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Informational Letter

Section 1

Transmittal:	06-INF-11
To:	Local District Commissioners
Issuing Division/Office:	Division of Employment and Transitional Supports
Date:	March 16, 2006
Subject:	Family Violence Option Policy Clarifications
Suggested Distribution:	Domestic Violence Liaisons, Temporary Assistance Directors, Services Directors, Staff Development Coordinators, Food Stamp Directors, Employment Coordinators, Child Support Enforcement Unit Supervisors, Child Care Unit Supervisors
Contact Person(s):	Deb McArdle (518) 474-2828 or e-mail Debbie.McArdle@otda.state.ny.us or Wendy Buell (518) 486-3460 or email Wendy.Buell@otda.state.ny.us
Attachments:	LDSS-4872: "Domestic Violence Assessment Checklist" (3/06) and LDSS-4873: "Domestic Violence Reassessment Checklist" (3/06) and Notice Regarding Child Support Requirements for Victims of Domestic Violence (03 ADM-5)
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 OCFS ADM-3 03 ADM-5 03 ADM-2 99 ADM-8 98 ADM-3 04 LCM-1 04 INF-18 03 INF-29 02 INF-36 00 INF-19 99 INF -10 97 INF-6		351.2(1) Parts, 347, 369, 408	SSL 62(5) 131-u 349-a 459-g		LDSS-4583 "Domestic Violence Screening Form" LDSS-4813 "Desk Reference for DV Screening Under the FVO" LDSS-4731 "District of Fiscal Responsibility Guide"

Section 2

I. Purpose

The purpose of this release is to provide updates and clarification related to the policies of the Family Violence Option (FVO). The need for this clarification was identified through local social services district monitoring reviews and feedback from local district staff received during interdisciplinary regional meetings. Local districts have requested updated information, direction, on-going training and clarification on policy surrounding the implementation of the FVO and related areas of responsibility.

II. Background

The federal Wellstone-Murray Family Violence Option was implemented in New York effective April 1, 1998, under the provisions of the Welfare Reform Act of 1997. 98 ADM-3 advised local social services districts of the new regulations implementing the FVO. Under New York law statute, applicants for and recipients of temporary assistance (TA) are screened for domestic violence at the time of application and recertification, and any time at the request of the client. This screening is to allow victims of domestic violence the option of meeting with a specially trained worker, the domestic violence liaison (DVL). The DVL assesses the victim's credibility, informs the victim about domestic violence services, determines the need for a waiver and/or helps the victim develop an emergency safety plan, if necessary.

The DVL may grant a temporary waiver from TA program requirements if it is determined that these requirements would increase the potential for continued abuse of the victim and/or the victim's children, or impede their ability to leave the abusive situation. This program is completely voluntary on the part of the victim and is not an eligibility requirement. Domestic violence victims may request a consultation with a DVL to discuss a waiver at any time. Also, great care is given throughout the process to maintain the confidentiality and safety of the victim and/or the victim's children.

It is recognized that the combined incidence of poverty and domestic violence create especially difficult circumstances for victims who desire to move toward safety and self-sufficiency. Yet, it is believed that there is a low rate of disclosure among victims in poverty situations. The purpose of the FVO is to ensure the victims' safety by not forcing the victims to pursue requirements that might put them at risk. Typically, despite the availability of waivers, victims choose to pursue child support and/or employment services in order to improve their opportunities to become self-sufficient.

III. Program Implications

The presence of domestic violence may be a barrier to self-sufficiency. When disclosed and determined necessary to address, it must be done at the local district level. Within each local department of social services, district staff should be sensitive to the needs of DV victims in the various areas of responsibility in the agency. District staff should be familiar with the established protocols in their respective areas for DV situations. Most such situations are handled on a case by case basis, and may be addressed by referral for DV services, granting of exemptions, good cause, waivers or a combination as needed.

