



George E. Pataki
Governor

**NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE**

Robert Doar
Commissioner

40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Administrative Directive

Section 1

Transmittal:	06-ADM-03 Revised
To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	Revision Date: July 10, 2006/Original Release: March 3, 2006
Subject:	Personal Needs Allowances in Level 2 Congregate Care Residential Alcohol and Substance Abuse Treatment Programs
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors Staff Development Coordinators WMS Coordinators Fair Hearing Staff Medicaid Staff Directors of Administrative Services Accounting Supervisors TOP/CAP Coordinators Temporary Assistance Drug/Alcohol Contacts
Contact Person(s):	1-800 343-8859; Temporary Assistance Bureau at extension 4-9344; Food Stamp Bureau at extension 3-1469; HEAP Bureau at extension 3-0332; and Metro Field Support Bureau at (212) 961-8207 For Medicaid; Upstate Regional Representative at (518) 474-8887; New York City Representative at (212) 417-4500
Attachments:	Attachment 1- Questions and Answer Sheet Personal Needs Allowances In Level 2 Congregate Care Residential Alcohol And Substance Abuse Treatment Programs
Attachment Available On – Line:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
05 INF-22 05 INF-06 97 ADM-23		Part 18 NYCRR 351.2 (i) 352.8 (c) (1)(ii) 370.2 (c)(8) 351.1(b)(2) (iv)	Section 131-o		

Summary

The purpose of this re-issue is to revise an example on page six (bullet four) that illustrates an inappropriate use of the PNA funds regarding transportation.

Personal needs allowances (PNA) are provided to recipients residing in various living situations and are intended for personal needs items such as clothing, personal hygiene items, and other incidental needs not included in the facilities' operational expenses for housing/services. Section 352.8 (c) (1) (ii) of 18 NYCRR requires that the PNA must be made as restricted payments to residential programs, not the individual. This means that it is sent directly to the residential program. The PNA is also conditional which means that any balance is paid to the recipient only upon completion of a residential alcohol and substance abuse treatment program certified by the Office of Alcohol and Substance Abuse Services (OASAS). For 2006, the monthly PNA amount for Level 2 Congregate Care, including residential alcohol and substance abuse treatment programs, is \$135.

This ADM will provide guidance to local districts and residential alcohol and substance abuse treatment programs on how this restricted and conditional PNA must be used, what it can be used for, how it should be accounted for and when it must be returned to the local district.

I. Purpose

The purpose of this Administrative Directive is to provide social services districts with clarification and guidance on the appropriate use of, and accountability for, personal needs allowances (PNAs) provided under Section 352.8(c) (1) (ii) of 18 NYCRR for temporary assistance (TA) recipients in Level 2 residential alcohol and substance abuse treatment programs certified by the Office of Alcohol and Substance Abuse Services (OASAS).

II. Background

Section 352.8(c)(1)(ii) of 18 NYCRR requires that recipients of TA residing in Level 2 programs, including residential alcohol and substance abuse treatment programs, be provided a PNA equal to the rate under the Supplemental Security Income (SSI) program for SSI beneficiaries residing in the same facility.

Section 131-o of the Social Services Law sets forth the amounts for PNAs for residents of Level 2 programs. For 2006, the monthly PNA amount for level 2 programs is \$135. Districts are advised annually of any changes to this rate.

Section 352.8(c) (1) (ii) of 18 NYCRR requires that the PNA provided to persons in Level 2 residential alcohol or substance abuse treatment programs certified by OASAS must be made as a restricted and conditional payment to the provider. Because the PNA is restricted, it must be sent directly to the provider and not to the recipient. It is conditional because if a recipient leaves the program prior to completion of the residential program, any accumulated PNA, held by the program on behalf of the recipient, is considered to be an overpayment and must be returned by the program to the social services district which provided the PNA. The question of whether the recipient has left the program prior to completion will be determined solely by using the guidelines and rules of the program.

There are three levels of residential care that can be offered in a Congregate Care Level 2 residential setting: intensive residential rehabilitation services, community residential services and supportive living services.

