer be automatically exempt from employment requirements because, in many instances EPs will not be performing services to the ADC case that would prevent participation.

This policy change will reduce paperwork by eliminating the need to maintain two or more cooperative cases.

IV. DEFINITIONS

A. Head of Household

The head of household is the caretaker relative who is either:

- The ADC applicant/recipient who receives or will receive the ADC check in his or her name; or
- The adult payee for the ADC minor child(ren) and the essential person(s) (for example, an NPA grandmother who is payee for a grandchild).

B. Essential Person

An essential person is an individual(s) who has applied for and is eligible to receive or is receiving public assistance other than ADC, who is living in the same home as an ADC dependent child(ren) who is an applicant/recipient, and whose presence is essential to the ADC recipient's well-being. This definition includes but is not limited to step-parents, minor half-siblings and step-siblings, and siblings over the age of 18 who are themselves no longer categorically eligible for ADC.

V. REQUIRED ACTION

A. Notification

Until Department publications can be amended (see Section XI), the district must:

- o Provide Attachment A or discuss the information in Attachment A with:
 - applicants, at application, and
 - recipients, at next contact.

B. EP Status Not Designated

The local district cannot designate an applicant/recipient to be an EP:

- o If the head of household does not agree that the individual is essential; or
- o If the individual designated as the EP indicates that he or she does not wish to be designated as essential; or
- o If it would reduce the total household grant or cause ineligibility; or
- o In an "Adult Only" ADC case, except for an "Adult Only" case with an SSI child(ren).

C. Case Actions

The district must:

- o Add the needs of any other individuals living in the same household who apply for and are eligible for PG-ADC or HR-PG benefits to the ADC case:
 - for applicant households, at application, and
 - for recipient households, at next contact, but no later than the next regular recertification.

- o Apply the designation of essential person only to individuals not categorically eligible for ADC. Only when an individual has been determined ineligible for ADC can EP status be considered. (See Attachment B for examples).
- o Send the EP's portion of the ADC grant to the EP, if requested by the EP, and if the ADC head of household agrees to the restriction. This agreement by the ADC head of household must be in writing and documented in the case record. If the head of household does not agree, the EP designation must be removed.
- o Review ADC cases that have individuals presently designated as EPs to conduct a redetermination of their employability.

D. Conversion to EP Status Before Recertification

An active individual who is eligible to be designated as an essential person may be converted to that status before the next scheduled recertification without a new application.

E. Requirements for Essential Persons

Any adult age 18 or older who is included in the ADC grant as an EP must comply with all eligibility requirements.

The EP must also:

- o Sign an application unless the EP is in receipt of assistance; and
- o Sign all subsequent recertification applications unless there is a good reason for not signing, for example the worker failed to notify the EP of that requirement;
- o Appear for the face-to-face eligibility interview and recertification interviews, unless there is a good reason for not appearing; for example the EP is working or in school; and
- o Comply with ADC employment requirements unless otherwise exempt. EPs are no longer automatically exempt from employment, since EPs are no longer required to perform services to the ADC household which would interfere with their ability to take part in employment and training programs.

If an EP fails, without good cause, to comply with employment requirements, the appropriate employment sanction must be applied.

VI. FOOD STAMPS IMPLICATIONS

The presence of an essential person does not alter the method for determining food stamp household composition. That is, food stamp household composition is based on which members residing together purchase and prepare their meals together. Special household determination rules regarding relationship as defined in FSSB V-A-2 must also be applied. Budgeting procedures for PA/FS cases with essential persons appear in Section X-C-2 of the FSSB.

VII. MEDICAL ASSISTANCE IMPLICATIONS

Generally, essential person status is not used in the Medical Assistance Program for MA-only cases. Essential person status is used only for essential spouses of persons who received cash assistance as aged, certified blind or certified disabled persons in December 1973.

Federal reimbursement is available for the cost of Medical Assistance expenditures made on behalf of any public assistance recipient designated as an essential person (EP) in a cash ADC household.

VIII. WMS IMPLICATIONS

Upstate

Districts are reminded of the following:

When budgeting cases with an essential person, normal budgeting procedures apply unless the EP is considered a "Danks" essential person. In those instances, Shelter Proration Indicator Codes "1-9" should be used on ABEL to indicate the number of "Danks" Essential Persons in the case. This causes ABEL to provide the "Danks" EP with full Basic and HEA allowances while prorating the shelter related needs of the EP and other case members.

