



Eliot Spitzer
Governor

**NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001**

David A. Hansell
Commissioner

Administrative Directive

Section 1

Transmittal:	07-ADM-06
To:	Local District Commissioners
Issuing Division/Office :	Center for Employment and Economic Supports, Office of Temporary and Disability Assistance (OTDA)
Date:	October 16, 2007
Subject:	<u>Doe v. Doar</u> – Unfavorable Appellate Court Decision on the Proration Policy Transmitted in 04 ADM-05 “Temporary Assistance and Non-Temporary Assistance Mixed Households; Budgeting When the Family Includes an SSI Member”
Suggested Distribution:	Temporary Assistance Staff Fair Hearing Staff Staff Development Staff Resource and Recovery Staff Medical Assistance Directors
Contact Person(s):	Center for Employment and Economic Supports at 1-800-343-8859 Temporary Assistance Bureau at extension 4-9344 Food Stamps Bureau at extension 3-1469 Office of Health Insurance Programs, Local District Support Liaison – NYC: (212) 417-4500 and Rest of State (ROS) (518) 474-8887
Attachments:	Attachment 1: NYC Mass-Rebudget Laser Letter Attachment 2: OTDA Letter To Closed Potential <u>Doe</u> Class Cases Attachment 3: Cover Letter From District of Residence to Former District of Residence Attachment 4: <u>Doe</u> Underpayment Calculation Worksheet (ROS) Attachment 5: <u>Doe</u> Underpayment Calculation Worksheet (NYC)
Attachment Available On – Line:	yes

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
04 ADM-5 01 ADM-4 94 ADM-10	04 ADM-05	352.2(b)	131-a 131-c 209		GIS 07 TA/DC011 Doe v. Doar 26 AD3d 787

Section 2

I. Summary	Page 3
II. Purpose	Page 3
III. Background	Page 3
IV. Program Implications	Page 4
V. Required Action	Page 5
A. What is a <u>Doe</u> Household	Page 5
B. <u>Doe</u> Related Notices Language - Statewide	Page 7
C. Active Cases – Districts Outside NYC	Page 7
1. Definition of an Active Case	Page 8
2. Action Required on Active Cases	Page 8
D. Active Cases – New York City (NYC)	Page 9
1. Definition of an Active Case	Page 9
2. Exceptions to the MRB	Page 9
E. Closed Cases – Statewide	Page 10
1. Letter to Closed Potential Class Members	Page 10
2. Reapplication Process	Page 11
3. Determination on Reapplication	Page 12
F. <u>Doe</u> Class Member Living in a Different District	Page 14
1. Potential <u>Doe</u> Class Member Currently Eligible for Ongoing TA	Page 14
2. Potential <u>Doe</u> Class Member is Not Currently Receiving Ongoing TA	Page 14
G. Miscellaneous Other Corrections	Page 15
1. Aid Continuing Recoveries	Page 15
2. Overpayments – Shelter Supplement Cases	Page 15
3. Rest of State (ROS) Only – Amounts Reported to SSA	Page 16
H. Food Stamps Implications	Page 16
I. Medicaid Implications	Page 16
VI. Systems Implications	Page 17
A. Cross District Inquiry	Page 17
1. ROS WMS	Page 17
2. NYC WMS	Page 17
B. Payment Type Codes	Page 17
1. ROS	Page 17
2. NYC	Page 17
C. Payments On Closed Case In Former District – TA Eligible	Page 18
1. ROS	Page 18
2. NYC	Page 18
D. Notices: 1-11	Page 18
VII. Additional Information	Page 24
A. Lists of Upstate Cases	Page 24
B. Impact on Time Limit Tracking	Page 24
C. Interim Assistance Reimbursement Calculation (ROS)	Page 24
D. Claiming Hierarchy	Page 24
E. Record Keeping – Closed Case Owed Underpayment	Page 25
F. Refusal to Apply for or Accept SSI	Page 25
G. Emergency Housing – How the <u>Doe</u> Change Affects Determination	Page 25
VIII. Effective Date	Page 25

I. Summary

This Administrative Directive (ADM) provides information about the Doe v. Doar court decision and the retroactive adjustments and corrections that must be made on affected active and reapplying cases. This litigation challenged the policy set forth in 04 ADM-05, "Temporary Assistance and Non-Temporary Assistance Mixed Households; Budgeting When the Family Includes an SSI Member" and the supporting regulation, 18 NYCRR § 352.2(b).