A. Domestic Violence Screening and Referral

Staff working with TA applicants/recipients should have a basic understanding of the general requirements associated with other program areas such as TA, employment and child support, in order to help ensure the safety of DV victims in the TA process. Staff should periodically engage in cross training, review procedures and discuss the implications of program requirements and their impact on TA clients in identified DV situations. This is especially important when the various units are in different locations and/or the DVL position is not a local district staff person, but rather an employee of a community DV agency under contract with the local district.

1. **TA Implications:** The TA worker, or designated staff person assigned to conduct the domestic violence screening, must screen all adult TA applicants and recipients subject to TA program requirements for the purpose of determining the presence of domestic violence and its effect on the individual and those in the household. If a couple (including same sex couples) applies for TA together, both adults must be screened. If possible, each individual should be screened separately since the victim may still be living with the abuser and/or the abuser may be one of the individuals at the interview.

The screening is to be conducted using the LDSS-4583 “Domestic Violence Screening Form”. The LDSS-4813 “Desk Reference for DV Screening under the FVO” should be used as a guide to explain the purpose of the DV screening and the provisions of the FVO. (Refer to 03 ADM-2 for more information on the Desk Reference). Even though the DV screening must be conducted by the worker, the completion of the Screening Form is voluntary on the part of the individual being screened. If an individual indicates the presence of DV by checking “yes” on the Screening Form and/or wishes to see the DVL, that individual is referred to the DVL for an assessment using local procedures. In the event that the applicant has checked “yes” but does not wish to see the DVL, the TA worker should honor that wish, note “declined” on the DV Screening form and continue with the eligibility interview. In general, the eligibility interview is completed prior to referral to the DVL.

All completed Screening Forms (including those checked “no”) must be sent to the DVL in accordance with local procedures. Under no circumstances are DV Screening Forms to be filed in the TA case record. Care should be taken to ensure that the information on the completed forms, especially those checked “yes”, is clear and legible to ensure that the DVL can determine the status of the individual. The DVL is responsible for the data entry of all forms checked “yes” including those with declinations. Written procedures must be available in the local district describing its DV screening and referral process. Periodically, local districts need to check to ensure consistent compliance with the FVO.

In situations where an individual refuses to cooperate with child support requirements for “good cause”, the TA worker must continue to evaluate such claims. Prior to the implementation of the FVO, good cause exemptions were the primary means by which the needs of DV victims were considered. Individuals may be eligible for a DV waiver or good cause or both depending on the situation. It is important for workers to have a clear understanding of the key differences between good cause and a DV waiver. (Please refer to 03 ADM-5 for more information on worker responsibilities and good cause.)

2. **Employment Implications:** If a TA applicant/recipient indicates the presence of DV to the employment worker, the employment worker must refer the individual to the DVL in

accordance with local procedures. Please note that it is voluntary for the individual to meet with the DVL. If the TA applicant/recipient chooses to meet with the DVL, the employability assessment is placed on hold until the DVL conducts the assessment and reaches a decision as to whether a waiver is to be granted.

Once a decision is reached, the DVL needs to notify the employment worker of the waiver status. If a waiver is not granted, the employment worker will meet with the client to continue with the employability assessment process. If a waiver is granted, the DVL will notify the employment worker and enter the information into the DV subsystem. The Welfare Management System (WMS) will automatically generate an employability code 45 (Work Requirement Waivable – Exempt) or code 46 (Work Requirement Waivable – Non Exempt). At the end of the waiver period, the employment worker (or whoever is designated within the local district) will be responsible for changing the code back to the appropriate code in accordance with local procedures.

- 3. Child Support Enforcement (CSE) Implications:** If a TA applicant/recipient indicates a concern, about or the presence of DV to the CSE worker, the CSE worker must refer that individual to the DVL in accordance with local procedures. Please note that it is voluntary for the individual to meet with the DVL and it is important that CSE workers do not use the DV Screening form. Please refer to 03 ADM-5 for more information regarding worker responsibilities and child support. If the TA applicant/recipient chooses to meet with the DVL, the CSE interview is placed on hold until the DVL conducts the assessment and reaches a decision as to whether a waiver is to be granted.