The three levels of residential services are defined as follows:

- “intensive residential rehabilitation services” means residential services requiring 24 hours per day, seven days per week treatment in a structured environment for individuals whose potential for independent living in recovery is contingent upon substantial social habilitation or rehabilitation.
- “community residential services” means chemical dependence residential services to persons making the transition to abstinent living. Persons appropriate for this service require the support of a drug and alcohol free environment while receiving either out-patient services or educational and/or vocational services. These transitional residential services are for individuals who are completing or have completed a course of treatment but who are not

yet ready for independent living due to outstanding clinical issues or current needs for personal, social or vocational skill development.

- “supportive living services” means chemical dependence treatment services which are designed to promote independent living in a supervised setting for individuals who have completed another course of treatment, are making the transition to independent living and whose need for services does not require staffing on a 24 hour a day basis.

The majority of residents in these programs are single individuals receiving Safety Net Assistance (SNA). The Division of Employment and Transitional Supports (DETS) within the Office of Temporary and Disability Assistance (OTDA) has sole responsibility for the development and interpretation of policy for PNAs provided under section 352.8 (c)(1)(ii) of 18 NYCRR.

OTDA reviews have revealed conflicting interpretations in the field regarding the appropriate use of, and accounting for, these restricted and conditional PNAs. These reviews have demonstrated a need for clarification of policy and guidance on how these PNAs must be handled by the social services districts and the OASAS certified programs. In an effort to further collaborate with the OASAS certified treatment community, it is strongly suggested that the social services districts share this directive in writing and/or electronically with appropriate providers and promote effective communication through regular meetings with those providers. OASAS will also transmit this information to their providers through a Local Services Bulletin (LSB).

III. Program Implications

This directive will provide guidance to local districts and to residential alcohol or substance abuse treatment programs on the use of, and accountability for, the PNA provided under the TA program according to section 352.8(c) (1) (ii) of 18 NYCRR. It will clarify the intent of the PNA, what the PNA can be used for, what must happen to the PNA when a recipient completes the program or when a recipient leaves the program prior to completing the program, and how the local districts and the program must account for the PNA funds.

IV. Required Action

A. Responsibilities of Local Service Services Districts

1. Policy Guidelines

Local social services districts must comply with the following policy guidelines:

- a. When a recipient is in a Congregate Care Level 2 residential alcohol or substance abuse treatment program, the social services district must issue the PNA as a vendor restricted payment to the provider.

- b. A PNA is a monthly allowance. It can, however, be paid semi-monthly and if the recipient has left the residential program prior to the second semi-monthly period, the remainder of the PNA must not be sent to the provider.
- c. Districts can issue all or part of the PNA prior to the 45 day application period for Safety Net Assistance when the applicant has an immediate need which is not met by the program, and the district has determined that the PNA is necessary to meet the immediate need. Districts should consult with the program on what services or supplies they provide to residents related to their personal needs during the initial 45 days.
- d. If a resident leaves the program prior to completion and the individual's PNA account has a balance, the accumulated balance is an overpayment and must be returned to the issuing district within 30 days of the resident leaving the program. The district must make arrangements with the provider to recover any accumulated PNA monies remaining in the accounts of TA recipients who leave the program prior to completion (i.e., districts must have procedures for receiving these returned PNAs and let programs know where to send them).

2. Financial/Accounting Guidelines

- a. Due to the difficulty that combined shelter and PNA amounts cause for tracking and accounting purposes, districts must not combine shelter and PNA funds into one check. Districts can send programs one check for shelter for more than one person and one check for PNAs for more than one person. The program must maintain and record actual allowances for each individual. Districts must send, along with these checks, the names of the recipients, for whom the checks are for, and the amounts of each recipient's Level 2 shelter and PNA amounts.
- b. Districts must report all refunds of the PNA on their expenditure reports (schedules A or C depending upon client category) as part of the monthly claim submission to OTDA.

B. Responsibilities of Level 2 Residential Alcohol and Substance Abuse Treatment Programs

1. Policy Guidelines

Residential alcohol and substance abuse treatment programs must comply with the following policy guidelines:

- a. PNAs provided under section 352.8(c)(1)(ii) of 18 NYCRR are intended for clothing, personal hygiene items and other incidental needs not otherwise

provided by the facility. Examples of such items include a winter coat, bus tokens, voluntary Medicaid medical or prescription co-payments, cigarettes, telephone calls, reading material, taxi fare, and dry cleaning costs.