The Office was ordered to formulate a remedial plan "that restores the public assistance benefits of the members of the class to the pre-July 2004 standard of need levels and compensates all eligible class members retroactively for any loss in benefits sustained from July 4, 2004, to the present because of application of 18 NYCRR § 352.2(b)."

This ADM addresses:

- Treatment of active cases and how the affected cases will be identified, rebudgeted, notified, and provided with retroactive benefits.
- Treatment of the retroactive payment for Temporary Assistance (TA), Food Stamps (FS) and Medicaid (MA).
- Payment of retroactive SSI to a FA/SSI member whose share of TA was reported to SSA as the prorated amount rather than the incremental amount.
- Notification to and required action on closed potential Doe class cases. **(Required CNS codes will be available on production on October 22, 2007.)**
- Language of all Doe related notices. All Doe related notices must be provided in both English and Spanish language.
- **Creation of a new ROS payment type code W2 – Court Ordered Retroactive – cash". Available on production on October 22, 2007.**
- **A worksheet that districts may use to determine the underpayment on Doe cases.**

Please note: This release must be used. Do not use the executive clearance draft.

II. Purpose

The purpose of this release is to provide details of the steps that the Office and Local Social Services Districts (LSSD) must take to comply with the Appellate Court decision finding for Plaintiffs' in the Doe v. Doar litigation.

III. Background

On February 24, 2005, a complaint was filed in Monroe County Supreme Court that challenged the Office's policy of determining the standard of need for the remaining family members when the family includes a recipient of SSI. This budgeting method is referred to as Doe proration.

On August 5, 2005, the Supreme Court had granted plaintiffs' motion for summary judgment; declared 18 NYCRR §352.2(b) invalid because it violates Social Services Law § 131-c, 131-a and 209; enjoined the Office from taking any action to enforce 18 NYCRR §352.2(b); ordered that the Office notify all local social services districts to cease applying 18 NYCRR §352.2(b) to the named plaintiffs and members of the plaintiff class; and ordered that the Office formulate a remedial plan "that restores the public assistance benefits of the members of the class to the pre-July 2004 standard of need levels and compensates all eligible class members retroactively for any loss in benefits sustained from July 4, 2004 to the present because of application of 18 NYCRR §352.2(b)." That order was stayed on appeal by OTDA to the Appellate Division.

On February 3, 2006, the Fourth Department Appellate Division unanimously affirmed the August 5, 2005, Monroe County Supreme Court decision in the Doe v. Doar litigation and on September 13, 2007, the Office was ordered to implement the remedial plan.

On September 14, 2007, this Office issued GIS 07 TA/DC011 that informed Local Social Services Districts (LSSDs) to stop applying the Doe proration budgeting to applicant and recipient households that would become subject to the budgeting methodology on or after the date of the GIS message.

IV. Program Implications

LSSD (hereafter referred to as districts) will be required to rebudget active Doe class cases according to the schedule set forth in Section V of this directive.

- Rest of State (ROS) districts must calculate and issue retroactive payments, and provide notice using the specially developed Client Notice System (CNS) reason codes.
- IN NYC, most rebudgeting to remove the proration, calculation of the retroactive payment and issuance of the notice will be done as part of a series of Mass-rebudgets (MRBs). NYC will have to manually handle those cases that are exceptions to the MRBs, using the specially developed CNS reason codes.

Districts will be required to schedule simplified eligibility interviews for potential Doe class cases referred to them by OTDA, determine class eligibility, provide notification of the decision and, as appropriate, calculate and issue the underpayment amount.

