01 INF-11 ATTACHMENT June 7, 2001

Temporary Assistance Questions and Answers

Index

General.....Page 1

Energy.....Page 7

Filing Unit.....Page 9

Aliens.....Page 11

Sanction/IPV.....Page 11

Overpayment/Underpayment.....Page 16

Resources.....Page 18

Income/Budgeting.....Page 19

GENERAL

1. Q. What are the criteria for withholding rent because of health and safety violations (Social Services Law 143-b "Spiegel Act")?

A. In order for the Social Services district to withhold rent under the Spiegel Act, the district must have knowledge that there is an outstanding housing code violation that is dangerous, hazardous or detrimental to life or health. In order to have knowledge, the district must obtain a copy of the violation report from the appropriate code enforcement agency that specifies that the violations are dangerous, hazardous or detrimental to life or health. The district cannot withhold rent without this determination from the code enforcement agency. If the recipient alleges such a violation or the district suspects such a violation, the recipient or the district can make a request that the code enforcement agency do an inspection of the property to determine if there is a serious violation that meets this criteria.

2. Q. How many times can an individual reschedule an eligibility (certification/recertification) appointment?

A. The certification/recertification interview must be conducted so that the worker can complete the case within the required timeframes. According to 18 NYCRR 351.8(b), the decision to accept or deny the application must be made within 30 days from the date of the application for Family Assistance and within 45 days of the date of the application for Safety Net Assistance. So, an applicant who has an acceptable reason for not keeping the appointment can be rescheduled one or more times provided that the regulatory timeframes for determining eligibility can be met. This answer presumes that: 1) the SSD is scheduling interview appointments within the regulatory timeframes (within 7 working days of the application filing date) and, 2) the reasons for missing the appointments are not so severe that other arrangements need to be made. For example, if the applicant/recipient is hospitalized or homebound, then a hospital/home visit or an authorized representative should be arranged. The recertification interview must take place before the end of the certification period and with enough time for timely and adequate notice if a reduction or closing action must be taken. So, the district can reschedule a recertification appointment several times if the initial appointment was early enough to allow for that.

For example, a recipient's initial interview might be April 20th for a certification period ending May 31st. The recipient misses that appointment and is rescheduled, misses that appointment, etc. Assuming that each of the reasons for missing the appointment was reasonable, a district could continue to reschedule. However, when you get to about the 10th of the month, and the recertification has not taken place, a timely and adequate notice to close the case should be issued. If the recipient comes in within the ten day period prior to the effective date of the notice, then the worker still has time to issue a timely and adequate notice to close the case or reduce the benefit if the circumstances have changed based on the recertification interview. If the recipient does not come in before the effective date, the case would close on the effective date.

3. Q. Does an individual gain residency while in jail or prison?

A. An individual does not gain residence while in jail or prison, regardless of who regulates the facility. The district in which the inmate was residing at the time of the incarceration remains fiscally responsible for him/her unless upon release he/she chooses to remain in the district where the facility is located. If upon release, the facility or the court orders the inmate into a medical facility (e.g. a drug and/or alcohol treatment facility), the responsibility remains with the former district until there is a break in assistance of one calendar month. This includes a VA run hospital, not including a Domiciliary. If the inmate is released from jail or prison and goes to the district in which the facility is located with an emergency, the "where found" district must meet the immediate need. The conditions of the release must always be reviewed prior to granting assistance (e.g. release, conditional release, probation, etc.)

4. Q. Can Temporary Assistance (TA) authorize payment of camp fees for a SSI child?

A. No, SSL 131(a)(6)(d) and 18 NYCRR 352.7(I) state that the child must be in receipt of FA in order to be eligible for the payment of camp fees.

5. Q. Does the addition of a newborn to an active case require an application, whether the social services district (SSD) was notified of the pregnancy or not?

A. No, however, if the newborn's father lives in the home and is not receiving TA, he must complete and sign an application. Assuming that the family is eligible, the father can be added to the mother's case.

6. Q. Is a TA application required for a child released from Foster Care (FC) to a TA household?

A. No.

7. Q. Is a SSD required to pay for transportation for a TA parent to visit his/her child in foster care?

A. Yes, provided the services plan for the child requires the TA parent to travel to visit the child while the child is in foster care. A district can pay for the costs of travel through EAF 18 NYCRR 372.4(d) under services necessary to cope with the emergency which cannot be met by other means. In this case, the need cannot be met under the TA parent's category of assistance.

8. Q. Does the upstate WMS payment type of "G1-Shelter/R&B to guardian" require a vendor number on the DSS-3209?

A. No, the recurring "G1" shelter payment (upstate only) is a cash benefit identical to the recurring "05" cash benefit except that it identifies the benefit as shelter. For NYC cases workers should use TA single-issue code 99-Other.

9. Q. If a wrong denial/closing reason is listed on a CNS/manual notice and the application/case would still be denied/closed with the correct reason, must a new notice be issued and the application/case reinstated?

A. Yes.

10. Q. What is the difference between the upstate WMS payment code "23- Water" and "63-Water Bills" and when is each used on DSS-3209?

A. There is currently no distinction between these two codes. There is a recommendation to eliminate code "23-Water" and retain code "63- Water Bills" as the payment type for payment of current water bills. Since there is no authority in Social Services Law or in Office regulations to pay water arrears, some SSDs use code "23-Water" to pay water arrears out of local funds using special claiming code N-non-reimbursable".