Instructions can be found in Section K of the ABEL Manual for budgeting cases in which a "Danks" EP requests a separate grant (Payment Type E1) or in cases where the district wishes to open a separate PA/FS case for the "Danks" EP.

Recipients who are designated EP, who are active HR or PG-ADC, should have their case closed using reason code "180 - Transferred to ADC" and a change transaction "05 - Change" performed to add the EP to the related ADC case. A relationship code of "12 - Essential Person" and a categorical code of "14 - Essential Person" should be entered on screen 03 to identify the essential person.

Downstate

HR individuals who have become essential persons to an ADC case cannot receive less than they would have received in their basic or home energy allowance had they remained on HR.

The budget must be completed in three steps:

1. Calculate a budget for the ADC household including the essential person(s). Prorate the Basic Needs and Home Energy Allowance to determine the essential person's prorated share.
2. Compare the essential person's prorata share to his Basic Needs and Home Energy Allowances as an HR recipient.
3. If the ADC Essential Person will receive less than he received as an HR recipient enter the difference in the SPEC NDS:AMT field and enter code "21" in the SPEC NDS:TY field. This will provide the full grant to the ADC Essential Person rather than a prorated share.

IX. ADDITIONAL INFORMATION

The Department will be changing Department Publications DSS-1301/1301 (NYC) , "How to Complete the Social Services Application Form" and DSS-1313, "How to Complete the Social Services Recertification Application" and DSS-4148B, "What You Should Know About Social Service Programs" to include the appropriate information concerning essential persons. When these are amended, it will no longer be necessary to use Attachment A.

X. EFFECTIVE DATE

This directive is effective August 15, 1991 retroactive to October 1, 1989.

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

Essential Persons

The purpose of this handout is to tell you about a part of the Aid to Dependent Children (ADC) program known as Essential Persons.

An essential person(s) is an individual(s):

- who lives in the home of an ADC family;
- who is eligible for public assistance on the basis of income and resources; and
- whose presence in the home is essential to the well-being of the ADC recipient.

If you have an essential person in your household, the essential person's needs will be taken into consideration in determining the needs of the dependent child, and the essential person will receive an ADC grant reflecting those needs. Some households can have more than one essential person.

The basis for permitting this person to receive an ADC grant is that he/she is an essential person. You will make the decision as to whether or not the person is essential to you and your family's well-being. Essential can mean many things. Some examples are an older child who may help out with family chores (such as caring for younger brothers and sisters), a person who makes you feel more secure by being in your household, or any other person who you believe is important to your family's well-being. Remember, you make the decision about who is essential to your family.

If there is an essential person in your household, your worker will add that person to your ADC grant. If at any time you do not agree that the person is essential, please contact your worker. The essential person will then be removed from your grant.

Essential Person Examples

The following examples illustrate why EP designation must be made only after the individual has been determined ineligible for ADC.

Example 1

Marie Ames and her boyfriend, Tom Caldor, apply for public assistance. Also in the household are Marie's daughter, Ann, by a previous relationship and Marie and Tom's son, James. Marie was injured and is unable to work. Medical documentation is presented.

Marie and Ann are categorically eligible for ADC based on the absence of Ann's father. The worker includes Tom and James as essential persons without considering the ADC deprivation factor that exists for James. (Incapacity of Parent).

Tom and James are not essential persons. Rather, they are categorically eligible for ADC and mandatory members of the filing unit. Some months later Tom gets a job. Tom's income from employment must be applied to the needs of the unit including Marie, Tom and both children.

Example 2

Al Ferrar and Geraldine Smith are applicants for public assistance. Also in the household are Al's daughter, Maggie, and Al and Geraldine's son, Joe.

Al and Maggie are clearly categorically eligible for ADC because of the absence of Maggie's natural mother. The worker explores Joe's categorical eligibility and determines that Geraldine is an unemployed principal wage earner. Therefore, she and Joe are also categorically eligible for ADC. The ADC filing unit consists of Al and Geraldine (who are coded with individual categorical code "13" - ADC Dependent Relatives), Maggie (coded "05" - ADC Divorce or Legal Separation of Parent) and Joe (coded "08" - ADC - Unemployed Principal Wage Earner).

Some months later Geraldine becomes fully employed and asks the worker to delete her and Joe from the case because she does not want her income applied to Al and Maggie. Geraldine and Joe are categorically eligible for ADC for three months following the month she became fully employed.

During that three months filing unit provisions apply and that Geraldine's income must be applied against the needs of the four person filing unit. This might have been missed if Geraldine and Joe had incorrectly been designated EP's.