Districts must not apply this Doe retroactive underpayment against any existing, outstanding or future TA overpayment and must not count the retroactive payment as income or a resource to the TA household. However, if the household has an emergency, the retroactive payment amount the family has received is not exempt from consideration when determining if the family has resources available to meet the emergency in whole or in part.

The retroactive payment may have implications for the household's Food Stamp and Medicaid benefits.

Districts must not apply the Doe proration to family cases with an SSI family member that apply on or after September 14, 2007, the date of GIS 07 TA/DC011 and must not apply the proration to cases that applied before the date of the issuance of the GIS but which were still in the application status on that date.

Districts must not apply the proration to any active family cases in which a family member becomes eligible for SSI on or after September 14, 2007.

ROS districts will have to review lists of potential Doe class cases that are expected to be delivered to each district within three weeks of the date of the GIS. The lists will have more than just Doe class cases because a case will appear on the list if, in any month since July, 2004, the ABEL budget showed an uneven household and case count (indicating a cooperatively budgeted or prorated case) and there is a blank in the shelter proration field on ABEL. For each case, a count of the months when the case met the selection criteria will be provided. Each district must review the list to determine if the case is currently active or, if currently closed, if the case meets the definition of an active case. For ROS districts' cases, an "active case" for the purpose of the Doe remedial plan actions is any case that was active on the date of the issuance of the GIS even if the case was clocking down to close on that date, or has closed since that date.

If the case is active or meets the upstate definition of active, determine if the case is a Doe case currently or was a Doe case in any month since July 2004. If currently a Doe case, remove the proration. For any current Doe case or any former Doe case, determine the retroactive payment according to the instructions in Section V. below.

For any active case reviewed and determined not to be a Doe case, provide notice of that decision.

If a case on the ROS list does not meet the ROS definition of an active case, do not review or attempt to issue any retroactive payment. Closed cases will be handled according to the directions in Section V.E. below.

For NYC, an active case is one that is active on the date of the first mass rebudget to remove the proration from the Doe cases.

ALL ROS cases that appear on any Doe list, and any NYC case that will be handled manually because it is an exception to the NYC MRB **MUST** be provided with the appropriate notice using the specifically developed Doe CNS codes. (See Notices, Section VI.D.). These codes will allow OTDA to meet the reporting requirements under the remedial plan without additional burden to districts.

FAILURE TO USE THE CORRECT CNS CODES IN ADDITION TO THE WMS CODES WILL MEAN THAT THE NOTICES WILL NOT PROVIDE THE REQUIRED INFORMATION, AND CASES CANNOT BE TRACKED SO OTDA WILL BE REQUIRED TO CONTACT DISTRICTS TO SECURE DOCUMENTATION OF EACH CASE ACTION.

V. Required Action

A. WHAT IS A DOE HOUSEHOLD?

A Doe household is one that has been affected by the proration policy introduced in 04 ADM-05 at any time since July 2004. A Doe household is one in which the family members form a filing unit and the SSI family member would be a required filing unit member but for the receipt of SSI. In a Doe household, any person, adult or child, who would otherwise be required to be in the filing unit except that he or she is receiving SSI would, under the overturned policy, have caused the addition of that SSI member to the household count and then the reduction of the needs to account only for needs of the TA family members.

Consideration of the SSI person was first introduced in 94 ADM-10, "Budgeting of a Home Relief (HR) case when a Legally Responsible Relative in Receipt of Supplemental Security Income (SSI) is in the Household (Rice v. Perales)". **This policy, based on 18 NYCRR 352.30(e)(1), was not challenged and remains current policy.** Rice applies **only** when the SSI recipient is a legally responsible relative (LRR), and only in a Safety Net Assistance (SNA) case, when there are no children on the case who are under age 18 (or age 18 and in full-time secondary school or the equivalent). **In addition, no SNA case that is eligible to be claimed for Maintenance of Effort (MOE) can have the Rice proration applied even if the child is not active on the case.**

Active cases affected by the Doe budgeting methodology must be rebudgeted and provided with retroactive benefits according to the directions in this directive. For example, a family of three has two TA members and one SSI member. Currently, the family's TA is based on the needs for three reduced by 1/3.