11. Q. Can a water or utility deposit be paid in order to provide service to a TA client?

A. No.

12. Q. If a recipient reports at recertification for the first time that she pays a vendor separately for water and now is in arrears, is the agency authorized to pay the arrears, even though it was not an agency error?

A. There is no authority to pay an arrearage of water bills for applicants or recipients under any TA program. However, if a recipient verifies and documents a water expense that they did not receive an allowance for while in receipt of TA, the underpayment of the water allowance they should have received can be directed to the water vendor (with their written permission) to be applied against an arrearage in part or full. Keep in mind our policy of offsetting any outstanding overpayments with underpayments applies to this scenario, which may cause the water expense underpayment to be applied to an outstanding overpayment, leaving no underpayment to be directed to the water vendor.

For example, a recipient presents a water shut-off of $300 and submits documentation verifying that she had a water expense of $50/mo. for the last 6 months. The recipient was underpaid $300 for this period. Therefore, if there are no outstanding overpayments and written permission is submitted, the $300 underpayment can be directed to the water vendor. If the individual were a recipient for only 4 months, the underpayment would be $200, which could be applied to the $300 arrearage.

13. Q. Can a child be considered temporarily absent from a TA household when they attend school in another county or state?

A. Yes.

14. Q. The NTA caretaker of a FA child has requested moving expenses. Do we just pay them since the child is on TA?

A. No, the NTA caretaker must apply for assistance to meet the moving expenses. The district must determine if the caretaker has income or resources sufficient to meet the need and if the move is necessitated by one of the criterion set forth in 352.6(a)(ii).

15. Q. The regulations prohibit a grant to individuals under age 16. Should we ever take applications for younger individuals? What is the minimum age at which a person can apply for TA?

A. Anyone at any age may file an application. In the instance of an individual under age 16, it is important to determine why the child feels the need to file the application. Children's services should be contacted to assess the situation.

It would be extremely unusual for a child under the age of 16 to be accepted for TA on his or her own but it could happen. A child cannot be denied solely because he or she is under age 16. A service's assessment must be done. Nor should the child be opened on TA without a service's assessment indicating that there is absolutely no other option. Other options can include a foster care placement, the return of the child to the parent's home or the home of a relative or an adult supervised living arrangement, etc.

An adult should be the payee whenever possible or the payment to the under age 16 individual should be made to a protective payee.

16. Q. Do the Safety Net Assistance (SNA) rules apply to families who no longer qualify for federal categories of assistance?

A. Yes, as families reach their 60-month federal time limit and are no longer eligible to receive assistance under Family Assistance (FA-Case Type 11) or the federal category of SNA-FP (Case Type 12), the rules that apply to SNA-FNP (Case Type 17) do apply. For example, the needs of the SSI individual previously invisible under FA or SNA-FP would now be considered for a family applying for or receiving SNA-FNP (see 01 ADM-3).

17. Q. If a college student lives in a dormitory, we were told that the student's needs were met and they get only Medicaid. Is this correct?

A. You need to determine if the student is a temporarily absent member of his family unit or if he/she established residence in the district where the school is located. If he/she is temporarily absent, then his/her community need continues and his/her portion of the TA continues if he/she meets eligibility requirements, including compliance with work rules.

If he/she has established residence in the district where the college is located, then his/her eligibility for TA is determined by his circumstances there. If he/she lives in a dorm, he/she may or may not have needs. However, even if all needs are met, he/she may still be eligible for a $45 PNA. If eligible, for the $45 PNA, the case is budgeted with a room and board rate of $0.00 resulting in a PNA of $45.

18. Q. In an Other Than Grantee (OTG) case, when the rent is not paid do we understand correctly that we withhold the shelter allowance and cannot pay the shelter allowance to the landlord?

A. If the Grantee does not pay the rent, the shelter allowance cannot be removed from the child's standard of need. Although the question deals with OTG cases, the same is true for any case. If the individual has the obligation, the allowance must be provided. Then, it can be restricted as appropriate.

However, the shelter allowance can be issued as an indirect payment to the landlord if the FA applicant/recipient (including OTGs) demonstrated the inability to handle cash or voluntarily requests an indirect payment. A SSD may also issue an indirect payment for a SNA applicant/recipient (including OTGs) for reason of administrative ease.

19. Q. Does the Safety Net Assistance forty-five day application period apply to an individual who was incrementally sanctioned from a SNA case and is now in compliance and eligible to be added back onto the case?

A. Yes, since the sanctioned individual is not an active SNA case member, the individual must reapply to be added back onto the SNA case. The formerly sanctioned individual would now be considered an applicant. All SNA applicants are subject to the forty-five day application period. Individuals who were pro-rata sanctioned from a SNA case are considered active case members and are not required to reapply and are therefore, not subject to the SNA forty-five day application period.

20. Q. When authorizing a shelter payment directly to a guardian of a child (OTG) on non-cash SNA type 17, how is the payment line written on the upstate DSS-3209?

A. The authorization would use payment type "G1-Shelter/R&B to Guardian" (upstate only) as detailed in "00 ADM-7 Non-cash Safety Net Assistance (SNA) for Other Than Grantee (OTG) Cases". Essentially, the "G1" payment type follows all the same mechanisms and edits as payment type "05-Case Recurring Grant". The recurring payment line is written as: Action "02-Issue and Prepare"; Pay Type "G1-Shelter/R&B to Guardian"; Method of Payment "01-Unrestricted"; the Amount Restricted; Issuance "1-Recurring-Same"; Payment Schedule "S-Semi-Monthly" (for amounts greater than $25.00) or "M-Monthly" (for amounts $25.00 or less); Pick-Up "1-Mailed" and the Authorization Dates. A single-issue payment line is written the same as a recurring payment line except Issuance "2-Once Only" and Payment Schedule "O-Other" is used. For NYC cases workers should use TA single-issue code 99-Other.