- b. Social Services Law 131-o (2) requires the establishment of separate accounts for PNAs. Any such money must not be co-mingled with any facility funds and must be segregated and recorded on the facility's financial records as independent accounts. A separate PNA account must be maintained by each facility to ensure all residents' PNA balances are available. There must be no co-mingling between a Program's PNA and operational funds. The "borrowing" of any PNA funds to meet a facility's operating expenses is strictly prohibited.
- c. Whenever PNA monies are disbursed to the resident, the program must obtain written acknowledgement from the resident, confirming receipt of his/her PNA.
- d. A request by the individual for funds from the individual's account to purchase clothing, personal hygiene items or other incidental items must not be denied.
- e. Upon request, each resident shall have the opportunity during scheduled access hours to examine his/her personal allowance account record including deposits, withdrawals and current balance.
- f. A program must not demand, require or contract with the resident for payment of any part of the PNA to cover the cost of supplies or services that the facility is required to provide. If the supply or service is a non-discretionary client item or client service that is required by law or supported by an OASAS contract/net deficit funds, then it cannot be paid for with the PNA. If the service or item is discretionary then it may be considered as an eligible PNA expense. For example, transportation to a voluntary event is something that can be paid for with the PNA.

In some cases the discretionary service or item may be eligible for payment by an alternative funding source. In this instance the alternative funding source should be used and the PNA used only when the alternative funding source is no longer available. Generally, providers must not ask clients to use PNA funds for universal costs incurred on behalf of clients on a prorated basis. PNA funds can only be used on an individual basis.

Examples of inappropriate uses/requirements of the PNA:

- Require a resident to attend a specific number of meetings (AA, etc.), before any PNA money is released to him/her for necessary personal needs.
- Require a resident to perform "duties" (cleaning), before any PNA funds are released to him/her for necessary personal needs.

- Contract with a resident for the monthly deduction from his/her PNA account for prorated aggregated cost of a van that may or may not be used by the resident that month.
- If the provider is mandating participation “as part of treatment” and there is no discretion on the part of the recipient as to whether or not he/she can participate, then the PNA cannot be used for transportation. However, if the recipient is mandated by a judge to attend court appearances and the recipient agrees to use his or her PNA for transportation, then the PNA can be used, if there is no other source of funds.

A case manager may want to explore with a specific LDSS on a case-by-case basis, other funding that may be available for such things as transportation reimbursement for foster care visits, family unification, etc.

- g. Goods that are donated to the facility cannot be sold to the residents. A PNA account cannot be used to purchase donated personal items. However, a facility can purchase items in bulk quantity and resell them to the residents at cost. Such items, for example, can include cigarettes, toothbrushes, razors, shampoo, and individual size snacks. Residents can use their PNA funds to pay the actual cost of these items. The facility cannot make a profit as a result.
- h. All PNA charges must be directly incurred by the resident, and each resident must be told in advance of any charges and agree to them.
- i. The program must report to the issuing local services district any changes in a recipient’s circumstances, including changes in residency, income from any source (including stipends), savings or other resources, within 10 days of the change.
- j. An individual may be discharged from one level of Congregate Care Level 2 treatment (e.g. intensive residential rehabilitation services) and enter another level of Congregate Care Level 2 treatment (e.g., community residential services). However, he or she is still residing in Level 2 Congregate Care and must have his or her PNA restricted. If both Levels 2 programs are operated by the same provider, the provider must continue to retain any accumulated PNA funds as a restricted grant and transfer the accumulated PNA funds to the affiliated facility on behalf of the client. Once the client is discharged completely from the provider’s Congregate Care Level 2 program(s) any accumulated PNA funds must either be returned to the LDSS for a client who left before completing treatment or given to the client if he or she has completed treatment.

2. Financial/ Accounting Guidelines

- a. The program must maintain individual records for each resident who has a PNA account, showing all deposits, withdrawals and current balance and maintain all paid bills, vouchers and other appropriate payment and

receipt documentation in accordance with generally accepted principles of accounting.

- b. When a resident leaves the program prior to completion of the program, any accumulated PNA must be returned to the issuing social services district within 30 days of the resident leaving the program. OASAS' Client Data System (CDS) instructions define the discharge date for inpatient/residential programs as the date of the last face to face treatment contact with the client, following three subsequent days of no contact with the client. The 30 day clock starts on the date of discharge as defined by these instructions.