- ROS, the workers will change the Automated Budgeting and Eligibility Logic (ABEL) budget to reflect just the TA members. For example, the ABEL budget will show two in the household (HH) and two in the case (CA), not 3 HH, 2 CA.
- In NYC, a mass rebudget (MRB) will be done to remove the proration.

The budget difference will be noted as that will be one element in the retroactive payment calculation that is discussed below in Section V. C. 2 (Upstate) and V. D. 2 (NYC).

Different payees may have headed the same household affected by Doe proration over the period since the July 2004 implementation of this challenged policy. For example, the caretaker of children (siblings, one TA and one SSI) changed from the grandmother to the aunt. When the caretaker/payee changed on the case, the worker closed the TA case and reopened it under a different case number. Since the caretaker on the closed case will receive a letter informing him or her of the potential for a retroactive payment, no payment will be issued to a current caretaker for a period that a former caretaker headed the household. Although this is the general rule, there may be exceptions such as cases in which the previous caretaker is deceased and those cases will be handled case by case as they arise.

Applying family cases that include an SSI member that would be required to be a filing unit member but for the receipt of the SSI cannot have the proration applied at case opening.

Newly eligible SSI members in an active family case cannot cause the proration on the budget. Rather, the SSI individual will be removed from the TA case and will not be reflected on the TA ABEL budget in any way. (The SSI family member will be included on the WMS record as required for federal reporting purposes. See 01 ADM-04.)

The following examples will illustrate the difference between Doe and Rice, and cases to which neither apply:

1. A mother and her two children reside with the father of the children. The father is an SSI recipient. If he did not receive SSI, he would be required to be a filing unit member. Therefore, under the challenged policy, the TA family member's needs were based on four in the household. The needs were then reduced by $\frac{1}{4}$. This is a Doe household and the proration must be removed.
2. Two siblings live with their Grandmother. Grandmother applied for TA for only one of the children because the second child receives SSI. If not for the receipt of the SSI, the second child would be a required member of the sibling's filing unit. Therefore, the TA child's needs were based on the needs for two reduced by $\frac{1}{2}$. This is a Doe case and the proration must be removed.
3. A woman lives with her two children and her nephew. The nephew receives SSI. The nephew is not a required filing unit member. This is not a Doe case and is not a Rice case. No proration due to the SSI individual should have been done under Doe and will not be done under Rice.
4. A woman lives with her two children and her niece. All children are under age 18 and all receive TA. The woman receives SSI. This is a Doe case for the woman and her children. However, since the niece is not a required filing unit member, the Doe proration would not have affected her. In order to prevent the application of the proration to a family member who is not a required filing unit member, the district either did a bottom line budget or moved the niece into a separate co-op case (or in NYC, a separate suffix) so that her share of the needs would have been negatively impacted by

the additional proration. The niece's TA needs will be included with the cousins at the same time the Doe proration is removed from the budget of her cousins.

5. A husband, wife and 20-year-old daughter reside together and the wife is an SSI recipient. The needs of the TA family members are based on three and reduced by 1/3. This is **NOT** a Doe case. This is a Rice case as introduced in 94 ADM-10. The proration remains.
6. A husband, wife and 20-year-old daughter reside together and the **20-year-old receives SSI**. This is neither a Doe nor a Rice case. The 20-year-old is not a required filing unit member as would have been required for Doe. The 20-year-old is also not an SSI recipient who is a legally responsible relative to a TA family member as is required under Rice. No proration may be done.
7. An adult resides with a child in her care and the child is not related to the caretaker. The caretaker receives SSI. This is neither a Doe nor a Rice case. No proration should have been done under Doe and no proration may be done currently under Rice.
8. A woman and her SSI recipient husband reside together with their 17-year-old daughter. The TA woman does not have a qualifying time limit exemption and because the family has had sixty months of cash TA, the family is receiving TA in a Safety Net case and is claimed for maintenance of effort (MOE), state/federal charge code 63. This is a Doe case and the proration must be removed. This Safety Net case is NOT a Rice case since there is a child under age 18 in the case. Neither would this be a Rice case if the child was age 18 and attending full time secondary school or the equivalent.