21. Q. If a child in an active TA case in County A, is placed into the permanent care and custody of eligible relatives in County B, what is the responsibility of County A?

A. If the child is placed with eligible relatives in County B and remains eligible for TA, County A must provide assistance for the month of the move and the following month. If the child was temporarily placed with relatives in County B, temporary absence rules apply and County A remains financially responsible.

22. Q. Is the time limit exemption indicator used any time that a SNA individual is exempt from employment requirements (even if just opened for the first time) or only when the decision is being made as to whether the case moves to non-cash status?

A. The decision is made at the point of deciding if the case moves to a non-cash status - at the approach of the 24th month SNA "cash" time-limit. The exemption only applies after the limit is reached. Even if someone comes on cash SNA as exempt for employment purposes, the first 24 months are counted and only after he or she hits 24 can the time limit exemption be applied.

23. Q. Are SSDs still required to have a TA applicant/recipient complete the "Certification/Recertification Checklist" (Attachment B of 97 ADM-8) and keep a copy in the case record? If so, how often must it be completed?

A. The "Certification/Recertification Checklist" is still a required form, which must be completed at the time of application and recertification. We are working on incorporating information into the Certification and Recertification guide, at which time this form will become obsolete.

97 ADM-23 informed SSDs to eliminate the question on this checklist, which identified drug felons. These individuals are eligible for federally funded benefits and do not have to be identified in any way.

ENERGY

24. Q. With the cancellation of 87 ADM-51, and the removal of energy information from the Public Assistance Source Book (PASB), where can I go to find information on energy related topics?

A. Directive 00 ADM-2, announced the release of the Energy/HEAP Manual. The Manual provides a comprehensive summation of TA energy related information since the release of 87 ADM-51 and at least two copies were sent to all districts in March 2000 for local reproduction as needed. If you have questions related to TA energy policy, please refer to this publication. Updates to this Manual will be provided as necessary. The HEAP portion of the Manual will be distributed under the normal HEAP Manual distribution process annually.

25. Q. May a SSD include "confession of judgement" language in the Utility Arrears and Safety Net Assistance Shelter Arrears Repayment Agreements?

A. A SSD may request approval of a local change to the standard language on these forms, which would include the "confession of judgement" provision. If a SSD wishes to do so, they should send a copy of the draft revisions to:

NYS Office of Temporary & Disability Assistance

Division of Temporary Assistance

40 North Pearl Street

Albany, New York 12243

26. Q. Can restricted energy payments be authorized on an OTG case?

A. Yes, if the case includes a fuel allowance, the fuel allowance may be restricted and an indirect payment made to the energy provider. Additionally, indirect domestic energy payments may be made with appropriate domestic energy budget restrictions.

Note: If the OTG has requested that fuel for heating be included in the child's budget, the caretaker OTG may not charge rent in excess of the grantee's actual shelter costs (see 91 ADM-31).

27. Q. What happened to using the July bill for the domestic energy restriction amount?

A. You can still use a summer month when there is a combined heat and domestic energy utility bill in order to determine the domestic energy usage amount for budget restriction.

28. Q. If the case payee leaves the household during the period of fuel reconciliation, would the remaining members be responsible for the overage - why would they not get the excess?

A. Overpayments (including energy reconciliation) are applicable to the case and past/present case members, in accordance with Office regulation NYCRR 352.31(d)(1). Any underpayment (including energy reconciliation) must first be applied against any existing case overpayment, in accordance with Office regulation NYCRR 352.31(d)(4). If after the offset, any remaining underpayment must be issued to the individual who was legally responsible for the energy bill. If the SSD is unable to locate the responsible individual, the underpayment can be issued to the current case.

The remaining household members are held responsible for any overage, as well as the customer and tenant of record who has left the household.

29. Q. How do districts determine if a TA recipient is eligible for a fuel allowance?

A. In order to receive a fuel allowance, the TA recipient must be both the tenant and the customer of record. For more information, please see the "Heating Allowance" section of the Energy/HEAP Manual. In OTG cases the self-maintaining grantee may choose to charge the child(ren) room and board, or may elect to receive a shelter and fuel allowance based on his/her actual expenses.

30. Q. Is a TA recipient eligible for a heating allowance if he/she resides with a NTA roommate?

A. If the TA recipient's rent includes heat, the recipient is eligible for a shelter allowance with heat using ABEL fuel type: "0-Heat Included in Shelter Costs". If the TA recipient's rent does not include heat, the recipient is eligible for a shelter allowance without heat. In order for the recipient to be eligible for a heating allowance, the recipient must be the tenant and customer of record. If the recipient is the tenant and customer of record, the recipient is eligible for a heating allowance using ABEL fuel types "1 - 9"; otherwise, they are not eligible for a heating allowance and the ABEL fuel type "X-No Fuel Allowed" is used.

31. Q. What alternatives does a district have to address a TA household that has unaffordable domestic energy and/or heating costs?

