

OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL: 00 ADM-4

DIVISION: Temporary Assistance

TO: Commissioners of
Social Services

DATE: June 13, 2000

SUBJECT: Temporary Assistance: Initial Notice of Overpayment to
Closed Cases

SUGGESTED

DISTRIBUTION: Temporary Assistance Staff
Staff Development Staff
Recovery Unit Staff

CONTACT

PERSON: Office of Temporary & Disability
Assistance: Central Team at 1-800-343-8859,
ext. 4-9344

ATTACHMENTS: LDSS: 4862 - Notification of Overpayment of
Temporary Assistance to a Former Recipient (not on-
line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		352.31(d)(5) Part 358		FSSB XV	

I. PURPOSE

The purpose of this Administrative Directive is twofold:

1. To inform social services districts (SSDs) that former recipients who are given initial notification about a Temporary Assistance (TA) overpayment may request and be given a fair hearing to challenge that decision; and

2. To introduce the notice that districts will use for that purpose.

II. BACKGROUND

Previously, the Office of Administrative Hearings (OAH) would not hold hearings if the TA case was closed, unless the hearing request was related to the closing notice. When overpayments were discovered after case closing, the former recipient could discuss the overpayment reason and calculation with the SSD. However, if he or she disagreed with the SSD, there was no option to take the matter to a fair hearing, unless the TA case reopened and the SSD proposed to start a recoupment. The OAH formerly interpreted 18 NYCRR 358-3.1(f) as precluding hearings involving recoveries through means other than by recoupment.

Recently, however, the OAH has revised its policy based on the provisions of 18 NYCRR 358-3.1(b)(17) and 18 NYCRR 358-2.18. 18 NYCRR 358-3.1(b)17 gives a hearing right where an appellant challenges a specific claim for overpayment brought by the local agency and disagrees with the amount of a claim for the overpayment of public assistance or the overissuance of food stamp benefits. 18 NYCRR 358-2.18 extends this right to include a former recipient seeking to review a determination of a social services agency and who would have a right to a hearing under Section 358-3.1 if such person were a current recipient. Based on federal food stamp regulations, the OAH has been providing hearings on overpayments to former food stamp recipients. The approach to this issue will now be consistent among programs.

III. PROGRAM IMPLICATIONS

A. Temporary Assistance

When the former TA recipient is being given an initial notification that a TA overpayment has been established, the individual may request, and will be granted, a fair hearing provided that the request is made timely. A timely request is one made within 60 days from the notice date for TA.

The LDSS-4862 - "Notification of Overpayment of Temporary Assistance to a Former Recipient" is the state mandated notice that must be used to provide the former recipient with the initial notice of a TA overpayment.

The LDSS-4862 need not be used when the client is being provided with an initial notification of an overpayment on the TA closing notice.

The LDSS-4862 must not be used to notify a former recipient about a recoupment balance when the individual was previously provided with adequate notice of an overpayment.

The heading of the LDSS-4862 must be completed. The worker completing the notice must also provide the former recipient with the amount of the overpayment, the dates within which the overpayment occurred and an explanation of why the overpayment occurred. In Section II, the district must include a date by which the former recipient must return the "Method of Payment" agreement to the SSD. The notice date plus 10 days is a reasonable response time. The SSD must not start recovery procedures prior to that date.

In the event that the former recipient requests a fair hearing within 10 days of the notice date, no collection activity can be started before the fair hearing decision is issued which upholds the DSS. If the former recipient calls for a fair hearing more than ten days after the notice date but within sixty days of the notice date, and the former recipient wins the hearing, any money collected above the amount owed as determined by the fair hearing must be returned to the individual.

B. Food Stamps

Please refer to the Food Stamp Source Book (FSSB) Section XV for information about Food Stamps claims.

C. Medicaid

There are no Medicaid implications.

D. Overpayment Tracking:

1. Upstate Cash Management System (CAMS)

The claim should not be entered into CAMS until the end of the 10 day period after the issuance of the initial notice of overpayment. If the former recipient has requested a fair hearing, and until the resolution of the fair hearing, the claim must be suspended in CAMS. When the hearing is resolved, the status of the claim must be updated through the CAMS Accounts Receivable function to reflect the outcome of the fair hearing.

2. NYC Recoupment Subsystem

The claim may be entered into the recoupment subsystem immediately to generate a notice to the former recipient. The recoupment subsystem will "clock-down" the entry for a minimum of ten days and will not release the recoupment as a collectable claim until the clock-down period has expired and no fair hearing request has been made. If a fair hearing is requested, and until the resolution of the fair hearing, the claim must be suspended. When the hearing is resolved, the status of the claim must be updated in the recoupment subsystem to reflect the outcome of the fair hearing.

E. FORMS ORDERING INFORMATION

1. UPSTATE

a. English Version

The Upstate English version of the LDSS-4682 (Rev. 3/00) will be printed and delivered to the Albany warehouse in May, 2000, approximately. These forms will not be drop-shipped to local districts, however. Local districts may order copies of the form, according to the procedures outlined below. Until printed supplies of the LDSS-4682 are available, local districts should photocopy the attached form locally.

b. Spanish Version

The Spanish version (LDSS-4682-S) will not be printed, but a master copy will be available to those Upstate districts who may need to photocopy it.

Initial and future requests for the printed LDSS-4682 and/or the camera ready master copy of the LDSS-4682-S should be submitted on Form DSS-876 (Rev./2/96): "Request for Forms or Publications", and sent to:

**Office of Temporary and Disability Assistance
Bureau of Forms and Print Management
P.O. Box 1990
Albany, New York 12201**

2. NYC/HRA

a. English Version

Because the form will be used primarily in Upstate districts, the NYC English version (LDSS-4682 NYC) will not be printed. A camera-ready master copy can be ordered by NYC/HRA to photocopy.

b. Spanish Version

The NYC Spanish version (LDSS-4682 NYC-S) will not be printed, but a camera-ready master copy can be ordered by NYC/HRA to photocopy.

Initial and future requests for the camera-ready master copies of the LDSS-4682 NYC and LDSS-4682 NYC-S should be submitted on Form DSS-876 (Rev./2/96): "Request for Forms or Publications", and sent to:

**Office of Temporary and Disability Assistance
Bureau of Forms and Print Management
P.O. Box 1990
Albany, New York 12201**

Questions concerning ordering any of these forms should be directed to the Bureau of Forms and Print Management by calling 1-800-343-8859, ext. 4-2702.

F. Effective Date

The effective date is the date of issuance of this Administrative Directive.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance