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Informational Letter

Section 1

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To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	June 22, 2005
Subject:	Temporary Assistance Questions and Answers
Suggested Distribution:	Temporary Assistance Directors; Food Stamp Directors; Medical Assistance Directors; Staff Development Coordinators; Transitional Opportunities Program Coordinators; Child Assistance Program Coordinators
Contact Person(s):	Cash Assistance Bureau at 1-800-343-8859, extension 4-9344. For Medical Assistance: Upstate Regional Representative at (518) 474-8216; New York City Representative at (212) 268-6855
Attachments:	Temporary Assistance Questions and Answers
Attachment Available On – Line:	X

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
04 ADM-05 03 ADM-11 03 ADM-07 01 ADM-17 94 ADM-10 04 INF-7 03 INF-34 02 INF-42 01 INF-11 91 INF-8		351.2 351.1(b)(2)(iii) 351.20 351.26 352.2(b) 352.8(b)(1) 352.23(b)(2) 352.30(a)(f) 352.31(a)(3) 369.3(a)(3) 369.4 370.2(b)(6) 370.3(a) 370.4(3) 372.2 12 NYCRR 1300.13		TASB Chapt. 9, Section P TASB Chapt. 10 Section F TASB Chapt. 13 Section A, D, L, N TASB Chapt. 17 Section E, F TASB Chapt. 19 Section B, D, F TASB Chapt. 22 Section A TASB Chapt. 27 Section C TASB Chapt. 31 Section B TA Energy Manual	GIS-05TA-DC013

Section 2

I. Purpose

The Division of Employment and Transitional Supports (DETS) is charged with responding to inquiries from districts on a variety of Temporary Assistance (TA) issues. This release contains the most recent set of questions and answers on TA issues.

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 DETS 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 Cash Assistance Bureau directly at the referenced number. Policy issues relating to FS and HEAP should continue to be directed to the appropriate policy or bureau.

III. Program Implications

Medicaid policy may differ from Temporary Assistance (TA) policy. Sanctions or requirements applying to cash programs may not apply to Medicaid. Any questions about Medicaid policy should be referred to the county's local district Medicaid Liaison.

Issued By _____

Name: Russell Sykes
Title: Deputy Commissioner
Division/Office: Employment and Transitional Supports

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Budgeting

- 1. Question: What is the correct budgeting methodology for a TA family with an SSI household member?**

Answer: Provided that the SSI family member is a person who would have to be included in the filing unit if he or she were not in receipt of SSI, the SSI person's presence will be considered when determining the standard of need. For example, a family consists of a mom who is in receipt of SSI, a dad and two children in receipt of TA. The TA budget for the dad and the children will be based on $\frac{3}{4}$ of the needs for four. No income of the SSI individual counts against the TA family members. Refer to 04 ADM-5 for additional information.

For food stamps (FS), if the SSI recipient is a member of the FS household, all of the SSI recipient's countable income is included for FS.

- 2. Question: An SSI mom is in receipt of TA for her three children. Mom failed without good cause to comply with IV-D requirements. Is it correct to impose the 25% child support non-cooperation penalty in addition to the proration applied due to the SSI family member?**

Answer: Yes. The standard of need for the three children is $\frac{3}{4}$ of the needs for four. That standard of need is reduced by 25% for as long as mom continues to be non-cooperative (without good cause) with child support enforcement requirements.

- 3. Question: If an SSI family member has income in addition to SSI, can that income be budgeted against the needs of the TA family members?**

Answer: No.

- 4. Question: Is the child support paid solely for the benefit of a child in receipt of SSI countable against the needs of his/her remaining family members or assignable to the agency.**

Answer: No. It is not countable or assignable. However, it is counted for FS.

- 5. Question: The SSI mother of a TA child is pregnant. Should the pregnancy allowance be included in the child's TA budget prior to the proration?**

Answer: No. The pregnancy allowance would be included only if the SSI mom was applying for TA for herself. Her income would be applied to her needs to determine if she was eligible for supplemental Safety Net Assistance.

6. Question: In a three generation household where the under age 21 year old is the SSI recipient, does the SSI proration apply to the under age 21 year old and her child(ren)?

Answer: No. This is because the under age 21 year old's parent would not be required to be in the filing unit even if that individual were not in receipt of SSI.

7. Question: If an SSI caretaker receives a TA benefit for children in her care, but not all of the children are the caretaker's own children, does the SSI proration apply?