A. Affordability is an issue that SSDs need to explore with applicants for emergency assistance. For NTA applicants, SSDs must require that they attempt a deferred payment agreement (DPA) with the utility company prior to authorizing emergency assistance (a SSD option for TA and SSI recipients.) A SSD may also deny emergency energy assistance to applicants for energy related emergency assistance if the SSD can offer the applicant a reasonable more affordable alternative, e.g. an apartment that includes heating/domestic costs. This alternative is not considered available to homeowners. A SSD should also suggest that applicants explore ways to meet ongoing energy needs such as consumer budget and credit counseling, affordability plans, budget billing, energy conservation, alternative fuel sources and weatherization services, or other available energy cost reducing methods.

32. Q. Now that EBT is implemented, can clients be able to pay their fuel bill with their benefit card in the same manner that ATM and debit cards are used now?

A. No, the EBT card can be used by the individual as a debit card to access their cash benefits and food items covered by food stamps. If an individual's benefits are not restricted, then the individual must use this cash to pay his or her own fuel/utility bill. If the individual's fuel/utility allowance is restricted, then the fuel allowance and/or average monthly billing amount will be restricted from their cash grant and the SSD will pay the individual's fuel/utility bill directly.

33. Q. What is the definition of a "Cold Weather Period" and is the definition applicable to heating emergencies?

A. There is no "Cold Weather Period" standard that determines when a SSD must make energy related emergency payments. The concept of a "Cold Weather Period" is applicable in the referral and termination process described under the Home Energy Fair Practices Act (HEFPA). Under HEFPA this period runs from November 1 through April 15. For further information on HEFPA, please see the HEFPA section of the Energy/HEAP Manual.

34. Q. Can a district pay for the tank deposit and installation costs associated with propane heating and are these costs subject to the 125% income test under Emergency Safety Net Assistance (ESNA)?

A. Yes, a SSD may pay for the tank and installation costs associated with propane heating. Regulation 18 NYCRR 352.5(c) require SSDs to make a payment essential to obtain non-utility heating fuel. This would include costs associated with the delivery of the non-utility fuel like tank deposits and installation fees. Payments necessary to obtain the non-utility heating fuel are not subject to the 125% ESNA income test. Non-utility (propane, etc.) domestic energy is subject to the SNA 125% income test.

FILING UNIT

35. Q. Can a Safety Net Assistance (SNA) recipient, who reached the twenty-four month cash SNA limit, be designated as an Essential Person (EP) on a Family Assistance (FA) case?

A. Yes, a non-cash SNA (case type 17) recipient, who was transferred to non-cash SNA because he/she reached the twenty-four month limit of cash SNA, may be designated as an EP, if otherwise eligible, on a FA case. If the EP reaches the FA time limit before the FA case, the EP must be recategorized as non-cash SNA (case type 17) and be cooperatively budgeted with the FA case, with appropriate direct vendor payments.

36. Q. How many cases can an eligible relative grantee establish for two or more FA eligible non-related children residing in the same household?

A. If there is one grantee for the FA case, then the children are all on one case. 18 NYCRR 369.3(a)(3) requires that if children of different parentage are living with the same eligible relative, a single grant shall be made to meet the needs of all children in the household receiving FA.

37. Q. If a non-related child moves into a household with a child and his/her eligible relative grantee, can the new child be added to the existing grantee case as an EP?

A. Yes, the SNA child should be added to the existing FA case as an EP.

38. Q. Does a correspondence school qualify an 18-year old as a minor for FA purposes?

A. Yes, as long as no other viable alternatives (i.e. a BOCES program) are available, and the course of study is accredited by the State Education Department eventually leading to a GED.

39. Q. Can a stepparent charge the biological children of his/her spouse rent?

A. No, when the stepparent is not applying for assistance, stepparent deeming is done to determine the eligibility and degree of need for the stepchildren (and the biological parent). The family's actual rent expense is used to determine the stepparent deeming calculation. Only the amount in excess of the shelter allowed in the deeming calculation - and up to the agency maximum can be provided.

In this method, the stepchildren may be eligible for a shelter allowance based on family need, but the stepparent may not "charge" rent in the way that a non-legally responsible relative may.

40. Q. Why would we use Allen budgeting for a person who is on conditional release from prison?

A. Conditional release persons are in the community for five to seven days a week and are still considered incarcerated. Frequently, as part of the conditional release agreement, they cannot apply for TA. When they live with the family and have income, then Allen budgeting is appropriate.

41. Q. Can a biological child that was given up for adoption trigger filing unit rules if he lives with his biological family?

A. Although adoption severs the parent-child (and sibling) relationship in many ways, it does not in the filing unit situation. The reason is that the Law specifically states that blood-related and adoptive parents and siblings must be in the same filing unit (unless exempt-SSI parent, etc.). Adoption ends some financial obligations and rights but does not change the blood relationship. So, even if the individual (under age 18) moves in with a biological parent after having been given up for adoption, the child, if applying, would pull his biological parent and siblings into the filing unit.

ALIENS

42. Q. If an ineligible alien refuses to pursue a resource (disability, UIB, SSI), can we deny the TA application or close the TA case for the children?

A. Yes.

43. Q. Can the child of a sponsored alien receive TA benefits?

A. Yes, if the SSD makes a determination of indigence and the child would be without food or shelter without Temporary Assistance. If the child is a citizen, the child would be eligible without such a determination.

SANCTIONS/INTENTIONAL PROGRAM VIOLATIONS (IPV)

44. Q. Does a TANF funded program sanction from another state carry over to NYS?

A. Generally the answer is no. However, a person convicted in Federal or State court of having misrepresented his place of residence in order to receive TA simultaneously from two or more states is disqualified for 10 years from the date of conviction, no matter where the original conviction took place.

