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## **Informational Letter**

### **Section 1**

<b>Transmittal:</b>	05-INF-10
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Temporary Assistance
<b>Date:</b>	March 11, 2005
<b>Subject:</b>	Temporary Assistance Policy: Questions and Answers from the Spring 2004 Regional Meetings
<b>Suggested Distribution:</b>	Temporary Assistance Directors Medicaid Directors Food Stamp Directors TOP Coordinators Staff Development Coordinators
<b>Contact Person(s):</b>	Temporary Assistance Policy Questions: Bureau of Cash Assistance at 1 800 343-8859 extension 4-9344
<b>Attachments:</b>	Attachment A - Questions and Answers
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

### **Filing References**

<b>Previous ADMs/INFs</b>	<b>Releases Cancelled</b>	<b>Dept. Regs.</b>	<b>Soc. Serv. Law &amp; Other Legal Ref.</b>	<b>Manual Ref.</b>	<b>Misc. Ref.</b>
03 ADM-10		352.29(h); 352.23	131-a(12)(c);131-n(1)(c)		TASB, Chapter 18, Sec. U

### **Section 2**

#### **I. Purpose**

This release contains the most recent set of questions and answers on Temporary Assistance (TA) issues that arose as a result of the Spring 2004 TA Regional Meetings.

#### **II. Background**

The Questions and Answers attached to this document relate only to TA and do not include Questions and Answers from Food Stamps (FS) or the Home Energy Assistance Program (HEAP), although the Division of OTDA 05-INF-10

Temporary Assistance (DTA) continues to be responsible for all issues and questions relating to TA, FS, and HEAP.

If you have questions regarding this release, please contact the Bureau of Cash Assistance directly at the above-referenced number. Policy issues relating to FS and HEAP should continue to be directed to the appropriate policy team.

### **III. Program Implications**

Medicaid policy may differ from TA policy. Policy and procedures applying to cash programs may not apply to Medicaid. Any questions about Medicaid policy should be referred to the county's Department of Health (DOH) local liaison.

**Issued By:** \_\_\_\_\_

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<b>Title:</b>	<b>Deputy Commissioner</b>
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## **1.General Lump Sum Issues**

**Question # 1:** Are there still shortening provisions in addition to the new lump sum set-aside guidelines?

**Answer #1:** Yes. There has been no change in this area. Districts must still shorten a lump sum period of ineligibility when any of the following apply:

- there has been an increase in the family's standard of need (exclusive of new household members joining the unit);
- the lump sum, or a portion thereof, has become unavailable for a reason beyond the control of the family; or
- the family pays medical expenses **NOT** covered under the Medicaid program during the period of ineligibility.

**Question #2:** What was the intent of the new set-aside policy?

**Answer #2:** The intent of this provision was to encourage savings or spending in a manner normally beneficial to the family and society.

**Question #3:** What happens when a district becomes aware of the receipt of a lump sum after time has elapsed and the family has already spent the money?

**Answer #3:** The district would need to determine if an IPV must be pursued. In addition, the district would still need to go back and determine the period of ineligibility beginning with the month of lump sum receipt. The family's case would be discontinued after appropriate legal notice if the period of ineligibility still applied and an overpayment would need to be calculated for any assistance that the family should not have received. See question and answer section 1: #6 (page 5) below for how the new set-asides apply in these instances.

**Question #4:** Is it still possible for a district to take a lien against a lump sum under SSL sections 104 or 104-b? If so, do the set-asides impact this in any way?

**Answer #4:** The answer to the first part of the question is yes. There has been no change in lien provisions. Normally, the lien would be put into effect prior to the lump sum being received. Any remainder after the lien is satisfied then would have to be considered as income or a lump sum depending upon the amount remaining.

The answer to the second part of the question is no. The set-aside provisions are not involved with any lien. However, if there are remaining funds after the lien is satisfied, set-aside provisions must be applied as appropriate if the remainder is a lump sum.

**Question #5:** If a family's TA case has been closed under the lump sum rule and a period of ineligibility calculated, could the district lengthen the period of ineligibility if a new lump sum is received during the period of ineligibility? For example, a case is closed 12/31 and the period of ineligibility is until 6/30 of the next year. During the period of ineligibility the head of household receives a \$25,000 inheritance. Can the district take the \$25,000 into account and lengthen the period of ineligibility?

**Answer #5:** No. A lump sum period of ineligibility is never lengthened.

**Question #6:** A family is receiving TA and has needs of \$500. In March of 2004, they receive a \$2,000 retroactive RSDI check. The family does not report this to the agency at their April recertification. In June of 2004, the examiner finds out about the lump sum. How would this be handled now? Would the set-aside provisions still apply?

**Answer #6:** The set-aside provisions would still apply. There is no loss of set-aside penalty for not reporting a lump sum timely. If the family had no other resources (when the lump sum was received), they could keep the \$2,000 without it impacting eligibility. The district, however, would need to determine if an IPV should be pursued for failure to report the lump sum receipt timely and at the recertification. In addition, “big ticket” set-asides only apply if the individual used the money for a big ticket item within 90 days of receipt.

**Question #7:** A single person with no assets has never been in receipt of TA until April of 2004. At that time he starts getting benefits of \$350. In May of the next month, the recipient receives a lump sum of \$3,500. After the resource set-aside is applied, the client still has \$1,500 remaining that must be treated as a lump sum. He wants to turn the money over to the district and continue to receive welfare. Can the agency accept the entire \$1,500?

**Answer #7:** No. The district may only accept an amount that represents assistance granted. In this example, this would be two months of assistance or \$700. A period of ineligibility would have to be calculated based on the remaining \$800.

**Question#8:** A SNA recipient received a large lump sum and failed to recertify so the district was not notified timely. Is the overpayment calculated differently because we would have taken a lien on the lump sum if the district had been made aware of it?

**Answer #8:** No. However, the failure to report raises a possible IPV issue.

## **2. Determining Whether a Windfall is Income or a Lump Sum**

**Question #1:** Is a pension distribution considered a lump sum?

**Answer#1:** The answer to this would depend on several different variables. To determine if any windfall including a pension distribution is a lump sum, there are a number of different factors that the district must assess, including:

- **Cash nature of payment** – the windfall must be of a cash nature – it cannot be property. For example: an inheritance of \$10, 000 in cash may be a lump sum (if it meets other criteria below); an inheritance of a camp on a lake is a resource.
- **Income nature** – the windfall must meet the definition of income; it must have the connotation of being a gain or benefit to the household. For example: an inheritance of \$10,000 in cash is a gain to the household and this may be a lump sum (if it meets other criteria below); a car sold for \$10,000 owned by the household has no connotation of gain (normally) so this would be a resource.
- **One-time only payment** – the windfall must be a one-time only payment. A retroactive RSDI check is a one-time only payment that might be a lump sum (if it meets other criteria below). A person that is receiving erratic but recurring Workers Compensation benefits (i.e. \$300 3/8, \$100 5/6, \$200 5/18), is receiving recurring (not one-time) benefits – these would be budgeted as income using averaging rules.

- **Amount Must Equal or Exceed Need** – the windfall amount, when combined with other actual countable income, must exceed the TA standard of need.

If all these criteria are met, and the individual or family is in receipt of TA, then the windfall is a lump sum.

When a pension disbursement is made to someone leaving employment but prior to ongoing eligibility for ongoing pension payments, such disbursement is ordinarily treated as a resource since the disbursement does not meet the definition of income. For example, a person contributed \$5,000 to a retirement system but leaves the system before becoming vested. When this \$5,000 is withdrawn it is not income, but rather a resource being accessed, and therefore lump sum rules would not apply.

**Question#2:** What is the difference for a recipient family between a resource converted to cash and a lump sum?

**Answer#2:** A life insurance policy that is cashed in, does not meet the definition of income since there is no gain or benefit to the household. This is a resource. A life insurance benefit paid upon a family member's death does meet the income definition and is not a resource. If it meets the other necessary criteria (cash, one-time and equal or exceed need) then it is a lump sum.

**Question#3:** How do the lump sum provisions apply to funds from a lottery intercept? Do we count the full amount of the lottery winnings including the intercepted amounts?

**Answer#3:** The lottery intercept only applies to payoffs of 600 to 1 or more. So, if someone wins a \$250 lottery prize on a \$1 ticket no intercept is involved. If a lottery intercept is made, half of the prize money goes to the district and the other half to the client. The amount retained by Lottery would not be taken into account in determining whether the money the client receives is a lump sum. The district would make its determination based solely on the amount the client receives. For example, a TA recipient with needs of \$300 wins a \$1,000 lottery prize. Only the \$500 that is actually provided to the client after the offset would be considered in determining whether lump sum or income budgeting rules apply. If this client had no resources, and no other income, then the full \$500 would be allowed as a resource set-aside.

**Question#4:** If a person receives a windfall after he/she applies and has not yet been determined eligible for TA, is the windfall a lump sum?

**Answer#4:** No. Lump sum provisions only apply to recipients. A person who is not yet eligible for TA benefits would have any windfall income they receive in the month of application that is received prior to the establishment of eligibility, budgeted under normal income rules. There would be no set-asides allowed. For example, a FA family applies on March 2<sup>nd</sup>. On March 8<sup>th</sup>, they receive a retroactive SSA check of \$6,000. On March 15<sup>th</sup> they submit the documentation necessary to establish eligibility. The \$6,000 would be budgeted as income for March. It would not be a lump sum, so no set-asides would apply.

Windfalls that are received prior to the month of eligibility establishment are treated as resources. For example, the same case as above but now the family received the SSA check of \$6,000 in February (the month before eligibility establishment). The amount remaining of the \$6,000 would be treated as a resource for March.

**Question #5:** When determining whether a nonrecurring windfall must be budgeted as income or treated as a lump sum (after any appropriate set-asides), does the agency consider other income received in the month?

**Answer #5:** Yes. However, the other income would not be averaged (4 and 1/3 week month). The agency would use actual income (4 or 5 week month). For example, if someone had a windfall of \$800 and UIB of \$100 weekly, OTDA 05-INF-10

the amount compared to the needs standard to determine whether the windfall would be treated as a lump sum would be \$800 **plus** \$400 or \$500 (depending on the number of weeks) not plus \$433.33.

### **3.Resource Set-aside**

**Question #1:** How does the district determine the amount in the client's checking account/savings account?

**Answer#1:** The district would need to have a client update the amount of non-exempt resources to determine how much must be allowed as a resource set-aside when a lump sum is received. If necessary, this would include submission of documentation such as a bank statement of current bank account balance. Most districts will probably use a resource checklist to determine the value non-liquid, non-exempt resources. A client may be asked to estimate the value of a non-exempt item on these checklists. A professional estimate would be necessary only if the district disagreed with the client's estimate.

**Question#2:** Must the district require verification when determining the resource set-aside amount?

**Answer#2:** Liquid resources should be verified. The value of non-liquid resources may be estimated. A professional estimate should not normally be required.

**Question#3:** If the money in the bank account is used for monthly expenses, do we count it toward the resource limit?

**Answer#3:** Yes. However, any TA benefit for that month, or other income in that month, would not be considered. However, the value of any non-exempt account must be counted to determine the amount of the resource set-aside.

**Question#4:** If TA or SSI benefits are deposited into the account, are those monies countable toward resources?

**Answer#4:** TA benefits received in that "current" month are not counted. SSI benefits should generally not be commingled with other bank funds since SSI benefits are normally exempt as resources regardless of when received.

### **4. Big Ticket Set-asides**

**Question #1:** How long do clients have to make a decision about whether or not to use a lump sum in full or in part for a "Big Ticket" set-aside?

**Answer#1:** They have 90 days from the date of receipt of the lump sum.

**Question #2:** Once a Big Ticket set-aside is made and the period of ineligibility shortened, is there any time limit within which the person must actually use the set-aside?

**Answer#2:** No. For example, if the lump sum recipient set-aside of \$1,400 is to be used for a two-year college account for a child, there is no time limit for how quickly she must use the set-aside funds.