Answer: Even though 18 NYCRR 369.3(a)(3) says "If children of different parentage are living with the same eligible relative, a single grant shall be issued to meet the needs of all children in the household receiving FA", the SSI proration applies only to the caretaker's own children.

For example, prior to July 7, 2004, the SSI caretaker received an FA benefit for her two children and a niece, a full FA benefit for three. Under the current budgeting methodology, since the niece is not a required filing unit member, her share of the FA benefit cannot be affected. The niece continues to be eligible for $\frac{1}{3}$ of the needs for three. The SSI caretaker's own children are eligible for $\frac{1}{2}$ of the needs for four.

Districts have two options for applying the proration in cases where only some case members should be affected by the proration. One option is a bottom line budget and the other is two separate co-op budgets, which will require the opening of separate cases.

8. Question: How are room and board rates calculated using the with or without children shelter allowance schedules?

Answer: The room and board allowance will be calculated using the shelter allowance without children. The maximum allowance that can be provided for **all** room and board provided by an individual, family or is commercially operated is the sum of the Statewide monthly grant and allowance, the Statewide monthly home energy payment, the Statewide monthly supplemental home energy payment and the local agency maximum monthly shelter allowance **without children**. This is true even if there are children in the case or in the household. In addition to this room and board allowance, each person receiving room and board is entitled to a \$45 personal needs allowance. This answer supersedes the answer to question 12 & 13 in 04 INF-7.

9. Question: Do districts have the capability to restrict the full actual rent in the SSI proration cases?

Answer: Yes. New restriction codes became available effective February 7, 2005. ABEL transmittal 05-1 introduced the two new shelter restriction codes: A – Entire Actual Shelter, and B – Utilities 1st/Entire Shelter. Please see ABEL transmittal 05-1 for additional information.

10. Question: If an SSI individual is in a Level II facility, either as the person in care, or as a child of the person in care, does the SSI proration apply?

Answer: No. When recipients are in a Level II facility, the Level II rate is not prorated since that is not an ordinary living expense of the family. The Level II rate is a special need of the individual. The same is true for the allowance for the child who is with a parent in the Level II facility (upstate additional allowance code 45 “Person(s) Not in Care – Residing in CC Facility”).

11. Question: Does the SSI proration budgeting methodology described in 04 ADM-5 apply when the required filing unit member is SSI eligible, but due to earnings, receives no SSI funds?

Answer: No. For TA purposes, to be considered a recipient of SSI, the SSI eligible member must receive at least \$1 of SSI funds. In this case, the full needs of the household are considered, and all income and resources of the SSI eligible member who receives \$0 in SSI funds would count against the assistance unit.

12. Question: How are cooperative (co-op) cases budgeted when one or more of the co-op cases have SSI family members residing in the same dwelling?

Answer: The answer depends on the kinds of co-op cases. The following examples will illustrate the differences and the method of budgeting.

Example 1 - Shelter proration indicator "S":

The dwelling unit members are an SSI person and four TA persons. One of the four TA persons is a non-legally responsible, non-filing unit member. Prior to the SSI change, ABEL had 04 in HH, 03 in CA for one case, and 04 in HH, 01 in CA for the other. Since there are no legal lines of responsibility between the cases and since the members do not live as a single economic unit, each case had the shelter proration indicator "S". The result was full needs including shelter for the three persons and full needs including shelter of one person. (Shelter proration indicator “S” also insured that ABEL would not allow more than the actual rent in the total of the shelter allowances for both cases.)

Now, the SSI person must be considered. The SSI person is a parent or child associated with the three person case.

For the one person co-op case, leave the HH count as 04 and the CA count as 01. Leave the shelter proration indicator "S" on. That person will continue to get his or her benefit unchanged.

For the other case, the HH count will be 04 and the CA count will be 03. Delete the shelter proration indicator. Now the "04" on the HH represents the three TA people and the SSI individual. The TA individuals will receive $\frac{3}{4}$ of the needs for four.

Although it is unlikely that there will be problems, as a final step, look at the total shelter allowances for the two cases to be sure that the total of the two shelter allowances does not exceed the actual. Removing the "S" from the three person case will mean that ABEL will not recognize that another case is receiving an allowance for part of this actual shelter expense.

Example 2 - Shelter proration indicator "N":

There are four TA individuals and one SSI individual in the dwelling unit. One individual is not legally responsible for any other person, is not a required filing unit member and receives TA in a separate co-op case from the other three TA members. However, the members of both cases claim to live as a single economic unit and shelter proration indicator "N" was input on both cases. The three person case had a standard of need based on $\frac{3}{4}$ of the Basic, HEA and SHEA for four plus the full shelter for three. The one person case standard of need was based on $\frac{1}{4}$ of the Basic, HEA and SHEA for four plus the full shelter allowance for one. (Shelter proration indicator "N" also insured that ABEL would not allow more than the actual rent in the total of the shelter allowances for both cases.)