45. Q. What is the budgeting methodology for a Milne sanction?

A. That depends on whether the individual is subject to a sanction at the time of application or, instead, is subject to a sanction while undercare. At application, the individual is excluded from the family's budget household and case count (incremental sanction). At undercare, it is an employment sanction and a prorata reduction in the grant is made.

46. Q. Would there ever be a situation where only a non-head of household case member is pursued for an IPV, but the head of household would not be pursued?

A. Most often, the head of household would be the individual under investigation for an IPV. If both the head of household and another adult in the case are party to fraud, both would be pursued. If it can be demonstrated that the head of household is not party to fraud, then only the adult responsible for the fraud would be pursued for the IPV.

An example of this possibility for TA is a two-parent TA case in which the head of household can demonstrate that he/she is unaware of unreported resources. For example, the spouse has funds in an account that is in that person's name only.

Regardless of who has been determined to have committed the IPV, the overpayment may still be recovered from the overpaid assistance unit; any assistance unit of which a member of the overpaid unit has become a member; or any individual member of the overpaid assistance unit whether or not currently a recipient.

47. Q. What notice is provided to an applying individual who is determined to have an outstanding IPV?

A. The applicant will have been previously notified about the IPV, the period of disqualification, etc., and that the TA IPV disqualification period was pended until the individual was again eligible for assistance. Therefore, when the pended disqualification is to be imposed at application, the SSD must issue the usual denial notice to a single person case stating that the IPV durational disqualification is being started. For a multi-person case, the Action Taken on Your Application should tell the otherwise eligible household that the application has been accepted, etc. but that (Name) is being disqualified for X period due to the start of the pended IPV.

48. Q. If the worker fails to impose a pended IPV disqualification, but approves the applicant instead, can the disqualification be imposed at the point the mistake is discovered?

A. Yes, with the following limitation. The disqualification is considered to run from the time that the individual is determined eligible for assistance, even if the disqualification is not imposed. The following example using a six-month disqualification period will illustrate the point. The case was opened and it was three and one-half months before it was discovered that the pended IPV existed and was not imposed. When the mistake is discovered, the remaining disqualification time - about two months (after timely and adequate notice is provided) could be imposed. If the mistake was not discovered until six-months after the individual was opened, then no disqualification period could be imposed. However, the IPV still "counts" and a subsequent finding of an IPV would carry the higher incremental period of disqualification.

49. Q. If we do not impose an IPV disqualification timely, pended or not, can we recoup the benefits paid in error during the disqualification period as an agency error?

A. Yes.

50. Q. Is the disqualified individual required to reapply at the end of the disqualification period or does the agency just add the person back in the case?

A. For TA, the individual must apply. If a mandatory member of the TA filing unit will not apply after being notified about the requirement, the TA case must be closed.

Persons disqualified due to a FS IPV must request to be added back into the case once the IPV period is over. The SSD is not obligated to track the disqualification period to automatically add the person back into the case. Nor is the SSD obligated to contact the individual with notification that the disqualification period has expired.

For individuals who do not request to be added back into the case, the worker must determine, no later than the next recertification, if the person must be a member of the case in accordance with FS household composition rules. If the person is required to be a household member, the worker must then add the person to the case.

51. Q. If you have an individual under a 120-day employment sanction and 30 days into the sanction, an IPV is determined; do we suspend the employment sanction and impose the IPV disqualification?

A. The IPV disqualification must be imposed within 45 days of the court determination or signing of the Disqualification Consent Agreement.

The recipient who is under an employment or Drug/Alcohol non-compliance sanction and who is also found to have committed an IPV must be removed from the TA case for the period of the disqualification. This will result in, for most cases, an increase in the TA benefit since with the deletion of the individual from the case, the pro-rata benefit reduction sanction must also be removed. Once the employment sanction has been properly started, the period runs regardless of other changes in the case.

NOTE: If the individual has refused, with good cause, to cooperate with child support requirements, the IV-D 25% need reduction sanction is NOT removed when the individual is deleted from the TA budget for the IPV disqualification period.

52. Q. Can the IPV be imposed sooner than 45 days from the signing of the DCA or the court determination?

A. Yes, the SSD must act within 45 days.

53. Q. What are the differences between an agency error, a client error and an IPV?

A. An agency error will occur when the worker has information and does not act on it timely, or when the worker misunderstands policy and an overpayment results.

A client error exists when the client is at fault - the client did not report a change or mistakenly misrepresented a fact or facts. A client error can exist both when the district truly believes that the client made a mistake, and when the district believes that the client intentionally misinformed the agency.

An error can be designated as an IPV (fraud) ONLY after: appropriate determination by a court; a Disqualification Consent Agreement; an Administrative Disqualification Hearing (ADH); or, waiver of an ADH, that the client intentionally withheld information or gave incorrect information.

54. Q. If a client reports a change in 15 days rather than 10 days, is that a cause for an IPV action?

A. For both TA and FS, the answer to this depends on your county guidelines, on the case circumstances, and on what is reasonable.

In order to establish an IPV, there has to be some evidence of fraudulent intent. While it may be possible to pursue an IPV, it would be extremely unlikely that you would refer an individual solely because he made a report 5 days late.

55. Q. For a TA IPV, if the case is closed or the individual is not currently included in the case when the IPV is determined, how do we track a pended IPV?

A. If the individual is still living with the assistance unit and has an inactive line on the DSS-3209 (upstate) or DSS-3517 (NYC), the pended IPV can be included on that line. Example of this would be a non-legally responsible caretaker relative, or a (now) SSI parent who must be included on the 3209 for federal reporting purposes (08/04) individuals.

If the case is closed, do closed case maintenance and enter the pended IPV code on the individual's line. This will allow other SSDs in which the individual may apply to know that a pended TA IPV exists.

56. Q. How do we enter a pended IPV code when the individual was deleted from a multi-person case that is still active? There is no line on which to add the pended IPV code.

A. The only way that the pended IPV information can be entered in such a situation is to do an open/close transaction on a dummy application for the IPV individual.

57. Q. If the individual in a multi-person household is found guilty of an IPV for TA but not for FS, how is the FS case effected? Can we still provide FS through the TA case or do we have to open a separate mixed FS case?

A. When a person in a multi-person household is found guilty of an IPV for TA but not for FS, the FS benefit may not increase due to the temporary assistance sanction and the resulting decrease in TA income. To prevent the increase in food stamp benefits, workers must:

For upstate, open a FS-mix case type "32", if this was not previously a FS-mixed case, and identify the amount of reduced income caused by the TA penalty. This is done by comparing the household's TA income before the penalty with the household's TA income after the penalty is imposed, and add the amount of the reduced income found in step 2 to the household's FS income on the ABEL FS input screen using unearned income type code "40 - TA sanction amount".

The income of the individual deleted from TA is counted in full if the person is not also sanctioned for FS. The household is eligible for all allowable deductions (earned income, utility, medical, dependent care, excess shelter) in their entirety.

For NYC cases, the individual would be sanctioned for TA and remain with a FS active status. Workers should enter the amount of the semi-monthly TA Budget Deficit for the current authorized budget in the INCOME:GROSS field associated with the INCOME:SRC field where Income Source Code 42 has been entered on the Individual Screen (NSBL06) of the sanctioned individual. Source Code 42 and the amount of the current budget deficit can only be entered in one of the top three income fields on the Individual Screen (NSBL06).

The system will subtract the amount entered with Income Source Code 42 from the amount of the newly calculated budget deficit and apply the difference as unearned income in the calculation of Food Stamp benefits.

58. Q. If an individual has a pended IPV and applies for emergency assistance, is he/she eligible?

A. The individual who applies and is found eligible for emergency assistance will not get that assistance when a pended IPV exists. His or her eligibility for assistance, including emergency assistance starts the IPV disqualification period. The period of disqualification will run uninterrupted once it starts.

For NYC cases, workers should enter the amount of the semi-monthly TA budget deficit for the current authorized budget in the INCOME:GROSS field associated with the INCOME:SRC field where income source code 42 has been entered on the individual screen NSBL06 of the sanctioned individual.

Note: The individual who is under an IPV sanction is still eligible for Social Services Law 131-s emergency energy assistance.

59. Q. If an IPV is pursued for a person who did not report that the child was out of the household for 45 consecutive days without good cause, would we: a) drop the sanction, b) sanction AND impose an IPV period of ineligibility, c) take an overage?

A. The parent would be ineligible for TA for the appropriate period, for example the child was absent for 2 1/2 months before this absence was reported. The parent is ineligible for three months. Then, if an IPV is also determined, the parent would be disqualified for the appropriate period due to the IPV.

60. Q. Is there a sanction hierarchy that determines which sanction is imposed when more than one sanctionable incident occurs?

A. With two qualifications, sanctions should be imposed in order of occurrence with each being imposed (if still appropriate) when the previous one has ended or been cured.

The two qualifications are:

a. A child support sanction (IV-D) can be imposed even when another sanction is in place.

b. An IPV disqualification must take place within the appropriate timeframes, even if the individual is under a prorata sanction. In such cases, the individual must be removed from the household and case count and the proration indicator associated with the prorata sanction must be deleted. In the event that the individual is under an incremental sanction - already deleted from the household and case count - then the IPV must be pended until the individual is eligible again.

OVERPAYMENT/UNDERPAYMENT

61. Q. When the SSD discovers that a TA recipient received a lump sum after the fact, when does the overpayment period begin?

A. The overpayment period begins from the month of receipt of the lump sum.

62. Q. How is an additional lump sum received during a lump sum overpayment period treated?

A. Although the individual received TA benefits during the overpayment period, the overpayment calculation makes the individual a non-recipient. Therefore, the additional lump sum payment would not be considered for any additional overpayment calculation.

63. Q. When determining the amount of assistance granted that the SSD is recovering under a lien taken in accordance with Social Services Law sections 104, 104-b and 106, must a SSD include employment supportive services payments to the family?

A. No, the SSD may not include supportive services payments when determining the amount of assistance to be recovered. These payments are not considered assistance and care for the purposes of lien recovery.

64. Q. When calculating an overpayment due to fraud, are earned income tax credits that are received as advance payments (in the client's paycheck) counted as part of the gross income?

A. For both TA and FS, an EITC is never counted when determining eligibility or the amount of assistance. Therefore, the EITC is not counted in fraud cases where the earned income is not reported to the agency.

65. Q. If a non-filing unit caretaker is included in the TA case for the child (for example, an uncle) and that caretaker does not report income, how is the overpayment calculated? Do we consider the assistance provided to both the caretaker and the child an overpayment, or just the caretaker's portion?

A. If the caretaker is not a legally responsible relative or mandatory filing unit member, then we could not count his income against the TA needs of the child. So, we would have to calculate the overpayment as we would have if we had known about the income at the time. If we had known about the income at the time, we would have deleted the caretaker and provided assistance to the child. We would do the same thing when calculating the overpayment in this situation.

