Temporary Assistance Questions and Answers

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Budgeting

1.Q. Is gross income used to determine eligibility for Emergency Assistance to Needy Families with Children (EAF)?

A. No. The district must look at the amount of income available to the applying family on the day of application. The available income must be at or below 200% of the federal poverty level for that family size on the date of application. The federal poverty level changes every year on April 1 (see GIS 03 TA/DC 005).

This differs from the 125% of poverty standard used to determine eligibility for Emergency Safety Net Assistance (ESNA). For ESNA, districts must look at the gross income of the applying household, regardless of availability. For both EAF and ESNA, districts must determine if an applicant has sufficient available resources to meet all or part of their needs (see 02 ADM-2). There are no income tests for Emergency Assistance to Adults (EAA).

2.Q. Can a Family Assistance (FA) case based solely on the pregnancy of the employed woman receive the earned income disregard?

A. Yes, if otherwise eligible. All FA cases with earnings receive the earned income disregard. ABEL automatically gives the earned income disregard.

3.Q. Does an untimely report of unearned income result in the loss of earned income disregards?

A. Yes, if an individual with earned income fails to make a timely report of another income source (earned or unearned), that individual would not be eligible for earned income disregards.

4.Q. Is the eligibility for earned income disregards determined on a case or individual basis?

A. Eligibility for the earned income disregards is determined on an individual basis.

5.Q. If the income from wages, UIB, support, etc. is garnished does the district consider the gross income?

A. Yes. The income that has been garnished is counted toward the gross income amount. The only exception to this is SSI income.

6.Q. If someone is receiving monthly "restitution payments" from some source, such as from the probation department, is this budgeted as unearned income?

A. Yes. The payments are counted as unearned income.

7.Q. Can income from tips be determined by budgeting a percentage of the earned income when a client receives tips and provides no verification as to the amount?

A. No. There is no authority to count a percentage if the client does not have a log to record his/her tips. The client should be asked to provide income tax returns. A verbal statement from the client is acceptable regarding the amount of tips if there is no log or employer or IRS data. The worker should not automatically budget a percentage of earned income.

8.Q. Is the intermittent receipt of worker's compensation payments considered a lump sum or income?

A. Regular benefits received on an intermittent basis are budgeted as income and one-time only benefits are lump sums. If the intermittent benefits were received on a periodic basis they would be projected using prospective budgeting average procedures.

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9.Q. How do you budget child support received by a TA household for NTA children living in the household?

A. It is not budgeted. This presumes the filing unit is correctly determined and the NTA children are not errantly excluded.

10.Q. When a person is added to a TA case, how is the underpayment for the initial month calculated (monthly shelter difference and prorated Basic, HEA, SHEA or prorated difference in monthly deficit)?

A. This depends upon the circumstances. If rent has been paid for the month, it would be simply the prorated difference between the BASIC, HEA and SHEA for the number of days of eligibility. If rent has not been paid, it would be the difference between the shelter allowances and the prorated difference between the BASIC, HEA and SHEA for the number of days of eligibility.

11.Q Are no-fault insurance payments for lost wages considered a lump sum or income?

A. If the no-fault payment is received on a one time only basis it would be budgeted as a lump sum. Otherwise, if it were received on a regular basis, it would be budgeted as unearned income

12.Q. How is a recurring annuity payment budgeted?

A. A recurring annuity is prorated and budgeted on a monthly basis during the year in which it is received. For example, a client annually receives an annuity of $3,600. This would be divided by twelve months and $300 would be budgeted monthly as unearned income.

13.Q. How is past child support treated when it is received for an adult?

A. It is budgeted as unearned income.

14.Q. How are adoption subsidies budgeted?

A. Adoption subsidies are budgeted only when the inclusion of the child receiving the adoption subsidy benefits the family financially. In such cases, the needs of the child receiving the adoption subsidy must be included with those of other household members, and the subsidy is budgeted as unearned income source code "01-Adoption Subsidy". If the addition of the child receiving the adoption subsidy does not benefit the family financially, the adoption subsidy is excluded as income and resources {18NYCRR 352.22(p)}. For further information please see 92 ADM-42.

15.Q. A 19 year old applicant and her daughter have left the home of the 19 year old's adoptive mother. This adoptive mother still receives an adoption subsidy of $571.61 per month, which she sends to the applicant's household. Is this money budgeted against the needs of the applicant's entire household, against the needs of the 19 year old, or is it not budgeted?

A. The 19 year old should be excluded from the filing unit and the adoption subsidy payment should not count. TA should be provided for the 19 year old's child only. (Include the individual and the adoption subsidy if the subsidy was so little that the TA household would receive more TA by including the individual and the subsidy payment).

16.Q. Are the funds paid from an irrevocable testamentary trust fund considered exempt income?

