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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 92 ADM-43

TO: Commissioners of
 Social Services

DIVISION: Economic
 Security

DATE: October 27, 1992

SUBJECT: Disregard of Loans for ADC Public Assistance Cases

SUGGESTED

DISTRIBUTION: Public Assistance Staff
 Food Stamp Staff
 Medical Assistance Staff
 Staff Development Coordinators

CONTACT

PERSON: 1-800-342-3715
 Public Assistance: Dottie O'Brien - extension 4-6853
 Food Stamps: Your County representative at
 extension 4-9225
 Medical Assistance: County Representative at
 extension 3-7581
 In New York City at
 (212) 417-4853

ATTACHMENTS:

Attachment A: Exemption of Bona Fide Loans
 Worksheet - available on-line
 Attachment B: Sample Loan Repayment Agreement -
 available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
81 ADM-38		352.22(c)		PASB	
83 ADM-67		352.16(a), (b), (c)		XVI-J-1-all XVI-N-all XXI-B-all FSSB XII-G-4 XII-H-4 XII-M-4	

I. PURPOSE

The purpose of this directive is to advise social services districts of a new policy regarding treatment of loans for applicants and recipients who are eligible for ADC.

II. BACKGROUND

Previously, any loan from a non-legally responsible person that was unrestricted was counted as income in the month received. Federal policy has been amended to allow for the disregard of bona fide loans received by an ADC assistance unit from individuals not liable for their support. The basis for this policy is that the borrower has an obligation to repay the loan. Therefore, a loan does not result in a gain to the borrower and should not be considered income or a resource.

Department regulation 352.22(c) has been amended to support this policy.

III. PROGRAM IMPLICATIONS

When determining eligibility and degree of need for ADC, social services districts can no longer budget bona fide loans from non-legally responsible persons as income or count such loans against the resource limit.

IV. REQUIRED ACTION

A. Public Assistance

A bona fide loan which is received by an applicant or recipient who is eligible for ADC does not count as income or resources when the lender is not legally liable for the support of a member of the assistance unit. Social services district staff must evaluate the evidence to determine and document in the case record that the funds are indeed a loan.

Attachment A: "Exemption of Bona Fide Loans Worksheet" may help workers to decide if income qualifies to be disregarded as a bona fide loan.

1. Documentation of a Bona Fide Loan

Funds can be considered a bona fide loan when the applicant or recipient submits to the agency one of the following types of documentation:

- a. A signed written agreement which states that a loan was obtained from an individual or establishment engaged in the business of making loans; or
- b. A signed written agreement between a lender not normally engaged in the business of making loans and a borrower, which expresses the borrower's intent to repay funds within a specified time; or
- c. A signed written agreement between a lender not normally engaged in the business of making loans and a borrower, which expresses the borrower's express intent to repay either by specifying real or personal property as collateral or by promising repayment from anticipated income at the time that such income is received.

Attachment B: "Loan Repayment Agreement" is included in this ADM. If other written documentation is not available that establishes that the money is a bona fide loan, the borrower and lender can complete this form to document the loan.

EXAMPLES

Applicants (ADC): Mr. and Mrs. North and their children applied for public assistance when Mr. North lost his job. The case category is ADC-U. The household has rent expenses that exceed the district shelter maximum. The worker discussed the amount of the shelter allowance with the family and asked how they will meet the excess. Mrs. North asked her mother, Mrs. West, for help with the excess rent. Mrs. West agreed to lend the family the excess rent amount monthly provided they agree to repay her when Mr. or Mrs. North finds a job and the family is no longer on assistance. Mr. North and Mrs. West put their agreement in writing and a copy is provided to the agency. Since Mrs. West is not a legally responsible relative, the loan for the excess rent is not counted when the family's eligibility or degree of need is determined. The money continues to be disregarded as long as it continues to be a loan.

Recipient (ADC): Ms. South and her child had been public assistance recipients for almost one year when a worker noticed that the rent obligation exceeded the household's shelter allowance by \$110. When asked how she was paying her rent, Ms. South said her grandmother, Mrs. East, has loaned her the excess amount each month. The worker explained that she needed written verification that the money is a loan that she must repay. Ms. South presented a statement verifying that the money is a loan. The money is not counted. Ms. South anticipates that the support that will be coming from her ex-husband will make the family ineligible for public assistance shortly. She will begin repaying the loan at that time.

Applicant (PG-ADC): Mr. and Mrs. Farr applied for public assistance for themselves and their 18 year old daughter on May 2. Mr. Farr's sister, Mrs. Close, has been lending the family money to meet their living expenses. Mrs. Close loaned the Farr's \$600 in the month of May. She has told her brother that she can lend him no more money. Even though the money is a bona fide loan, because the case category is PG-ADC, the money must be counted as income. The Farris are ineligible for public assistance until June.