66. Q. When determining the amount of an unreported income overpayment for TA, we use the actual income rather than the average anticipated. Should we use actual income for determining overpayments which were the result of an agency error when we have the information but failed to act on it timely? In unreported income situations we are likely to have documentation of the actual income; in agency error situations, we would not.

A. TA always uses actual income to determine overpayments regardless of whether the client failed to report income or the agency made an error. In calculating an unbudgeted income overpayment, the SSD must determine the actual income to calculate the overpayment - either to the client failing to report or to the worker failing to act timely.

67. Q. Can you split an IPV overpayment (or any overpayment) amount between two cases if members of the overpaid unit are now in separate cases?

A. Yes, it is possible under current TA and FS regulations. Social service districts must be very cautious about HOW this is done. For example, if CAMS is used, the entire balance should be posted for both cases. As recoupments are taken from both cases, they are posted to the overpayment/claim on CAMS. The overpayment collection account will be closed when the full amount is recovered. If CAMS is not used, SSD procedures must be very tight to avoid recovering more than the total overpayment.

68. Q. What should the SSD do if more than the total overpayment is recovered?

A. The SSD should review its procedures and make appropriate changes to ensure that such a mistake is not repeated. Any amount collected over the total overpayment amount owed must be returned to the recipient (or former recipient). This is true unless a recipient (or former recipient):

· Has a subsequent overpayment, and

· Has received appropriate notice about the overpayment, and that the collection will begin when the existing overpayment has been collected.

In that situation only, the excess collected may be applied to the next overpayment.

69. Q. Can any type of benefit underpayment be applied against an overpayment?

A. No, there are exceptions. No current month underpayment can be applied to an overpayment. Quarterly reporting hardship supplements cannot be applied to overpayments.

RESOURCES

70. Q. Can a deed or mortgage be taken on the real property of the SSI parent(s) of children in receipt of Temporary Assistance?

A. No, the resources of SSI individuals are invisible.

71. Q. Are leased vehicles exempt from the resource limit?

A. Yes.

72. Q. How is the ineligibility period determined for an excess resource?

A. A household is ineligible for each month in which its countable resources exceed the limit. There is no pre-set period of ineligibility for resources - except when a SNA applicant/recipient (A/R) transfers resources for the purpose of qualifying for TA.

73. Q. What do you do if you find out after a SNA case is opened that the applicant was, but no longer is, in possession of resources that would have made him/her ineligible for SNA?

A. Even though you did not know about the resource at the time of application, how the resource was used makes a difference. If the resource was transferred within one year for the purpose of qualifying for SNA, the case is ineligible for assistance. This includes both SNA-FP and SNA-FNP. The full amount of assistance granted would be recoverable and the case would be ineligible for one year from the date of transfer. If the transfer was not made for the purpose of qualifying for SNA, such transfer does not constitute a basis for denial, and no recovery is attempted. PASB section IX-C-10 and 18 NYCRR 370.2(b)(6) addresses the transfer of resources policy for SNA.

As stated in the answer to Question 72, a household is ineligible for each month in which its countable resources exceed the limit.

74. Q. Does the amount of the transferred asset make any difference in the disqualification period?

A. No, provided that if the value of the asset (plus other resources) exceeds the resource limit, then the amount of the non-exempt resource transferred makes no difference. The SNA case will be ineligible for the entire period of one year from the date of the transfer.

75. Q. Is a "matching grant" provided to a refugee by a sponsoring agency counted as income?

A. Yes, if it is paid to the refugee applicant/recipient to cover basic needs.

76. Q. Is an employed, sanctioned household member entitled to the earned income disregards?

A. Yes, if timely reporting requirements are met.

77. Q. Is a sanctioned pregnant individual entitled to receive the pregnancy allowance?

A. If it is a pro-rata or an IV-D sanction, the pregnancy allowance continues to be included in the standard of need. If it an incremental sanction, the pregnancy allowance is removed from the standard of need.

78. Q. Are all FA cases eligible for the earned income disregard, even if there are no children on the case (i.e. pregnant woman or adult only)?

A. Yes, only SNA cases require a dependent child who is applying for or receiving assistance.

79. Q. How is a SSI presumptive eligibility grant treated when it is received as a lump sum and intended to cover previous months?

A. The grant must be treated as SSI income in the month received and exempt as a resource for the following month. After the exempt period, the resource must be considered available for all household members unless the individual receives on-going SSI benefits. When an individual receives on-going SSI benefits, the income and resources of the individual are exempt indefinitely. This is consistent with our policy that a person is not a SSI recipient until the actual receipt of SSI monies (SSI lump sum policy).

80. Q. Is the fuel allowance included in the standard of need?

A. Yes, if the applicant/recipient incurs a fuel cost and meets the customer and tenant of record requirement.

81. Q. Can the SNA Plan of Self-Support be used to exempt the income of employable substance abuse clients in order to stabilize their environment to promote self-sufficiency?

A. Yes.

82. Q. In 90 ADM-8 "Emergency Shelter Allowances for Persons with AIDS or HIV-related Illness Faced with Homelessness", an income comparison must be completed to determine the eligibility for, and amount of, an emergency shelter allowance. Is the TA income counted prior or after a recoupment?

A. TA income is determined before any recoupment or restricted amounts.

83. Q. How is a shelter expense calculated when shelter is provided in-kind for a service?

A. Budget the value of the shelter as a shelter expense on the ABEL budget using the estimated value from the client/landlord. Count that same amount as earned income and apply all applicable disregards.