Once a decision is reached, the DVL will notify the CSE of the waiver status. If a waiver is not granted, the CSE worker will meet with the client to continue with the CSE interview. If a waiver is granted, the DVL will notify the worker and enter the information into the DV subsystem which will automatically generate a DV indicator on WMS.

It is strongly recommended that CSE workers and DVLs meet to discuss general CSE requirements and their potential impact on DV victims. It is important that DVLs have access to current information in CSE areas such as court orders, collection on arrears, system implications, etc. because this information may have a bearing on the decisions that the DVL and the client make regarding waivers. In addition, please note that good cause exceptions to child support cooperation requirements still exist. Even in cases when a waiver has not been granted, good cause claims must be investigated.

- 4. DV Training for Local District Staff:** In addition to the mandated four day training for DVLs, there also are one day regional DV trainings available through the Office for the Prevention of Domestic Violence (OPDV). The training is intended to provide education regarding domestic violence and the FVO to local district staff with job duties that are impacted by the FVO mandates. The target audience for this training is TA eligibility staff, employment specialists and child support enforcement staff. Districts are strongly encouraged to have their staff participate in these trainings as part of the implementation of the FVO. To schedule training or to obtain more information regarding these sessions, districts should register on STARS or contact OPDV at (518) 457-5800.

B. DV Waiver Assessment

Please be reminded that under the Family Violence Option (FVO), DVLs have the authority to grant waivers only from TA program requirements. Below are clarifications for the DVLs:

- 1. Expanded Definition of Risk:** Risk is defined as situations where complying with certain program requirements could put the client and/or the client's children in danger or make it more difficult to escape the abuse.

Prior policy issuances emphasized the first part of the definition regarding "*putting the client and/or the client's children in danger*". DVLs were trained to evaluate program requirements and risk based on safety and risk such as stalking, harassing and abuse. Current policy has expanded the definition and, consequently, DVLs now evaluate the situation both in terms of the prior criteria and the expanded test which includes "*making it more difficult to escape the abuse*". For example, a victim may have just left the abuser or is in the process of leaving. Those experienced in DV issues recognize that this period of transition and upheaval is an extremely dangerous time for the victim and the victim's family. The victim may need time to organize family affairs during this transition. For example, s/he may need to find appropriate and safe housing, identify new schools for the children, and make arrangements to attend counseling. Consequently, s/he may not be able to comply with program requirements such as participation in employment activities or child support enforcement activities during this time.

This interpretation is somewhat different than that which was previously provided. Experience and research has shown that there must be flexibility in the extent of demands placed on the victims in order for them to transition safely without feeling that the process is so difficult that the victim believes that it is preferable to return to the abuser. As such, the policy recognizes that a temporary delay in complying with certain program requirements may help ensure the victim's safety and, in the long run, lead to self-sufficiency.

- 2. Notice regarding Child Support Requirements for Victims of DV:** In cases where compliance with CSE rules is required, DVLs are expected to discuss this notice with TA clients during the DV assessment. For reference, information and a copy of this notice can be found as an attachment to 03 ADM-5 and is required to be discussed with the client. DVLs also are advised to coordinate with the CSE staff regarding the exchange of information on issues such as court orders and collection of arrears. Special attention to this notice should be paid in circumstances where the DV and CSE units are in different physical locations and/or the DVL position is contracted out with a community DV agency. A copy of the "*notice*" is attached to this release.
- 3. DV Assessment and Reassessment Checklists:** Two forms have been developed for use in the DVL case file (one form for the initial assessment and one for reassessment). It is strongly recommended that these checklists be used as part of the DVL file to help ensure that the DVL obtains the required forms and documentation necessary for the FVO file to be complete. Districts may use a local equivalent. Please fax any local equivalents to the Bureau of Transitional Programs (BTP)/FVO at (518) 473-6207. Copies of these checklists are attached to this release.
- 4. Reassessment Interview:** The DVL must conduct the reassessment interview in the same manner as the initial assessment. However, assuming that credibility already has been

established in a case, there is no need to re-establish this fact again. Based on the reassessment, the DVL will update the file with current information regarding the situation, update the services plan, review immediate safety concerns, and determine the need to continue a waiver, provide notice to worker and client and enter data into DV subsystem.