A. This would depend on the terms of the trust. A testamentary trust is an irrevocable trust that becomes effective at the time of the grantor's death. The terms of the trust vary from trust to trust. For example, when the agency examines the trust it may provide that $500 per month is to be used for living expenses, which would be countable income for TA. It may be possible for a court to amend some provisions of an irrevocable testamentary trust.

Aliens

17.Q. Is a household with a non-applying undocumented alien member subject to a sanction because the undocumented alien, whose needs and income are considered in determining the amount of assistance granted to the household, cannot provide a Social Security Number (SSN)?

A. 02-INF-40 (Social Security Numbers for Non-Working Aliens) did not clearly explain how the requirement to furnish/apply for an SSN applied to undocumented non-applying aliens. Undocumented aliens are unable to obtain SSNs due to SSA regulations. Therefore they are not required to furnish or obtain an SSN. No adverse action can be taken against the undocumented alien or applying members of the undocumented alien's household for the undocumented alien's failure to comply with furnishing or obtaining an SSN. In addition, if a non-applying household member is an undocumented alien whose needs and income are considered in determining the amount of assistance granted to the household, fails to furnish or apply for an SSN, no adverse action can be taken against the household. Furthermore, undocumented aliens do not

need to provide an SSN in order for eligible household members to receive EAF (undocumented aliens are ineligible to receive EAF assistance).

18.Q. Can an alien be "documented" to stay here but not be authorized by the Bureau of Citizenship and Immigration Services (BCIS) to work? Can SSA provide an SSN to a documented alien who is not authorized to work? Do we assume that "undocumented" persons never have a work authorization?

A. Many qualified alien statuses do not automatically grant work authorization. For example, refugees are eligible for all our programs but do not have work authorization status because they are a refugee. They must apply separately to BCIS for work authorization. SSA provides an SSN to all aliens that need an SSN as a state eligibility requirement for public benefits. The 02-INF-40 informed districts of this SSA procedure. Undocumented individuals have no legal status and cannot apply for work authorization.

19.Q. Can an alien who has a deportation order but who cannot be deported because the USA does not have a diplomatic relationship with the country of origin (Vietnam, Cuba, etc.), receive TA?

A. The lack of diplomatic relations does not prevent the U.S. from deporting someone. Sometimes a person will be deported to another county that will accept him or her. In order to be eligible for TA the individual would have to be either paroled into the U.S. or have a judge's order withholding deportation.

20.Q. What are the consequences when an alien parent refuses to document his or her alien status?

A. The individual is treated as an ineligible alien.

21.Q. Is an ineligible alien eligible for the shelter and fuel allowance for children in foster care?

A. The child is eligible for the shelter and fuel allowance, not the ineligible alien.

Sanctions

22.Q. If a pregnant applicant/recipient is subject to a sanction, can the case receive a pregnancy allowance?

A. No. The pregnancy allowance is granted based on the additional needs of the pregnant recipient. If the individual with this need is subject to an incremental sanction, her needs are no longer considered. The pregnancy allowance is removed from the budget. However, if the pregnant recipient is subject to a pro-rata sanction, the pregnancy allowance is included in the budget.

23.Q. When a person is sanctioned from a TA case can the case still receive the earned income disregards?

A. Yes, if otherwise eligible. In accordance with 01 INF-12 and 92 ADM-20 when a person is sanctioned from a TA case all of the person's income, after appropriate disregards, must be budgeted against the remaining household members.

24.Q. How are multiple IPVs tracked for closed cases?

A. Workers may utilize closed case maintenance; the original individual reason code is changed to the appropriate pending IPV individual reason code.

25.Q. When a case is opened and then subsequently found to have a pended IPV, what is the beginning date of the overpayment?

A. The overpayment is calculated from the date the IPV should have been imposed, which is the date of eligibility.

Shelter and Utilities

26.Q. Are persons residing in non-traditional dwellings (houseboat, tent, etc.) eligible for emergency or ongoing TA benefits?

A. Yes, if otherwise eligible.

27.Q. Can a district pay for out of State removals?

A. Yes, in accordance with SSL 121 and 18 NYCRR 352.7(o). See 02 INF-39 for further details.

28.Q. Are non-traditional primary dwelling units (camping trailers, houseboats or tents, etc. eligible for a heating allowance?

A. Yes, if the recipient is otherwise eligible.

29.Q. Can a district pay to re-house an applicant whose water service has been terminated for non-payment?

A. Yes. A district may meet an emergency/immediate need by re-housing an applicant whose water service has been terminated for non-payment and when health and safety issues are present.

30.Q. An SSI individual lives in a residence that is condemned by code enforcement because of dirt and accumulated trash. The housing accommodation is otherwise a good one and affordable. Can a district use EAA to pay to have the trash removed and the place cleaned?

A. No. EAA cannot be used for such a payment. However, payment may be made under Emergency Safety Net Assistance. If the individual is a renter, the district may pay under NYCRR 352.6 (e), which allows for the repair, maintenance and retention of housing occupied by, but not owned by a recipient of temporary assistance. If the individual is a homeowner, the district may pay

under NYCRR 352.4 (d)(4) “repairs essential to the health or safety of the applicant/recipient.”

31.Q. If a utility account is guaranteed and the customer does not pay the utility bills during the guarantee period, must DSS also pay the late fees? There’s no authority for districts to pay.

A. No. Miscellaneous charges such as late payment fees, reconnect fees, marshal fees, deposits, etc. are not payable.

32.Q. When a homeless person is in need of a temporary housing accommodation, can a district tell the individual to go to a homeless shelter that takes anyone and not verify each time a referral is made to that shelter?

A. A district must make sure that any resource is actually available to meet the emergency need. The district must contact the shelter to determine if the applicant for Temporary Housing Assistance will be accommodated and if there are any restrictions that may apply. For example, does the shelter require individuals to appear before a certain time in the evening in order to be accommodated? If so, will the applicant be able to meet the requirements?

33.Q. In the past, ABEL edits would require entry of an amount or zero in the rent paid field. Those edits are no longer active. Has there been a change in policy regarding budgeting of the first month’s shelter expense when opening a case?

A. No. Workers must still enter an amount or zero in 1st month field “if Transaction Type=02 or 10” on the ABEL budget and, if a dollar amount is entered, indicate if the amount was paid from income “I” or resources “R”. The reason that the edits do not force entry is that the current ABEL software reads a blank and zero as the same thing.

34.Q. If a client applies for and is eligible for EAF to help with an eviction due to arrears, including the current month, is the rent recoverable? If the arrears payment were a diversion payment, would the current month’s rent be recoverable?

A. Yes. According to NYCRR 352.7 (g) (3) (v) a district may issue an arrears payment in excess of the monthly shelter allowance under certain circumstances listed in the regulation. However, any amount above the local agency maximum monthly shelter allowance paid toward the monthly arrears is an overpayment subject to recovery and recoupment.

A diversion payment to a family for rental arrears would be handled the same way because diversion payments for families must comply with all EAF eligibility requirements.

35.Q. Can a district pay for storage fees for a family that places their furniture and belongings in storage before they apply at the SSD and are placed by the SSD?

A. Storage fees must be paid when storage of personal belongings becomes necessary due to relocation, when someone is evicted and is not moving directly into permanent housing and when someone is in temporary housing (for whatever reason). In the circumstance described in the question, the district is not required to pay toward the storage bill for the time period prior to the person applying for storage. However, depending upon the circumstances, the district may determine that it is best to keep the furniture and personal belongings in the same storage facility and pay the arrears. The storage must be paid from the time the family requests it and is eligible for it and for as long as eligibility for TA and the circumstance necessitating the storage continue to exist. (See NYCRR 352.6(f) and 88 INF-59.)

36.Q. When a homeless family is placed by the local district into a shelter that is outside of the original school district, where should the child attend school? And can the school district refuse to take a homeless child who is temporarily placed within the school district?

A. 95 ADM-3, "Education Transportation for Homeless Children", outlines the policy on homeless education as far as where the homeless child may attend school and who is responsible for paying the transportation costs to school. When a homeless family is placed outside of their original school district, they may choose to send the child to attend either school district. They can either choose to attend the original school district (in which case the local district would be responsible for transportation costs) or they can choose the school district of current location (in which case the school district is responsible for transportation costs). If the family has not been placed by the local district (i.e. moved on their own) or is ineligible for temporary assistance, then the responsibility for the transportation of their children rests with the school district.

The McKinney-Vento legislation requires school districts to admit homeless children immediately regardless of the State or local laws and policies. If a local district is informed that a school district is denying a homeless child access to education within the school district, the social services district should contact OTDA Division of Temporary Assistance to assist in resolving the discrepancy.

37.Q. Is life use of real estate considered client owned property of the life holder, specifically, to receive an allowance for property repairs?

A. A life estate is a limited interest in real property. A life estate holder does not have full title to the property, but has the use of the property for his or her lifetime, or for a specified period. The life estate holder has the obligation to pay "charges", such as taxes, mortgage interest, insurance repairs and maintenance, unless the life estate agreement states otherwise. The life estate holder may be eligible for property repairs in accordance with NYCRR 352.4(d).

38.Q. A client performs work for his room and board and is issued a stipend. How is this budgeted?

A. The value of the "in-kind" work for his room and board determines the shelter cost and amount of earned income budgeted for the case (01 INF-11, Q&A

#83). If the stipend is a bona fide stipend, a reasonable amount earmarked to meet specific expenses directly associated with the program (lunch, transportation, etc. – NOT living expenses) may be exempted as income in accordance with 18 NYCRR 352.16(a). Otherwise, it is budgeted as unearned income (ABEL code "99").

39.Q. How are room and board rates determined?

A. 18 NYCRR 352.8(b) specifically addresses the establishment of allowances for individuals or families residing in room and/or board situations to cover the cost of board, room rent and other expenses, except where such allowances are furnished by a legally responsible relative or a recipient of temporary assistance.

This regulation states that if the recipient is purchasing room and/or board from an individual, family or a commercially operated boarding house, such allowance cannot exceed the sum of the Statewide monthly grant and allowance (commonly called the basic or pre-add allowance), the Statewide monthly home energy allowance (HEA), the Statewide monthly supplemental home energy allowance (SHEA) and local agency maximum monthly shelter allowance with heat included. However, if the room and/or board are purchased from a not-for-profit agency, this limit does not apply and, therefore, the monthly allowance may exceed this sum. This is true whether the not-for-profit agency is providing temporary housing or permanent housing. If the not-for profit agency is providing three meals a day (board) then the social services agency must negotiate a rate for room and board with the not-for-profit agency. This rate can exceed the limit stated above for room and board provided by an individual, family or a commercially operated boarding house. In addition to this negotiated room and board rate, each recipient in this arrangement is entitled to a personal needs allowance (PNA) equal to forty-five dollars a month per person.

If the not-for-profit agency is charging a room rate only and not providing board (less than three meals a day), the local social services agency must negotiate a room rate with the not-for-profit agency. Again this room rate can exceed the maximum monthly shelter allowance. In this situation the recipient or recipient family would also receive the basic allowance, the home energy allowance and the supplemental home energy allowance for their family size. In addition, if the not-for-profit agency was providing less than three meals a day and there were no cooking facilities available to the individual or family, the individual or family would be entitled to an appropriate restaurant allowance.

40.Q. 18 NYCRR 352.3(b) states that a water allowance is provided when the "recipient is obligated to pay water as a separate charge to a vendor". Are OTG cases eligible for a water allowance?

A. No, the caretaker is not a recipient.

41.Q. For people whose emergency can only be met by Emergency SNA, do the 125% poverty standard figures apply for SNA applicants who are in need of a repair/replacement to recipient owned property?

A. Yes. However, there are two exceptions to the ESNA 125% of poverty standard:

1. Emergencies that are a result of a fire, flood or similar catastrophe.
2. Energy emergencies authorized under 18 NYCRR 352.5(c), (d) or (e).

Since the authority for furnace repair/replacement is 18 NYCRR 352.4, 352.6(e), 352.7(b), 372.4(b) and 397.1(b), ESNA applicants for furnace repair/replacement are subject to the 125% of poverty standard.

42.Q. What are the consequences if a non-legally responsible adult refuses to sign a shelter or utility repayment agreement?

A. The adult applicant or his/her spouse must sign the agreement or the entire household is ineligible for the emergency payment.

43.Q. Can TA recipients rent dwelling units (rooms, apartments, etc.) to another TA recipient?

A. Yes. But these cases must be either cooperatively budgeted or budgeted according to emergency housing guidelines. This is longstanding TA policy and is not a change.

44.Q. Are non-cash SNA energy reconciliation underpayments sent to the recipient or vendor?

A. The district must either apply the underpayment against any outstanding overpayment or, if there is no outstanding overpayment, then the district must issue a refund to the recipient. If the overpayment is less than the underpayment, the district may apply the underpayment against the overpayment and refund the remainder of the underpayment to the recipient.

Resources

45.Q. What vehicle resource exemption amount does a district apply if a formerly employed TA recipient becomes disabled?

A. The exemption amount depends on the length of the time the recipient is out of work. If the recipient is not expected to return to work, the district must apply the $4,650 exemption amount. If the recipient is only temporarily disabled and is expected to return to work in a reasonable time, the district must continue to exempt $9,300 or the higher value as determined by the district.

46.Q. If an SNA applicant/recipient transfers real property how long will the case be ineligible to receive SNA, including case type 12?

A. The case will be ineligible for one year from the date of the transfer.

47.Q. Is accrued interest on an exempted resource also exempt?

A. This would depend upon the specific circumstances. Normally, accrued interest on an exempt resource is countable unearned income in the month received and countable toward the resource limit in ensuing months. However, this is not always true. Districts need to review the particular statutory or regulatory

authority that provides the exemption for the resource to determine if the interest is exempt. For example, the interest earned on EITC deposited in a segregated bank account is not exempt from the TA income and resource levels. However, the interest earned on a Supplemental Needs Trust (SNT) is exempt from the TA income and resource levels

48.Q. When an exempted resource is used to purchase another resource, is the newly purchased resource exempt since it was purchased with exempted funds?

A. It depends upon whether the newly purchased resource is exempt or not.

49.Q. When a recipient wins a game prize (a trip with hotel, plane fare, meals, etc.) would the value be counted as income to the household?

A. No, not if the in-kind prize is not readily convertible to cash and the winner has no ability to take cash instead. If there is an option to take cash instead of the prize, the prize is then readily convertible to cash and the value is readily ascertainable and counted as a lump sum.

50.Q. Are the available resources of a SSI recipient exempt for EAA?

A. Only those resources above the allowable resource limit for SSI are considered available to meet the emergency needs of applicants for EAA.

51.Q. Is real estate that is separately deeded and taxed, but is contiguous to the homestead property, subject to 18 NYCRR 352.23 (b)(6), the non-homestead property rules?

A. Yes. However, there could be an exception to this if it would not make sense to separate the properties. In any cases involving non-homestead real property, if the value of the non-homestead property (when combined with other assets) is less than the resource limit, the requirement to make the effort to sell it does not apply. Therefore, the property that is non-homestead would be subject to the six-month provisions as long as it was over $2,000 in value.

52.Q. If an applicant/recipient has the ability to sell their interests in a recurring resource (i.e. annuity, lottery, insurance) payment for a one time payment, is the resource considered available and can the district require the applicant/recipient to sell their interests? Can the case be denied/closed due to available resources? And when the upfront payment is received, how is it counted against the case?

A. Yes. If the terms of the resource payment allows for its sale, the equity value is a countable available resource and the district can require its liquidation. The payment realized from the sale continues to be counted as a resource subject to the resource limit.

53.Q If a judgment is satisfied by the profit realized from the sale of real property, is the profit considered a resource?

A. No. If a judgment is satisfied, the person against whom the judgment was executed will have received documentation the judgment was satisfied (amount and when). If the profit satisfied a judgment, there is no available resource to consider. However, If only a portion of the profit satisfied the judgment, the remainder is considered a resource.

54.Q. Are pets with a verified value subject to the resource limit?

A. Normally pets are not subject to the resource limit. Pets are ordinarily considered resources that are essential for day-to-day living. However, there could be unusual and extraordinary exceptions. For example, if a family inherited a $500,000 thoroughbred horse, which they considered a pet, this would be a countable asset.

Recovery

55.Q. What interim assistance benefits can be recovered?

A. 18 NYCRR 353.1 states that any payment for basic needs made from State or local funds is recoverable. This includes non-federally participating Safety Net Assistance. No portion of any benefits financed in whole or in part with federal funds are recoverable. This includes benefits paid under Family Assistance, Emergency Assistance to Families (EAF) and employment payments financed in part with federal funds.

56.Q. If an OTG case was overpaid, from whom can the overpayment be recovered?

A. The agency cannot recover from the OTG grantee, since the grantee is not receiving TA. However, the grantee can be asked to refund the benefit and the fraud-recovery unit can determine whether a fraud action is appropriate. The agency can recover from the child through recoupment.

57.Q. An OTG case was overpaid when the OTG child was a minor. The OTG case has been closed and the child is now an adult applying for assistance on his/her own. Can the overpayment be recouped from the new case or is the original OTG grantee solely responsible for this overpayment?

A. The overpayment can be recouped from the new case. 18 NYCRR 352.32(d)(1) discusses recovery of overpayments and states that a district shall recover from "any individual members of the overpaid assistance unit whether or not currently a recipient".

58.Q. Can a district recover from interim assistance, a person's outstanding overpayment?

A. Districts cannot recover an overpayment of HR or SNA for a period of time prior to the start of the interim assistance reimbursement (IAR) period. The interim assistance program only allows states to recover assistance they provide while an SSI application is pending.

59.Q. Is there a remedy to recover Interim Assistance when the client received the initial Interim Assistance check?

A. No, other then requesting the client to repay.

60.Q. Is the retroactive time period for calculation of an underpayment or overpayment limited?

A. No.

61.Q. Are individuals who spend extended periods of time out of state considered temporarily absent?

A. Yes, if they intend to return to New York State and they meet all of the requirements in 18NYCRR 349.4.

General

62.Q. In order for a caretaker to receive TA for a child in his or her care, must the caretaker provide custody papers?

A. No, custody papers are not required. This is true whether or not the caretaker is related to the child. Whenever there is concern for a child's health or safety, a referral must be made to Services for an assessment of the situation.

63.Q. Can a TANF funded payment be authorized for winter camp?

A. Yes. 18NYCRR 352,7(l) allows once a year payments for "camp fees" up to $400.00 a year.

64.Q. Under what TA categories are camp payments allowed?

A. Camp fees are allowed for TANF funded assistance categories, including EAF in emergency situations.

65.Q. How is a "relocation payment" handled when it is issued by another state to a household who has signed an agreement not to receive cash assistance in that state for a specified time period handled if they apply for TA in NYS?

A. In accordance with 00 INF-16, if the payment was intended to meet basic needs for a specified time, the payment would be prorated and budgeted as unearned income source "99-Other" over that period. If the payment was intended to fully or partially meet the needs of the move (i.e. transportation, security deposit, first month's rent, etc.), the verified portion used to meet the needs of the move is exempt.