84. Q. Does initial month budgeting apply to room and board situations?

A. A recipient in a room and board (R&B) living situation receives a benefit that consists of two components: a R&B allowance and a personal needs allowance (PNA). The R&B allowance is subject to proration in accordance with date specific eligibility rules, as detailed in 92 ADM-30 and PASB XII-A-4. The PNA is not subject to date specific eligibility rules. In other words, the initial recurring budget would reflect a R&B benefit based on the application of the recipient's payment (if any) of the initial month's actual R&B. The PNA would not be prorated for the initial month of eligibility. Therefore, a full PNA would be in the standard of need for the initial eligibility month. Automated Budgeting and Eligibility Logic (ABEL) supports this policy and therefore, no manual calculation is required or should be completed in order to determine the PNA for the initial month of eligibility.

If the case closed during a month, the shelter would be subject to date specific eligibility rules, and be prorated from the first of the month to the effective closing date. However, the PNA would not be prorated. If the case is closed prior to the issuance of the second semi-monthly PNA, the second half of the PNA does not have to be provided after the effective closing date.

Note: If the case was not physically closed after the effective closing date, a shelter overpayment will have occurred from the effective closing date to the actual closing date. However there would not be any PNA overpayment for the month in which the effective date occurred.

85. Q. How is SSI invisibility handled in SNA case types 16 and 17?

A. For case type 16 and 17, the SSI individual is not "invisible". Rather, the family, including the SSI individual, are budgeted according to 94 ADM-10. This budgeting methodology is referred to as Rice budgeting after the court case of that name.

86. Q. If the SSI recipient also receives Social Security Disability, do we count the disability payments or earnings against the other SNA household members?

A. In any month that the individual receives both SSI and disability, the individual's income and resources will not make the other case type 16 and 17 family members ineligible. However, the individual is not invisible. For example, if the household consists of the SSI individual and his spouse, the SSI recipient's share of the TA needs is 1/2 of a 2-person household and his income is counted only against his needs.

87. Q. What are the TA implications of payments resulting from the Dixon, et.al. v. Shalala court order?

A. The court order applies to individuals who are found eligible for retroactive SSI payments, who were not in receipt of full Medicaid (MA) coverage, and are entitled to retroactive coverage/reimbursement by MA for paid or incurred medical services for the time retroactive eligibility for SSI is established. The court decision pertains to the period of June 1, 1976, through July 19, 1983, and some class members (or their heirs) may be due years of retroactive benefits.

We are looking at two types of payments: a retroactive SSI lump sum and a retroactive reimbursement of medical expenses. Unless there is specific language in the court order that exempts these payments from TA considerations, the TA policy implications of these payments are as follows:

· A retroactive SSI lump sum payment to a current SSI recipient has no TA impact unless the SSI recipient's SSI benefit is subject to Rice budgeting, in accordance with 18 NYCRR 352.30(e)(1)(v).

· A retroactive SSI lump sum payment to a TA recipient who is not eligible for or in receipt of an ongoing SSI benefit is counted as a lump sum, in accordance with 18 NYCRR 352.29(h).

· The reimbursement of medical expenses to a TA recipient is exempt if the TA recipient paid the actual out of pocket cost for the reimbursed medical expenses, in accordance with 18 NYCRR 352.16(a). Otherwise, the reimbursement is counted as a lump sum, in accordance with 18 NYCRR 352.29(h).

· There are no issues with reimbursements made directly to the medical services provider to pay an outstanding medical bill.

88. Q. If two or more non-legally responsible TA households live together but are each charged separately for shelter, can each TA case receive a shelter allowance up to the SSD maximum?

A. Yes, if there is a bona-fide separate shelter agreement for each TA household, where the actions of one TA household do not affect the other, each TA household may receive a shelter allowance up to the shelter maximum (this policy was initially set forth in "88 INF-59 Responses to Questions Raised at Bureau of Income Support Regional Meetings", Page 4, Question 10). Each TA household which does not have a separate landlord/tenant agreement is budgeted in accordance with Danks budgeting methodologies set forth in 85 ADM-6 Cooperative Cases (Danks v. Perales).

89. Q. Is there a handout or other information available regarding Earned Income Tax Credit (EITC)?

A. 01 INF-4 contains handouts for the EITC. NYS Tax and Finance issues Publication 310 NY that addresses the NY EITC. They can be reached at 1-800-225-5829. In addition, Federal Tax Form, Publication 596, addresses federal EITC and can be ordered at 1-800-829-3676.

90. Q. Can SSDs utilize private income verification companies (e.g. The Work Number, VeriFacts Online, etc.) as a means of verifying a TA applicant/recipient's income?

A. Yes, because these companies get this information from the employer, we can accept it as documentation/verification of income. Social Services Law 143 requires the officials or executives of any corporation or partnership and all employers of labor doing business in New York State to furnish such information to social services officials upon request. It is our interpretation of this State law that such information must be furnished at no cost to the SSD.

91. Q. Is the earned income of SSI legally responsible relatives applied against the TA case of the relative for whom they are legally responsible? What if the SSI recipient did not report the earned income?

A. As long as the individual is in receipt of SSI, his or her earned income does not count against the other TA household members.

92. Q. Are monies received from jury duty budgeted? If so, as earned or unearned income?

A. Yes, any income that is not specifically excluded, by statute or regulation, is budgeted. Any compensation for performing a service is considered earned income with appropriate earned income disregards.