- 5. Cross District Policy and Courtesy Applications:** It is not uncommon for two local social services districts to be involved with a DV case. Most often this happens when safety concerns cause victims to choose to relocate to a district outside of their home area, or in situations where a district relies on a shelter in another district. Information is found in 00 INF-19 “District of Fiscal Responsibility (DFR) Procedures”. Districts are required to use LDSS-4731 “DFR Desk Guide”, which provides the guidelines for determining the DFR. Clients who are residing temporarily in another district or are residing in a DV shelter in that district, continue to be the responsibility of and have their cases managed by, the “*where from*” district.

During any courtesy application process, DVLs in the receiving district should determine through client documentation or contact with the DFR district what waivers the client has been already granted. Based on the client’s current situation, the DVL in the receiving district may make recommendations to the DVL in the DFR district for changes in the waiver status. It is not necessary for the DVL in the DFR district to contact or have a face to face assessment with the victim. The DVL in the DFR makes the final determination on waivers and enters the data into the subsystem. It should be noted that the DV subsystem in WMS only allows DVLs to enter data for clients who are the responsibility of that district as the DFR.

- 6. Waivers:** Waivers are a temporary suspension of TA program requirements such as child support cooperation, participation in alcohol and substance abuse assessment and treatment, work and work related activity, time limits, alien deeming and certain provisions of minor parent eligibility requirements. Waivers also may be granted for the placement of liens on real property and for spousal support obligations. For example, if a DVL determines that assigning the lien on real property owned jointly by the victim and the batterer will put the victim at further risk or make it more difficult for the victim to escape the abuse, the requirement to sign the lien may be waived. The waivers for spousal support and the signing of liens are data entered under “*Other*”.
- 7. WMS Domestic Violence Subsystem Learnline Training:** It is very important that accurate information is entered into the WMS DV subsystem to protect client confidentiality, to provide data necessary to generate the bi-monthly “Expiring Waiver Reports” and to enhance program integrity. Additionally, it should be recognized that the data entered into the DV subsystem is necessary to ensure accurate coding on WMS for employability status and DV indicators.

Considering the importance of this function and the need expressed by DVLs, the Bureau of Transitional Programs (BTP) and the Professional Development Program (PDP) have developed an online training course entitled “WMS Domestic Violence Subsystem Training”. The target population of this training includes current and secondary DVLs as well as individuals assigned the responsibility to enter data into the DV subsystem.

This training module will be a live interactive Learnline training so that districts can have their questions answered, as well as fulfill the training mandate. This Learnline training

course, designed to replace the previously released CD-Rom/Computer-Assisted Instruction (CAI) version of the training identified by the same title, will allow participants to complete the training at their workstations. This training for all DVLs will be mandatory and will be considered technical assistance. Districts may register on STARS. More information on the availability of this training will be provided in the near future.

8. **Referral for DV Services:** Referral for DV services should be provided and noted in the DVL case file whenever a DVL conducts an assessment, regardless of the waiver status. If the individual is already involved with DV services, it should be noted in the DVL file.
9. **Services Plan:** If a waiver is granted, a services plan must be completed with the client and a copy kept in the DVL file. However, participating in DV services is voluntary on the part of the client.