66.Q. Can an older sibling stay on the FA case as an EP? And is this a district option?

A. While EPs are not allowed on an ”adult” only case (unless the child is receiving SSI), EPs, if otherwise eligible, are allowed on an OTG case when there are active FA minor children in receipt of TA. According to 18 NYCRR 369.3(c)(2), who is essential is up to the household. The person is an EP unless the household states otherwise. Therefore, if either the household or the EP does not want that arrangement, the district would have to honor that decision.

67.Q. Local districts are told to keep a copy of the LDSS-3209 authorization document for so many years as an audit trail. If a district does not do direct data entry, is it still necessary to keep this document? If the district can track authorization to a WMS terminal and sign on, it seems that the document itself is not necessary.

A. Under record retention guidelines, authorizations have to be retained for six years. This is considered a payment document and therefore a critical piece of financial information. Even under direct data entry, the worker has to sign an authorization; either the “dirty” copy with changes or the system generated one. If a district has a waiver where the supervisor does not sign each and every authorization, the supervisor still should sign a sample of authorizations so that the worker knows any authorization is subject to some scrutiny. These steps are needed as a deterrent to possible worker fraud. Fraud has occurred in some districts. The authorizations need not be kept in the case record as long as there is a process that the authorizations can be easily retrieved. Accounting should be receiving these so their copy would be sufficient as long as that copy can be retrieved if there were any questions. Districts are encouraged to explore imaging documents.

68.Q. Is a fleeing felon eligible for EAF?

A. No.

69.Q. Is a fleeing felon eligible for EAA, since EAA is not assistance or care?

A. Yes, if otherwise eligible.

70.Q. Can AFIS be used to verify a recipient’s identity (for EBT replacement cards)?

A. Yes.

71.Q. Can a diversion payment for a car repair be denied if there is public transportation available to the applicant?

A. Yes, but this would depend upon the specific circumstances.

72.Q. What are the notice requirements for a change in the method of making a restricted payment?

A. The notice must be adequate since this is not a change in the manner of payment (both two party checks and direct vendor checks are restricted payments).

73.Q. Can a stepparent receive a visitor's allowance?

A. Yes. Any caretaker on assistance can receive a visitor's allowance when appropriate.

74.Q. Is an IPV sanctioned person eligible for earned income disregards?

A. Yes, if other wise eligible.

75.Q. Are OTG cases subject to the transition rule when they move from one county to another?

A. Yes. When an OTG case moves out of district, the from district is responsible for the month of move and the month following.

76.Q. Is finger imaging a TA requirement for the adult grantee of an OTG case?

A. No.

Application Issues

77.Q. If a pregnant woman with no other children and her boyfriend apply for assistance, under what category does the district grant assistance, if they are otherwise determined eligible?

A. A woman, with a medically verified pregnancy is eligible to receive assistance under Family Assistance (FA), if she has not exhausted her State 60-month time limit. If the boyfriend acknowledges paternity in writing, he is also eligible to participate in the FA case. If he does not acknowledge his paternity, he must be a SNA recipient. He cannot be an essential person on the FA case since there are no other children in the case until the child is born and added to the FA case.

78.Q. What minimal documentation is an applicant for an immediate need required to produce?

A. It is reasonable to expect the applicant to have minimal documentation to establish his/her identity, family composition and lawful residence within the U.S. Districts must provide a reasonable allowance to persons unable, for reasons beyond their control to produce such documentation. Districts must accept collateral sources. Districts must deny assistance for failure to cooperate when applicants are unable to explain why they cannot produce documentation or those who refuse to provide collateral contacts without good reason.

79.Q. If an FA applicant loses FA eligibility during the application period, is the application subject to the SNA 45 day application period?

A. This was answered previously in a Dear Commissioner Letter dated January 29, 1998. If an FA applicant loses FA categorical eligibility before compliance (the date he/she becomes a recipient) then he/she is subject to a 45-day wait. For

example, a husband, wife and their 17-year-old child apply on April 8th. They are scheduled to submit their final documentation on April 17th. On April 13th, the 17 year old decides to leave to live on his own (with no intent to return). The husband and wife must now wait the remainder of the 45 days for non-emergency benefits (April 8th to May 22).

80.Q. Can an applicant who has full custody of a child apply for assistance for himself/herself and the child even when the child is temporarily living with another relative?

A. Yes, the child may be temporarily absent from the care of the applying parent. Districts must determine if the child has resided with the applying parent. They must also identify who has actual custody of the child. For example, if the applying parent temporarily placed the child in the care of the other non-applying parent to prevent the child from becoming homeless, the district should consider the child temporarily absent. If the child has resided with the other parent on a continual basis, attends school where the non-applying parent lives for example, the district must consider joint custody issues (see 95 INF-45).