**Question#3:** If a household buys a "Big Ticket" item within 90 days of receipt of the lump sum of a lump sum, do we restore benefits back to the date of the closing?

**Answer#3:** Yes, as long as the entire lump sum was used for the Big Ticket item.

**Question#4:** If a “Big Ticket” item is purchased within 90 days, does the household have to file a new application? If so, for SNA, does the 45-day rule apply?

**Answer#4:** Yes. For SNA purposes, the 45-day rule would not apply.

**Question #5:** Can a totally disabled person receive a lump sum “Big Ticket” set-aside for purchasing a vehicle for work?

**Answer#5:** This would be somewhat rare, but **yes** they could as long as the vehicle met the exemption criteria in Office regulation 352.23 (b)(2).

**Question#6:** If the lump sum set-aside was already made at the time that the district learned that the lump sum was received, must the district go through the exercise of closing the case?

**Answer#6:** No. If a recipient makes a lump sum set-aside quickly, it is appropriate to take that into account and this might negate the need for the case to be closed. For example, a family with no resources receives a lump sum of \$6,000. The family gets a \$2,000 resource set-aside. If the family used the remaining \$4,000 for a Big Ticket set-aside prior to the district acting to close the case, there would no need to actually initiate the closing.

## **5. Two-year Post-secondary Educational Set-aside (maximum amount \$1,400)**

**Question #1:** Once a set-aside is made for two-year post-secondary educational institution (maximum amount \$1,400) are those funds exempt if the TA case is eventually closed and the client reapplies for EAF?

**Answer#1:** The funds continue to be exempt for non-emergency assistance, but they would have to be used to avert the need for EAF.

**Question #2:** What would happen to a set-aside bank account when it begins receiving interest?

**Answer#2:** Up until the maximum resource exemption limit is attained, the interest also would be exempt as long as it remained in the account. Once the maximum exemption amount is reached, the amount in the account over the exemption limit would be a non-exempt resource. For example, if a two-year post-secondary educational account (maximum amount \$1,400) were established in the amount of \$1,000, the interest would be exempt up until the account reached \$1,400.

**Question #3:** Is the two-year post-secondary educational institution account available as a set-aside for any case member or only the lump sum recipient?

**Answer #3:** The account can be set up for any case member.

## **6. Time Limits**

**Question #1:** Can you identify the four purposes of TANF?

**Answer#1:** The four purposes of TANF are:

- To provide assistance to needy families
- To end the dependence of needy families by promoting job preparation work, and marriage
- To prevent and reduce out-of wedlock pregnancies
- To encourage the formation maintenance of two-parent families



**Question #2:** “08” individual – Why does that person have to have the time limit exemption indicator?

**Answer#2:** A 08 individual who has received 60 months of TANF-funded assistance must be time limit exempt for the other members of the household to continue to receive TANF-funded assistance. Federal rules preclude minor children from receiving TANF assistance if they are living with a parent/caretaker who has received 60 months of assistance even when the parent/caretaker is no longer receiving assistance.

**Question #3:** What is the impact of a client applying late for SNA after the 60 months has expired? For example, if the client applies after auto conversion has already occurred.

**Answer#3:** Cases that are converted to SNA through the auto-conversion process cannot be required to apply for SNA through SNA Supplement Application Process. They are already SNA recipients.

**Question #4:** When FA cases are converted to case types 16 and 17, should categorical codes be 09 for Medicaid?

**Answer#4:** No, if a FA case were just being converted to SNA because of the 60-month time limit, the MA categorical codes would remain the same. You would only change the categorical code if there were a change in the household composition that affected Medicaid eligibility.

**Question #5:** What type of documentation does a district need to support a determination that a time limit trackable individual is needed in the home to care for another in order to receive an exemption?

**Answer#5:** Medical documentation is needed to verify that adult/caretaker is needed in the home **full-time** to care for an incapacitated household member.

**Question #6:** Does the State have statistics on the number of Domestic Violence (DV) related time limit waivers?

**Answer#6:** No, but a district needs such statistics OTDA could do a report from the Tracking System.

**Question #7:** Aren't time limit waivers a little different than DV waivers?

**Answer#7:** A domestic violence time limit waiver is essentially the same as a time limit exemption. The one difference is that a domestic violence time limit waiver has to have been the result of domestic violence and can be granted for physical or mentally incapacities expected to last 3 months or more.

**Question #8:** If a case goes through the auto-conversion, does the family still need to come in to apply for SNA? If no, can we still call the family in for a reassessment?

**Answer#8:** Cases that are converted to SNA through auto-conversion cannot be required to apply for SNA. However, you need to call them to complete SNA eligibility requirements (Repayment Agreement (DSS-4529) and the Assignment of Future Earnings (DSS-4530)) and should do the reassessment at that time.

**Question #9:** What does the auto-conversion do systemically?

**Answer#9:** For each converted case, the following case changes will be made:

1. The Authorization Period FROM Date will be changed to the first of the Transaction Month plus 1 (in the case of the scheduled conversion in May, an Authorization Period FROM Date of June 1, 2004 will be used.)
2. The PA Case Reason Code will be changed to B50.
3. If the PA/FS Code = 01, the FS Case Reason Code will be changed to Y20  
If the PA/FS Code = 02, 03, 04 or 09, the FS Case Reason Code will be changed to 943.  
If the PA/FS Code = 05, the FS Case Reason Code will be changed to 944.  
If the PA/FS Code = 06, the FS Case Reason Code will be changed to 945.
4. For all individuals with Individual Status = 07 or 10 and State/Federal Charge Code 04, the State/Federal Charge Code will be changed to "64 -TANF Native American on NYS Reservation Exceeding 5 Year Limit ".
5. For all individuals with Individual Status = 07 or 10 and a State/Federal Charge Code not = 04, a State/Federal Charge Code of "63 -TANF Individual Exceeding 5 Year Limit " will be entered in that field on Screen 3.
6. A unique Authorization Number will be generated as follows: 9, District Code, C, MMY (Transaction Month/Year +1). In the case of the first conversion in May, the Authorization Number will be "9??C0604".

**Question #10:** A grandmother with a State 60-Month time limit count equal to or greater than 60 who is no longer on assistance become the grantee for a grandchild, what is the case type of the OTG case?

**Answer#10:** The case type must be SNA (Case Type 17) unless the grandmother is receiving SSI. If she is, the case is time limit exempt and the case type would be FA (Case Type 11). The "T" time limit exemption must be entered on the grandmother's line on WMS Screen 3.

**Question #11:** Is SSI the only time limit exemption granted for non-applying caretakers?

**Answer#11:** The SSI is the most common time limit exemption a non-applying caretaker would have. However, the other time limit exemptions could apply to a non-applying caretaker who received 60 months of TANF-funded assistance.

**Question #12:** Is the relationship code 19, "Parent", tracked for time limit purposes, and if not, when should we use the code?

**Answer#12:** Relationship code 19 is not tracked for time limit purposes. This code is used to identify the parent of the applicant/payee.

**Question #13:** Does the time spent as a SNA child count towards the State 60-Month time limit if the child ages out and becomes eligible for FA later on?

**Answer#13:** No, the SNA assistance received by a minor child does not count against the State 60-month time limit. If the child becomes FA eligible his/her State and TANF time limits counts begin at 0.

**Question #14:** Can we still convert cases from FA to SNA on our own? If so, what are the timeframes for the manual conversion?

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**Answer#14:** Districts can and should convert cases to SNA on their own. The auto conversion only looks at cases that have a time limit count of 60 months or greater. The conversion file is created on the second Tuesday of the 60<sup>th</sup> month.

**Question #15:** If a case is placed in pending status, will the case still auto-convert?

**Answer#15:** No

**Question #16:** Can we coop an EP on a separate FA case (both with less than 60 months) to make tracking easier?

**Answer #16:** No there would have to be some compelling reason to put an EP in a separate case. Tracking is individually based and coop case would not make tracking any easier.