C. Non TA Cases Only:

1. **Child Care (Non TA Only):** 05-OCFS-ADM-03 has been issued by OCFS regarding The Child Care Subsidy Program. Applicants for and recipients of child care who live in a household in which a parent is continuously absent are now required to document that they are pursuing child support either through social services child support enforcement offices, a private attorney/law firm, or on their own. Clients may claim good cause for not complying with this requirement, as is the case if they were TA clients. The child care worker is responsible for making a determination of good cause based on consideration of relevant criteria, including the presence of domestic violence. Recognizing that domestic violence may not be easily identified or documented, and that child care staff may lack the training or expertise required to determine good cause in domestic violence situations, it is appropriate that the DVLs have a role in some good cause decisions. The Child Care Subsidy Program Guidance (05 -OCFS-ADM 03) includes the following section on Good Cause which describes the role of DVLs in certain child care cases:

“The child care worker should review the documentation provided by the custodial parent/caretaker. If the documentation is sufficient to verify the good cause claim, the child care worker should make the determination at that time. If there is no documentation or insufficient documentation, the custodial parent/caretaker may be referred to the domestic violence liaison (DVL) for a more complete assessment. The DVL will make a recommendation regarding the credibility of the claim that the DV situation represents a danger to the custodial parent/caretaker, the child or another member of the household and notify the child care worker of the recommendation. Based on the findings and recommendations of the DVL, the child care worker and supervisor will make the final determination on the good cause claim.

A referral may also be made to the DVL or a local community based domestic violence services organization for information and referral for domestic violence services. The referral for information and services should only be made if the custodial parent/caretaker agrees to such a referral. It is the decision of the custodial parent/caretaker whether or not to seek domestic violence services.”

Each county will develop its own procedures to handle the specifics of how communications between personnel, client interviews and confidential case file

information will be addressed to ensure client safety, confidentiality and a fair handling of their claim for good cause.

2. **Food Stamp (Non TA Only):** As stated in 98 ADM-3, there is no specific provision to waive food stamp (FS) requirements for victims of domestic violence. However, the State's FS plan allows districts to "exempt" such victims from FS work requirements. The FS work registrants who are victims of DV could be excluded from participation in the Food Stamp Employment and Training (FSET) program under the criteria of "substantial barriers to employment". In addition, good cause evaluations may be made to determine whether good cause exists for an individual who has failed to comply with work requirements. Good cause includes circumstances beyond the individual's control such as, but not limited to, illness, household emergency or lack of adequate child care. Since DV may be an issue that prevents an individual from meeting the FS work requirements, it is recommended that districts review their established protocols for handling DV situations.
3. **Medicaid (Non TA Only):** As stated in 98 ADM-03, Medicaid should honor waivers granted while the client was in receipt of TA. As with FS, there is no provision for screening for DV. However, clients indicating DV should be advised about DV services. Medicaid only applicants/recipients indicating DV should continue to be evaluated for good cause when IV-D compliance is an issue.

***Note:** Please be reminded that although DVLs may meet with Non-TA applicants/recipients on a case by case basis, under the FVO, DVLs have the authority to grant waivers only from TA program requirements.*

IV. Forms Ordering Information

- The 3/06 versions of the new LDSS-4872: "Domestic Violence Assessment Checklist" and LDSS-4873: "Domestic Violence Reassessment Checklist" (Camera Ready Copies) can be requested at any time.
- Any future written requests for Camera Ready Copies of the 3/06 versions of LDSS-4872: Domestic Violence Assessment Checklist and the LDSS-4873: Domestic Violence Reassessment Checklist should be submitted on OTDA-876 "Request For Forms or Publications", and should be sent to:

Office of Temporary and Disability Assistance
BMS Document Services and Operational Support
P.O. Box 1990
Albany, New York 12201

Questions concerning ordering forms should be directed to BMS Document Services at 1-800-343-8859, ext. 4-9522.

- Camera Ready Copies of the documents may also be ordered through Outlook. To order a Camera Ready Copy you must obtain an OTDA-876 electronically by going to the OTDA Intranet Website at <http://otda.state.nyenet/> then to Division of Program Support & Quality Improvement page, then to PSQI E-Forms page (this page contains the electronic OTDA-876).

- For those who do not have Outlook but who have Internet access for sending and receiving email, the Internet email address is: gg7359@dfa.state.ny.us.
- For a complete list of available forms available for downloading by local district staff , please refer to OTDA Intranet site:

http://otda.state.nyenet/ldss_eforms/default.htm .

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