81.Q. When does the daily count begin for the seven-day requirement for an eligibility interview?

A. The district has seven working days to complete the TA eligibility interview when the completed and signed application is submitted to a district representative.

82.Q. 18NYCRR 350.4 states that "When a case has been denied, reapplication within 30 days does not require a new state prescribed form." Do these 30 days apply to the original application or to the date of denial? If the previous application is used, does the recipient still have to complete other certification and employment requirements?

A. The "30 days" means 30 days from the denial date. Even though a new application form is not required if someone reapplies within 30 days of being denied, it is still a new application and all of the requirements that are imposed upon an applicant still apply (45 day wait, application registry etc.). The information on the previous application must be updated if the circumstances have changed since the last application and the applicant must re-sign and re-date the previous application.

83.Q. When a client comes here from another state and at his/her FEDS appointment tells the investigator that he/she came here solely to receive temporary assistance, is there a valid closing/denial code or are we required to open them?

A. The individual/family has the right to live where he or she chooses. The otherwise eligible individual or family cannot be denied because they came to New York to receive TA. If the person/family had received an incentive payment from another state intended to cover living expenses for a specified period of time, or an individual is a fleeing felon, or ineligible for 10 years due to receipt of assistance in more than one state, etc. those facts must be considered.

84.Q An FA household applies for assistance on 9/30. The parent is given a job search to be completed by 10/10. The individual returned the job search on 10/10 with all other documentation necessary to open the case. However, the district sent verifications to the employers to validate the job search and found (on 10/17) that it was not valid. The case had not been opened yet. Should the case be opened and the individual sanctioned?

A. The individual is an applicant and the application should be denied for failure to do a valid job search. 18NYCRR 351.8 (b) states that the decision must be made within 30 days from the date of application for FA, so verification of the job search must be done in time to accommodate that requirement.

If the job search were validated, the case would be eligible from the date that the documentation of TA eligibility and the job search information was received by the district. In this example, the date of eligibility is 10/10.

85.Q. Is the local district under any obligation to provide assistance during the 45-day application period for an SNA applicant in a Level II Congregate Care facility?

A. The 45-day application period **does not** apply to payments required to meet emergency circumstances. An emergency circumstance includes the lack of items necessary for health and safety. Items necessary for health and safety include residential drug treatment. Therefore, when there are no resources available for the applicant to meet the emergency circumstance, the local district has the obligation to make payment (92 ADM-26, IV, A and 93 INF-11, Attachment A, page 5, #23 and page 8, #28). Thus, payments to the facility must be made during the 45-day period and the PNA may be provided on a case-by-case basis as necessitated by individual emergency circumstances. In addition, under 18 NYCRR 352.8(e) districts must pay the cost of a Level II facility for the entire month of SNA application acceptance (the initial month of ongoing eligibility) if necessary to retain shelter. Districts must also pay for Level II shelter costs in a month prior to application acceptance (but not prior to the date of application) when payment is necessary to retain the shelter and it receives supervisory approval in accordance with the standard noted in the regulation cited above.

86.Q. Do local districts receive State reimbursements for payments issued during the 45 day SNA application period?

A. 18 NYCRR 351.8(c)(3) states that "State reimbursements will not be made for payments to HR (now SNA) recipients for periods prior to 45 days from the date of application unless such payments are required to meet emergency circumstances or to prevent eviction". In practice, the regulation means emergency needs must be met during the 45-day application period and the local district **will** receive State reimbursement (92 ADM-26, IV, A).

87.Q. Can a TA application be denied for a probationer/parolee if the terms of the probation/parole state that the person cannot apply for TA?

A. No. There is no authority to deny an application because someone will violate probation/parole. The determination of who is violating probation or parole is not appropriate for the local district to make. However, the agency should make clear to the person that a parole/probation violation will result in a loss of welfare eligibility and possible loss of freedom.

88.Q. A minor child is a TA recipient in the household of his/her parent that is on parole/probation. The terms of the parole/probation state that the parent cannot apply for welfare. What is the impact on "filing unit" requirements?

A. The parent must apply for assistance or the entire filing unit is ineligible.

Category

89.Q. Can a caretaker who is a second cousin to a child be considered an FA caretaker relative?

A. Yes. Districts may find categorical eligibility when they can document that the adult caretaker is related to the child by any degree of blood, marriage or adoption unless 18 NYCRR 369.1(b) specifically prohibits categorical eligibility for the relationship. For example, 18NYCRR369.1(b)(3) allows the relationship of the child's stepfather, stepmother, stepbrother, stepsister, but no other step-relative. Districts may refer to 00 INF-6 "Verifying Relationship pf the Caretaker Relative to the Child" for the minimum documentation required to verify relationship.