The daughter leaves the household the following month. This is now a Rice case for the TA spouse of the SSI recipient. (The MOE indicator is also removed.)

9. A woman and her SSI husband reside together and the woman receives TA. This is a Rice case. Investigation shows that in January through April 2005, the couple's under age 18 child lived with them. The husband was on SSI in those months. Although not a Doe case currently, this is a Doe case for the months that the child was in the household and the proration was applied.

B. DOE RELATED NOTICES LANGUAGE – STATEWIDE

All Doe related notices must be issued in both English and Spanish. This is true even if the applicant/recipient (A/R) indicated notices only in English.

CNS will recognize the use of Doe related codes and will generate the notice(s) in both English and Spanish regardless of the Language Indicator in Screen 1 of WMS (upstate) and, in NYC, on the TAD.

NOTE: Districts are reminded that in general, when the A/R indicates a preference for Spanish language notices, the Language Indicator must be set to "S". When "S" is set, the A/R will receive notices in both English and Spanish.

C. ACTIVE CASES – DISTRICTS OUTSIDE NYC (ROS DISTRICTS)

Districts are required to complete corrective action on each Doe class member case as discussed below.

OTDA will provide lists to each district (sorted by office, unit, worker) of cases that are potentially Doe cases. The criteria for selection are an uneven Automated Budgeting

Eligibility Logic (ABEL) Household and Case count and a blank shelter proration indicator on the ABEL budget indicating a “cooperative” budget. Therefore, the lists may include some cases that are not, and never were, affected by the Doe budgeting methodology.

The local district worker is required to take action on those cases on the list that meet the definition of an active case. The worker will **not** take any action on cases on the list not meeting the definition of active. See Section V.E. below.

NOTE: In the event that a district finds a Doe class case that does not appear on the district’s list, please notify the Temporary Assistance Bureau at OTDA and process the Doe case according to the directions in this directive.

1. Definition of an Active Case

An active Doe class case is one that was active on September 14, 2007, the date that GIS 07 TA/DC011 was issued, even if the case is closing or already closed at the time that the worker is ready to work on that case that appears on his or her list of Doe class cases.

2. Action Required on Active Cases

The active cases must be reviewed and rebudgeted at the earliest of the next contact or the next recertification, but no later than six months after receiving the lists.

a. Doe class case – **Proration Currently on the Budget:**

When the worker determines that the case is a Doe class member case, the worker must rebudget the case to remove the proration that is attributed to the presence of an SSI family member. At the same time that the case is rebudgeted, the worker must determine and authorize the retroactive benefit. In order to determine the retroactive benefit, determine the difference between the new benefit amount after the proration was removed and the old benefit immediately before the proration was removed. Multiply that result by the number of months that the Doe budgeting methodology was applied to the case to determine the underpayment/retroactive amount. See Attachment 4, “Doe Underpayment Calculation Worksheet (ROS).”

It does not matter that there may have been positive or negative changes over the months that the proration was in place. At the point in time that the proration is being removed, the comparison to determine the monthly underpayment amount must be done and **that** figure used for each month in the period. **Again**, this is regardless of other case circumstances that may have changed during the affected months.

For any household in which one or more non-filing unit members were placed into a separate cooperative case, or a bottom line budget was done to avoid such individual(s) from being inappropriately affected by the Doe proration methodology, the cases must be rejoined. For example, a grandmother is receiving TA for her daughter’s two children and for her son’s two children, one of whom receives SSI. 18 NYCRR 369.3(a)(3) provides that “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 grandmother would not normally have separate grants of assistance for her grandchildren. However, in order to prevent the proration from affecting the SSI child’s two cousins, those individuals are provided their correct portion of the benefit as either a bottom line budget or in a separate cooperative case.

To calculate the underpayment in such cases, total the TA given to both cases immediately prior to the cases being rejoined. Compare the total that both cases received to the amount of the single benefit for three with the proration removed. The difference is the underpayment per month.