When returning PNA balance amounts for a resident who left without completing treatment, the program must not offset or reduce those PNA balance amounts by negative PNA balances incurred by any other individual(s).

- c. When a resident completes the Congregate Care Level 2 program, the facility must give any accumulated PNA to the person at the time of departure from the facility. The question of whether the recipient has left the program prior to completion will be determined solely by using the guidelines and rules of the program (2 b above).
- d. Other funds of a resident, such as income or gifts, must not be co-mingled with any PNA funds.
- e. PNA funds must be kept in a separate account and never co-mingled with any other facility funds.

C. Resident (recipient) Responsibilities.

The recipient must report and verify any changes in his/her circumstances in accordance with 18 NYCRR 351.1(b)(2)(iv) including changes in residence, income from any source, savings or other resources to the local social services district within 10 days of the change.

V. Systems Implications

Upstate Districts are reminded to continue to use Pay Type "A6" for Shelter and "E9" for PNAs.

VI. Food Stamps

Food Stamp benefits for RTC residents are adjusted annually. The increased PNA will be reflected in the next adjustment

VII. Medicaid

The Congregate Care Level 2 facility TA Standard of Need/SSI Benefit Level is used to determine eligibility for Medicaid-only applicants. The TA Standard of Need/SSI Benefit Level for individuals residing in Congregate Care Level 2 facilities is updated automatically with the annual mass rebudgeting in Medicaid Budget Logic (MBL).

If, after paying the facility for housing and paying medical bills to meet any spend down requirement, a Medicaid-only recipient is left with money for his or her personal needs, the recipient may choose to have the facility maintain a personal account on his/her behalf. Separate personal account records must be maintained by the facility. For Medicaid-only residents, other funds, such as gifts, may be commingled with the resident's own accumulated income. If the recipient has chosen to have the facility maintain a personal account, any funds remaining in the account when the recipient leaves the program, must be returned to the recipient, regardless of whether the individual has completed treatment or not.

VIII. Additional Information

No additional information

IX. Effective Date

Immediately

Issued By

Name: Russell Sykes

Title: Deputy Commissioner

Division/Office: Employment and Transitional Supports

QUESTION AND ANSWER SHEET PERSONAL NEEDS ALLOWANCES IN LEVEL 2 CONGREGATE CARE RESIDENTIAL ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS

- 1. Q. What is the definition of when a resident leaves the program prior to completion? OTDA policy requires that if a client leaves the program prior to completion, the Congregate Care Level 2 facility must return the client's unspent PNA balance to the issuing district within 30 days of the resident leaving the program**

 - A. OASAS' Client Data System (CDS) instructions define the discharge date for inpatient/residential programs as the date of the last face-to-face treatment contact with the client, following three subsequent days of no contact with the client. Accordingly, it was agreed that the 30 day clock starts on the date of discharge as defined per OASAS' CDS instructions.**

- 2. Q. What is the policy for release of PNA funds to clients receiving different levels of residential care from the same provider (e.g. Phoenix House)? Some OASAS certified providers operate different levels of residential care, all of which are eligible for Level 2 PNA payments for eligible clients. If the client is discharged directly from one level of residential care to another level of residential care operated by the same provider (e.g. intensive residential to community residential) does the provider have to release any balance of accumulated PNA funds to the client or can the facility continue to retain and treat the PNA funds as a restricted grant on behalf of the client in the new level of care?**

 - A. When two levels of OASAS residential treatment are operated by the same provider, and the client is directly discharged from one level of care and admitted to the other, depending on the manner in which the provider administers the PNA funds (i.e., centralized vs. decentralized) the provider may continue to retain any accumulated PNA funds as a restricted grant on behalf of the client (centralized administration) or transfer the accumulated PNA funds to the receiving affiliated facility on behalf of the client (decentralized administration). Subject to clinical consideration, the discharging facility may disburse the funds to the client if such client is discharged from an intensive residential or community residence and admitted to a supportive living level of care. Once the client is discharged completely from the provider's operated services the accumulated PNA funds must be returned to the LDSS for a client who left before completing or given to the client if s/he has completed treatment.**