The single person co-op will continue to have 04 in HH and 01 in CA and the shelter proration indicator "N". That person will get the full shelter for one and $\frac{1}{4}$ of the Basic, HEA and SHEA for four. That person's budget is completely unaffected.

The case associated with the SSI individual will be 04 in HH and 03 in CA without the shelter proration indicator "N". Now the "04" on the HH represents the three TA people and the SSI individual. Although it is unlikely that there will be problems, as a final step, look at the total shelter allowances for the two cases to be sure that the total of the two shelter allowances does not exceed the actual. Removing the "N" from the three person case will mean that ABEL will not recognize that another case is receiving an allowance for part of this actual shelter expense.

Example 3 - "Danks" Essential Person (EP) in case:

As in the examples above, a non-legally responsible, non-filing unit member resided in the same dwelling unit with a three person filing unit and an SSI individual. The single individual was included in the FA case as an EP. Since the individual was a separate economic unit from the FA unit members, the single individual is a "Danks" EP. This means that the EP is entitled to his or her full TA benefit, not a prorated portion of the benefit. To accomplish the correct budgeting, the worker entered 04 HH and 04 CA on ABEL and a "1" in the shelter proration field. The result is an FA standard of need that is the total of the full needs for one plus the full needs for three.

This budget must be redone due to the SSI person who is the parent or child associated with the FA filing unit.

The SSI proration cannot affect a "Danks" EP's TA benefit because the "Danks" EP has no legal lines of responsibility with the FA family members and is a separate economic unit. The EP will have to be moved into his own separate co-op case. His ABEL budget would show 04 in the HH and 01 in the CA with shelter proration indicator "S". Since this is an EP, his or her case type is 11 (FA) but the two cases must be kept and worked together. If the FA eligible individuals case closes, or the FA case goes to SNA (case type 16 or 17), the EP must be recategorized to SNA.

For the FA members, ABEL will have 04 in HH, 03 in CA and no shelter proration indicator. Now, the "04" represents the three TA filing unit members and the associated SSI family member.

Example 4 - Legal lines of responsibility between the cases.

The dwelling unit has five family members, a mom and her four children, three on FA, one on SSI. The mother is on SNA because of her immigration status. Currently ABEL has 04 HH and 03 CA for the FA case and 04 HH and 01 CA for the Mom's SNA case. There is no shelter proration used so the FA case has a standard of need based on $\frac{3}{4}$ of four and the SNA Mom has a standard of need based on $\frac{1}{4}$ of the needs for four. Now, because of the SSI policy, the SSI family member must be considered. The FA case's ABEL budget will have 05 HH 03 CA, and the SNA case's budget will have 05 HH and 01 CA. The combined standard of need for both cases will total $\frac{4}{5}$ of the needs for five.

Resources

13. Question: A TA recipient owns an unlicensed classic car. According to the NADA book for classic cars, the lowest value at the time the NADA estimate was taken is \$4,970.00. The client however provided a statement from a dealer who valued the car at \$250.00. The agency's investigator questioned the dealer on this estimate and found that the dealer did not look at the car, but rather just took what the client said, and further stated that was all the car was worth to him. Would it be more appropriate to use the NADA book value or the dealer estimate?

Answer: Based on the circumstances, the dealer's estimate does not seem credible. He would have to examine the automobile to give a credible estimate of its value or otherwise justify that his estimate was accurate even without his examining it. Absent any other rational explanation for the huge discrepancy in value, the agency should use the NADA book value and allow the client the opportunity to produce a more reliable estimate. Note that since the car is unlicensed, the equity value would be countable towards the resource limit.

14. Question: A woman applies for SNA and has a life insurance policy with a cash value of \$2,600.00. At that point, she is denied for excess resources. If she cashes in the policy and verifies that she used it for rent and medical expenses, would she then be eligible for TA if she applies in the following month? Or would this be considered a SNA transfer of property (resources) under 18 NYCRR 370.2 (b) (6)?

Answer: If the woman applies in the following month, she would no longer be ineligible for SNA because of excess resources. This does not qualify as a transfer of property. This money was not transferred; it was used for living expenses.

15. Question: Can a district require a recipient in a Level II facility to sell his/her home since the recipient is now residing outside of his/her home?