Recipient (HR): At recertification, Mr. Hie, a single adult in receipt of public assistance, told his eligibility worker that he received a \$100 loan the previous month from his friend, Mr. Lowe, and he presented documentation that the money was a loan. Since Mr. Hie receives public assistance in the HR category, the money is not exempt. The worker explained to Mr. Hie that the money must be counted in the month it was received and an overpayment must be calculated for that month.

2. Student Loans

Student loans received by an undergraduate student continue to be disregarded as income or resources regardless of case category. Student loans received by a graduate student will be disregarded as income or resources unless the graduate student is a Home Relief recipient. Student loans received by a graduate student whose case category is HR (PG-ADC) continue to be treated as stated in the Public Assistance Source Book (PASB) XVI-N-1 and 2.

3. Resources

Bona fide loans are exempt as resources for ADC applicants/recipients as long as they retain the characteristics of a loan. For example, a household that has a savings account balance of \$3,000 and verifies that the full amount is the principal of a bona fide loan can have that amount disregarded from the public assistance resource limit indefinitely. If the money is later used to purchase a resource, such as a car, the equity value of the resource must be determined and counted. Only legal encumbrances, such as liens against the title or ownership of the resource, can reduce the equity value. In this example, the \$3,000 loan is withdrawn from the bank and used to pay the full cost of a car. The NADA trade-in value of the car is \$2,900. There is no lienholder on the title. The equity value of the vehicle is \$2,900. The full amount must count against the household's resource limit.

B. Food Stamps

All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which payment is deferred, are excluded as income for food stamps. See the Food Stamp Source Book (FSSB) XII-H-4 for information on how to budget educational income.

C. Medical Assistance

A bona fide loan, as described in Section IV.A., received by a MA only A/R will not be counted as income or a resource, across program lines. The loan will remain an exempt resource indefinitely as long as it retains the characteristics of a bona fide loan. Any interest accrued on a bona fide loan will be considered unearned income.

Attachment B (Loan Repayment Agreement) may be used as documentation of a bona fide loan if other documentation is not available.

IV. SYSTEMS IMPLICATIONS

None

V. EFFECTIVE DATE

The effective date of this directive is October 21, 1992, the effective date of the regulation.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Economic Security

Case Name: _____

Case Number: _____

Borrower's Name: _____

EXEMPTION OF BONA FIDE LOANS WORKSHEET

(For use only when the loan cannot be exempted under some other provision of the regulations; for example, 352.16(b) student grants and loans to undergraduates.)

1. The borrower's case category of public assistance is:

_____ ADC Go to question 2.

_____ HR (PG-ADC) STOP. The money cannot be disregarded as a loan.

2. Is the lender a person or establishment whose business is making loans?

___ Yes. Go to 2a.

___ No. Go to question 3.

2a. Name of lender _____.

One of the following must be present.

1. A signed written loan agreement, or

2. Official correspondence from the lending institution that establishes that the money is a loan.

___ Documentation is not present. STOP. The money cannot be disregarded as a loan.

___ Documentation is present. The money can be disregarded. Go to question 6.

3. Is the lender a legally responsible relative to the borrower or to a member of the borrower's assistance unit?

___ Yes. STOP. The money cannot be disregarded as a loan.

___ No. Go to question 4.

4. Name of lender? _____

Address of lender? _____

Relationship of lender to borrower. _____

To be considered a bona fide loan, valid documentation that meets the following minimum requirements must be present:

a. There must be a written agreement signed by the borrower and the lender; and

b. The agreement must show the borrower's intent to repay the funds within a specified time; or

c. The agreement must show the borrower's intent to repay by specifying real or personal property as collateral; or

d. The agreement must show the borrower's intent to repay by promising repayment from future income at the time that such income is received.

Is valid documentation present?

___ Yes. The loan can be disregarded. (Go to question 6 for tracking for resource purposes.)

___ No. STOP. The money cannot be disregarded as a loan.

RESOURCES

6. Is any of the bona fide loan kept past the month of receipt?

___ Yes. Go to 6a.

___ No. STOP. No further action needed.

a. Discuss with borrower how the proceeds of the loan will be identifiable as separate and apart from resources that must count against the resource limit.

REMARKS

LOAN REPAYMENT AGREEMENT

One time loan

I, _____, loaned _____
Name of Lender Name of Borrower

the amount of \$_____ on _____.
Date

_____ will repay this loan. The loan will be
Name of Borrower

repaid as shown below.

or

Recurring loan

I, _____, loan _____
Name of Borrower

the amount of \$_____ each month starting

_____. The loan will be repaid as shown below.
Date of First Loan.

Our agreement is that this loan will be repaid:

(Please show when repayment is expected by checking the appropriate statement)

++ When _____ has enough income to go
++ Name of borrower

off of Public Assistance/Medical Assistance.

++ Other (specify arrangement) _____
++ _____.

Signature of Borrower Date

Signature of Lender Date