- 3. Q. What is the policy for release of PNA funds when the client leaves the facility for a different treatment level? Some clients are discharged from a residential treatment facility to another non-residential level of care, (e.g., outpatient). In these cases some of the residential treatment facilities will not consider the client to have "graduated" from treatment until the client successfully completes the other treatment level. The residential facility will hold the client's PNA until the client successfully completes the next level of treatment. Is this an acceptable practice?**

 - A. When a client completes treatment in a residential facility the facility must turn over any accumulated balance of PNA funds to the client. If the client is referred to another level of care operated by another provider, any balance of accumulated PNA funds should follow the client.**

4. **Q. Social Services Law, Article 5, Title 1, Section 131-o prohibits use of PNA funds for any supplies or services that the facility is required to provide. The statute also requires a client's review and consent to an itemized charge statement prior to any facility charges to a client's PNA account for supplies and services. What are allowable PNA charges? Specifically, 1) what items are considered operational and may not be charged to PNA; 2) what items are personal and may be charged to PNA; and 3) can providers charge PNA funds for universal costs generally incurred on behalf of clients on a prorated basis?**
- A. If the supply or service is a non-discretionary client item or client service that is required by law or supported by an OASAS contract/net deficit funds, then it may not be charged to PNA. If the service or item is discretionary then it may be considered as an eligible PNA charge. In some cases the service or item may be eligible for payment by an alternative funding source. In this instance the charge should first be applied to the alternative funding source and only charged to PNA when the alternative funding source is no longer available.

Example: There is significant variability regarding transportation. The general recommendation is where the transportation need is mandatory, e.g., a court appearance or transport to a medical service and/or is supported by net deficit funds the transportation cost may not be charged to the client's PNA. Where the transportation is to a voluntary event, e.g., recreational activities, then the cost may be charged to PNA. In those cases where a service is both supported by net deficit funds and eligible to be charged to PNA, and the charge is applied to PNA, the provider should clearly document the decision to apply the cost to the client's PNA. Additionally, in certain cases there may be alternative funding sources to support both mandatory and voluntary client transportation needs and programs should work with the client's LDSS to identify and apply for any additional funding support.

Generally, providers may not charge PNA funds for universal costs incurred on behalf of clients on a prorated basis. Charges to PNA funds must be on an individual client specific cost basis.

5. **Q. Can PNA be used for pharmacy co-pays? Some OASAS programs, particularly those in rural areas, have a limited choice of pharmacies to which to refer clients for prescription needs. For these OASAS providers there is a concern that outside pharmacies will stop doing business with facility clients if residents do not pay their co-pays. To prevent this, the programs may choose to use their deficit funding to pay the co-pays.**
- A. There is no exemption from co-pays for clients in Congregate Care Level 2 facilities. In general, health care providers may ask for a co-payment for certain services from Medicaid recipients age 21 or older. Medicaid requires most clients to pay a pharmacy co-pay of \$3 for brand name drugs or \$1 for generic drugs. There is a maximum of \$200.00, effective August 1, 2005, per recipient, per twelve (12) months for all Medicaid co-payments.

Effective January 1, 2006, dual eligible (Medicare/Medicaid) Congregate Care Level 2 residents are required to enroll in a Part D Prescription Drug Plan and receive most medications through Medicare, rather than Medicaid. Minimal co-pays of \$1 for generic and \$3 for brand name drugs will be required. Unlike the Medicaid provision, under Part D, pharmacies are not required to dispense a prescription when the individual cannot pay the require co-pay. Although pharmacies may choose to waive or reduce the Part D co-pay on a case by case basis, they are not required to do so. The PNA can be used to meet this Part D co-payment requirement.

- 6. Q. Can PNA be used for co-pays for services received by residents at an Article 28 Diagnostic and Treatment Center (D&TC)? Some of the OASAS Chemical Dependence (CD) intensive residential facilities also operate an Article 28 D&TC clinic and want to know if a client's PNA can be used to pay the \$3 clinic co-pay?**
- A.** Residents in these facilities are not exempt from using PNA funds for Medicaid medical and prescription co-pays, including services at Diagnostic and Treatment Center (D&TC) clinics. However, in the event that a client cannot pay the co-payment, the provider cannot withhold the service or prescription