WMS case reason code B20 **AND** CNS reason codes B89 "Doe Reversal of Proration" **and** L20 "Doe Underpayment" must be used to generate the correct notice. (See Notices, Section VI. D. 1.)

b. Doe Class Case – **Proration Not currently on the Budget**

In the event that the case is not currently affected by the proration, use B20 **AND** CNS reason code L20 "Doe Underpayment" to generate the correct notice. Because there is no current difference amount with which to calculate the underpayment, find the last budget with the proration in place and compare that to the first following budget with the proration removed. The monthly difference is the basis for the underpayment calculation.

c. Months to Count

Count each month that proration was in place. If there were breaks of assistance and the proration was in place at the time of each closing, and the household remained in the district, and became eligible again in the same case with the same head of household, then count the closed months, in addition to the active months that the proration was in place. Do not count any months that the household lived out of the district.

d. Payment Type Code

W2 – "Court Ordered Retroactive – cash" must be used to issue the Doe underpayment.

Payment type W2 is a trackable payment type for time limits and for child support offset.

e. Determination - **Not a Doe Class Case**

If the district's decision is that an active case on the list is not and never was a Doe class case, the worker must issue the CNS notice "Not a Doe Class Member". (See Notices, Section VI. D. 4. below.)

D. ACTIVE CASES - NEW YORK CITY (NYC)

NYC cases will be re-budgeted by a mass rebudgeting (MRB1) that will find active Doe class cases with the "Y" indicator in the REL field on downstate ABEL. The "Y" indicator is the direction to ABEL to impose the proration methodology because an SSI family member is in the household. The MRB will change the "Y" to "N" for the Doe cases. An "N" will remove the proration methodology. MRB1 will also produce the change (Doe proration removed) notice (See Attachment 1).

NOTE: NYC WORKERS MUST NOT REMOVE THE "Y" ON THE BUDGET OF A CURRENTLY AFFECTED CASE PRIOR TO MRB1.

1. Definition of an Active Case

An active NYC Doe class case is one that is active on the date of the MRB1 that removes the proration even if that case is pending closing and/or is an exception to the MRB1.

2. Exceptions to the MRB

NYC cases that are exceptions to the MRB to remove the proration methodology for Doe class members will be identified on a list to the Human Resource Administration (HRA). The HRA must take action to remove the proration at the earlier of the next client contact or recertification but no later than six months from receiving the list of MRB1 exceptions. At the time that the proration is being removed from the case, the worker must note the amount of the change between the benefit with the proration in place and with the proration removed. That difference represents the monthly underpayment amount. That amount must be multiplied by the number of months that the proration was in place and must be issued by the worker at the same time that the proration removal action is done. Attachment 5, "Doe Underpayment Calculation Worksheet (NYC)" may be used.

a. Months to Count

Count each month that proration was in place. If there were breaks of assistance and the proration was in place at the time of each closing, and the household remained in the district, and became eligible again in the same case with the same head of household, then count the closed months in addition to the active months that the proration was in place. Do not count any months that the household lived out of the district.

b. Payment Type Code

NYC: Use 77 "Court Ordered Retroactive Payment" for all Doe related payments.

Although there is a "Supplementation of previous month(s)" payment type code that could be appropriate to use, it would be difficult to isolate the Doe payments from the non-Doe related underpayments. For that reason, do not use the "Supplementation of previous month(s)" payment type code.

77 is a trackable payment type for time limits and for child support offset.

c. CNS case reason codes B20 **AND** B89 "Doe Reversal of Proration" will be generated when the worker does the budget to remove the "Y" from the Rel field.

Approximately six months following the issuance of the GIS, MRB2, will be done to calculate the retroactive benefit to any case active at the time of MRB1, unless the case was an exception to MRB1.

E. CLOSED CASES - STATEWIDE

1. Letter to Closed Potential Class Members

OTDA has maintained a file of potential Doe class members from July, 2004, to present. The file of the potential class with closed cases will be matched against WMS statewide to find the most current address for the class member.