**Question #17:** If the caretaker relative came into the household with a 60-month count, what effect does that have on the FA case?

**Answer #17:** When a caretaker relative enters a household at the State 60-month time limit, the case is now at 60 months and can no longer receive FA unless the adult(s) in the household were time limit exempt.

**Question #18:** Is there a penalty for converting a FA case to SNA too soon?

**Answer #18:** Cases cannot be converted to SNA until they reach the State 60-month time limit. If a district converted a case before the end of the time limit, it would be losing federal reimbursement on that case.

**Question #19** If a recipient fails to appear for the SNA application supplement appointment, what is the appropriate case action to take?

**Answer #19:** Close the FA case at the end of the 60<sup>th</sup> month and deny the SNA using Reason Code G30.

**Question #20:** Can you get a list of specific codes for CT 11 that are exempt from conversion?

**Answer#20:** There are no cases that are exempted from the conversion. Selected for conversion are active (Case Status = 10, 21) Family Assistance and federally-participating Safety Net Non-Cash Assistance cases (Case Type = 11, 12) containing at least one individual with a Relationship Code of 01, 02 or 30 and an Individual Status Code of 07, 08 or 10, whose State 60 Month Time Limit count has reached or exceeded 60 months and whose Time Limit Exemption Indicator is blank. Cases that meet the criteria above will be listed on the Exception Report (WINR 5262) and **will not be converted, if the Case is in Pending Status, is in Clock-down Status, or has an Authorization Period FROM Date Month greater than the Transaction Month plus 1 or an Authorization Period TO Date Month less than the Transaction Month plus 1**

**Question #21:** Why does a district have to have the employment code for a non-legally responsible NTA caretaker relative? The relative did receive 60 months of FA but has now gone off TA because she is working.

**Answer#21:** If there is a time limit exemption indicator on the FA case, the employment code must be on the caretaker's line and must be an exempt code. If the caretaker is working, then the case is not eligible for a TL exemption. If she were not working and would not verify her disability/employability, then the children would

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have to be converted to SNA. Even though this is now a child only case, it is a case headed by a caretaker that received 60-months of assistance and does not qualify for a TL exemption.

**Question #22:** If the FA case is converted too soon, i.e. at month 58, must the district convert back to FA for the remaining two months or can the district just make a BCIS adjustment to claim the remaining two months to FA?

**Answer #22:** If a district converts a case to SNA in at the 58-month time limit count, a BCIS adjustment would correct the claiming and the time limit clocks.

**Question #23:** If a case auto-converts to SNA, but the household fails to sign the LDSS -4529 and the LDSS-4530, do we close the case?

**Answer #23:** Yes, these are eligibility requirements for SNA.

**Question #24:** Should workers stop completing the SNA Application Supplement process in favor of the SNA auto-conversion?

**Answer #24:** Workers should continue processing the SNA Application Supplement. The SNA Auto Conversion is not intended to replace local district case work. It is a safeguard to prevent any case from exceeding 60 months thereby protecting the state and local districts from federal fiscal penalties.

**Question #25:** If both parents in a FA case are work sanctioned, can we require either or both to do a SNA applicant job search?

**Answer #25:** Yes, sanctioned FA recipients still have to comply with application requirements for SNA.

**Question #26:** If a FA case converts in the middle of the SNA Supplement application process and the household fails to complete a requirement, can we deny the SNA application?

**Answer #26:** No, because the case would be a SNA case. The conversion only looks at cases with a time limit count of 60 months or greater. Districts must complete the SNA application process by the end of the sixtieth month.

**Question #27:** Why do you need the T in the time limit indicator? We had a problem case where it was not working correctly.

**Answer #27:** The “T” indicator is what reports the time limit exemption. The system problems with the indicator being correctly read have been corrected.

**Question #28:** Does auto conversion look at employment codes for selection?

**Answer #28:** No

**Question #29:** For auto conversion, when there is a change in category, you don’t send out a notice

**Answer #29:** An automated notice is generated for each case that is converted in this process. Clients are informed of their Case Type change and its effect on their case.