90.Q. A grandmother receives Social Security Disability and lives with her two grandchildren whom she adopted. They receive some Social Security benefits also. A third grandchild, sibling to those who are adopted, has moved into this household but the grandmother does not adopt this new addition. Is there a filing unit situation here? Is the grandmother financially responsible for the third grandchild?

A. The fundamental principle of the filing unit is that an application for (TA) that includes a child under age 18, must also include that child's blood-related or adoptive siblings (who are also under the age of 18) and natural or adoptive parents who are living with the child. Together all these individuals comprise a single filing unit and the income or resources of <u>any</u> unit member are counted against the <u>whole</u> unit. Each member required to be in the filing unit must cooperate in establishing TA eligibility or the <u>entire</u> unit is ineligible for TA, except when specific eligibility requirements are specified in law or regulation as sanctionable (such as liens, IV-D, SSA, etc.).

In your scenario, the TA application is for adopted children (w/o adoption subsidies) in the household of the adoptive parent (grandmother). The blood-related minor sibling, the adoptive parent, adopted children must all apply as a filing unit and <u>any</u> income of <u>any</u> member is applied against the whole case.

91.Q. Suppose that a self-employed individual has a few workers in his/her employment who may or may not still continue doing jobs on behalf of the firm, generating business revenue. Presumably, this situation would

potentially generate some budgetable net income from self-employment. Assume that the individual carried no private self-employment disability insurance.

A. If his/her business continues to generate income, then the income does count, after allowable business expenses.

92.Q. A self-employed individual has a catastrophic injury that makes him/her completely incapacitated for at least several months. Is this a zero-income case for the duration of the incapacity, or is year-round income averaging method used as though he/she is still working?

A. Annualized income is not budgeted, including adjusting for several months of sickness since he/she is clearly not able to work.

93.Q. 88 INF-82 requires that a "Statement of Understanding" be put on county checks that are issued to recipients. Do we also have to put this statement on checks that we send directly to a vendor?

A. Most recipients now receive their cash TA benefits through the EBT system and do not receive checks. 88 INF-82 only applies to checks made payable to recipients. It does not apply to checks made directly to a vendor, such as a landlord or a utility company. The information contained in the statement regarding reporting changes is now on the application and recertification forms, which the applicant/recipient must sign, and in one of the client booklets (LDSS-4148A).

94.Q. Can the local district pay a Congregate Care facility retroactive to the admission date?

A. Yes. If admission occurred on the date of application or during the 45-day application period, payment can be made.18 NYCRR 352.8(e) provides authority for the local district to issue an allowance to meet the cost of care for a period prior to the month of case opening, but not prior to the application date.

95.Q. Are moving expenses for a move to another county considered an emergency?

A. No. Moving expenses, if appropriate and necessary under 18NYCRR 352.6, must be authorized by the from district.

96.Q. If a recipient was noticed for a reduction/discontinuance of a restricted vendor payment but the vendor was not, is the agency obligated to pay the vendor the original amount?

A. No.

97.Q. Is there a limit on the number of diversion payments that can be made to a household?

A. No. These are EAF payments.

98.Q. Are emergency payments authorized while the TA application is in pending status, recoverable when the application is subsequently denied for failure to comply with eligibility requirements?

A. No, not if the individual was otherwise eligible for these payments.

99.Q. Can the concept of temporary absence be applied to OTG cases?

A. Yes. Temporary absence could apply if either the caretaker or child was temporarily out of the household and expected to return. If the caretaker were temporarily absent there would have to be an interim caretaker.

100.Q. If the SSD has classified a TA applicant/recipient as "aged/disabled", does the aged/disabled classification suffice to exempt the A/R from time limits?

A. Advanced age is not an exemption from the State 60 month time limit. To be exempt from the State 60 month time limit an A/D individual would have to have medically documented incapacity that prevents the individual from working and is expected to last six months or more. Individuals age 60 or older (employment code 32) are employment exempt and exempt from the 24-month SNA cash time limit".

101.Q. Is a TA recipient placed in a substance abuse medical facility (Veterans Hospital) considered temporarily absent?

A. Yes, if the conditions for temporary absence are otherwise met.

102.Q. Is a timely notice required when issuing an emergency (EAF, ESNA or EAA) benefit or does the Action Taken on Your Emergency Request notice (LDSS-4002) suffice?

A. The timely notice is not required.

103.Q. Is there a time limitation of a visiting child and the issuance of a visitor's allowance?

A. No, as long as the child is "visiting". However if the child begins living with the caretaker (i.e., comes under the caretaker's care and control), the child is no longer considered to be visiting and a visitor's allowance would no longer be appropriate. At that time, filing unit rules may or may not require the previously visiting child to apply.

104.Q. Is a household with a non-related foster care child eligible for EAF?

A. No, not if the non-related foster care child is the only child in the household.

105.Q. Most OTDA domestic violence and child support enforcement policy releases are gender specific to women; do these policies only apply to women?

A. No.