



George E. Pataki
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Brian J. Wing
Commissioner

Administrative Directive

Section 1

Transmittal:	02 ADM 8
To:	Local District Commissioners
Issuing Division/Office:	Division of Temporary Assistance
Date:	December 4, 2002
Subject:	Repeal of NYCRR 352.31 (b) "Claimant for Income Tax Exemption"
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors CAP Coordinators Medicaid Directors Staff Development Coordinators TOP Coordinators
Contact Person(s):	Central Regional Team at 1-800-343-8859, extension 4-9344
Attachments:	None
Attachment Available On – Line:	<input type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
81 ADM-55		352.30 (a) 351.2(e)(1)		PASB Section XVI-H	

Section 2

I. Purpose

The purpose of this directive is to advise local social services districts that 18 NYCRR 352.31(b), "Claimant for Income Tax Exemption" has been repealed.

II. Background

Previously, 18 NYCRR 352.31(b) required that whenever a person related by blood or marriage was claiming an applicant or recipient as a dependent for income tax purposes, his income tax statement was to be accepted as evidence that he was contributing more than 50 percent of the dependent person's support. The district was then to budget, as available income, a contribution of not less than 51 percent of the dependent person's needs. However, when the legally responsible relative's contribution was determined to be less than 51 percent, but equal to or in excess of the agency's estimate of his ability to contribute, the actual contribution was to be budgeted. When the relative was not legally responsible and refused to contribute the 51 percent, the agency was to adjust the budget in accordance with the amount actually contributed.

This regulation predates the filing unit requirements in 18 NYCRR 352.30(a) and the treatment of income and resources of non-applying or ineligible parents or spouses found in 352.30(e). These supercede and negate 18 NYCRR 352.31(b) regarding legally responsible relatives. Filing unit requirements do not apply to non-legally responsible relatives. Non-legally responsible relatives are not required by law to contribute toward the needs of temporary assistance recipients residing with them, even if they are claiming the recipient as a dependent on their income taxes.

III. Program Implications

With the repeal of 18 NYCRR 352.31(b), it is no longer necessary for local districts to determine if the non-legally responsible relative is claiming the recipient as a dependent on their income tax, or require the non-legally responsible relative to submit an income tax form to demonstrate that their contribution to the applicant/recipient is more than 51 percent.

Local districts can still ask if the non-legally responsible relative is making a monetary contribution to the applicant/recipient. If the non-legally responsible relative claims to be contributing an amount, that amount must be budgeted as unearned income. If the non-legally responsible relative claims not to be contributing an amount, nothing is to be budgeted. Local districts should not give non-legally responsible relatives the impression that they are expected to make such a contribution.

IV. Required Action

Temporary Assistance (TA) cases that have been subject to the budgeting procedures in 18 NYCRR 352.31(b) must be rebudgeted and supplemented as appropriate effective October 16, 2002. If the non-legally responsible relative states that he or she contributes an amount towards meeting the needs of the applicant/recipient, that amount must be budgeted as unearned income. If the non-legally responsible relative claims not to be contributing an amount toward meeting the needs of the applicant/recipient, no unearned income must be budgeted.

V. Systems Implications

None

VI. Medicaid Implications

Repeal of this regulation has no Medicaid implications.

VII. Effective Date

October 16, 2002.

Issued By

Name: Patricia A. Stevens

Title: Deputy Commissioner

Division/Office: Division of Temporary Assistance