Answer: No. Not if the recipient is temporarily absent from the home. This requirement only applies to non-homestead property. However, the district should explore taking a lien on the recipient home.

Energy

16. Question: When completing a financial statement to determine if an individual may be eligible to negotiate a deferred payment agreement with a utility company, are garnishments or other mandatory salary deductions allowed?

Answer: Yes. The Energy Manual indicates that court ordered child support or court ordered garnishees are deducted from gross income when completing the financial statement (LDSS-3596).

17. Question: Can a district continue to pay for gas or electric service when a client has moved from one housing situation to another and the period of electric/gas service "over-laps"?

Answer: Yes, but only if the client is the tenant and customer of record at both addresses. This may occur when a client vacates a residence earlier than the terms of his/her original agreement to move to a new residence. A district may continue to pay for service at a former residence and at the new address for a reasonable period (no longer than 5 days) of time that permits the client to fully vacate the prior address and assume occupancy at the new address. Districts must not issue payments for electric and/or gas service if a client does not meet both the tenant and customer of record requirements.

18. Question: In cases where the child's grant is based on the actual expenses of the non-legally responsible caretaker (McMullen v Perales), does the caretaker have to be the tenant and customer of record for the child's grant to include a fuel allowance?

Answer: Yes. In order for the grantee of the child to have the option of receiving a fuel allowance under McMullen, the non-legally responsible caretaker must be the tenant and customer of record or the spouse of the tenant and customer of record. (See Energy Manual, Section 1, "Heating Allowances")

General

19. Question: If an applicant for emergency assistance is otherwise eligible for a grant under Emergency Assistance to Needy Families (EAF), but has gross monthly income above 200% of poverty for that family size, is the household ineligible for EAF due to excess income?

Answer: Not based on this information alone. Districts were instructed in 03 ADM-11 to consider available gross income in determining eligibility for EAF. In this case, the district must look at what income is immediately available to the applicant to meet his/her emergency and compare that amount to 200% of poverty for that family size.

Provided that the family passes the 200% of poverty test, the district must still follow the long standing policy of determining what income and resources are available to the applicant to meet the emergency need.

20. Question: If a single individual who is on an IPV sanction, comes into a district office due to a homeless situation, would the district have to provide a temporary housing assistance special needs allowance?

Answer: No, an individual is ineligible for any temporary assistance (except SSL-131-s assistance) during their IPV period of ineligibility.

- 21. Question:** A storage company charges a monthly insurance fee for storing furniture and personal belongings. The social services district has determined that the TA recipient otherwise qualifies for payment under 18 NYCRR 352.6(f). Can this fee be paid as part of the storage cost under this regulation?
- Answer:** The "insurance" fee can only be paid if it is a mandatory cost and the storage facility could not be rented without its cost being included as part of the monthly storage fee. If the insurance cost is optional, it cannot be paid.
- 22. Question:** A woman is receiving temporary assistance with her children. Her case was closed with an outstanding overpayment. The overpayment was not completely recovered. Later, the woman begins receiving temporary assistance on behalf of her grandchildren as a grantee. Even though the woman is not on the case, can the district now recover the overpayment?
- Answer:** No. 18 NYCRR 352.31(d) does not permit recovery from the grandchildren unless the grandmother is a member of the case.
- 23. Question:** Does a district add the cost of hotel/motel expenses to the ABEL budget as an item of need for recipients?
- Answer:** Yes. As always, districts must establish the correct standard of need and apply income, if any, against that standard of need. Therefore, the district must add the cost of hotel/motel expenses to the ABEL budget as an item of need. The district must also include any other appropriate allowances such as a restaurant allowance.
- 24. Question:** Can a district impose a sanction or disqualification period on an applicant who frequently re-applies for assistance and who has immediate needs but who fails to comply with the requirements for recurring assistance when it is determined that the recurring assistance would end the cycle of immediate needs requests?
- Answer:** No. In accordance with 03 INF-34, a district may deny a request for immediate needs assistance when the applying individual has made frequent requests for assistance and has immediate needs within a 90-day period prior to the most recent application, and when the applicant has previously failed to comply with the requirements for recurring assistance that may end the cycle of immediate needs requests. The district may deny or pend a decision on the current application for immediate needs until the applicant demonstrates compliance with the requirement(s) for recurring assistance that he/she originally failed to comply with, but may not prospectively impose a sanction or disqualification on the applicant. Once the applicant so demonstrates compliance, his or her immediate needs must be met.