OTDA will do a mailing informing the potential class members of their right to reapply for TA and to have their eligibility as a Doe class member case determined. The mailing (Attachment 2) will go to the most current address that OTDA can find on the database. The return address on the pre-paid envelope will be that of OTDA. OTDA will maintain records of undeliverable letters and of letters sent and not returned.

The letter will tell the potential class member to return the letter to OTDA within 60 days if the potential class member wishes to be considered for a retroactive payment.

OTDA will send files to districts of potential class members that are Doe responders living in that district. The start date of such notifications is not yet known but will not be sooner than three months from the date of this ADM.

2. Reapplication process

The Doe responders on the list to the district must be sent an appointment call-in notice to apply for TA. (See Notices, Section VI. D. 5 - Z55 Doe call-in notice for use with a closed case number and Section VI. D. 6 - Z56 Doe call-in for use with an application registry number.) The Doe responder must complete the LDSS-2921 "Statewide Common Application" that will be sent with the batch Doe call-in letter, but will have an eligibility process that is like the **recertification** process. This means that no applicant orientation, job search or employment assessment requirements can be imposed until the applicant's eligibility for ongoing TA has been determined and the case opened. There must **not** be any case denial for failure to comply with job search or employment assessment activities.

Such applicants will be required to take part in activities that are typically required for **recertifying active cases** such as finger imaging, and referral to IV-D, employment, etc. Non-compliance with required employment activities must be treated as undercare non-compliance. The application processing may not be held up pending compliance with any such referrals but identity and documentation of current eligibility is required.

Individuals cannot be required to re-document elements not subject to change such as SSN, birth, citizenship but must document those elements that have changed such as marital status, or that are subject to change such as household composition, income, etc.

It is possible that the district in which the Doe responder is applying may not be the district that had the active TA case. Therefore, the district may ask for the necessary documentation that is not subject to change but, if it is not received, the district must seek the documentation from other sources such as the previous district, or the where-found district's FS or MA case if available.

Again, identity **MUST** be established for each applying household member and for the head of household (if that person is a non-TA head of household.)

Only cases that appear on the list of Doe responders received from OTDA will qualify for the special application process, and only for the period of the reapplication and determination. For example, if someone fails to keep the appointment that the district has scheduled on notification from OTDA, and the person has not requested another appointment, the district will send the specific denial notice, "Did not keep eligibility appointment." (See Notices, Section VI. D. 7.) That notice informs the individual that if she or he does not request a fair hearing within 60 days of the denial notice, she or he will not be eligible to be considered for a retroactive payment in the future. If the individual applies within that 60 day period, the simplified process applies. Beyond the 60-day period, the simplified process does not apply.

Any applying household that is not on the Doe responder list from OTDA is treated like any other applicant household. Even if it appears that the household may have been affected by the Doe proration methodology, no retroactive amount will be determined or issued unless the case name is on the list from OTDA of Doe responders OR, the district has been informed by another district that the case is a Doe responder case. This will happen when the household that had been living in one district subsequently moved to another district. The current district of residence will have the Doe responder on its list but may have to provide a former district of residence with the information necessary for that district to make the retroactive payment decision for a period of time the household lived in the former district and was affected by the proration. (See Section V. F below.)

3. Determination on Reapplication by Potential Doe Class Members

Provided that the potential Doe class member keeps the application appointment and is determined to be a Doe class member, the class member must have his or her retroactive underpayment calculated.

a. Not a Doe Class Member: If the district determines that the re-applicant is not, and never was, a Doe class member, the district must issue the Doe – Not a class member notice. (See Notices, Section VI. D. 4 below.) The district must make a determination of TA eligibility and issue the appropriate acceptance or denial notice.

b. Doe Class Member – Districts Outside NYC

i. Applicant is **Eligible for Ongoing TA**

If the individual is found eligible for TA, at the time of acceptance, the worker must determine the underpayment amount and authorize that payment, and include the information about the underpayment on the acceptance notice.

To determine the retroactive underpayment amount, find the monthly amount that the applying household would receive in the application month if the proration were applied. Compare that amount to the monthly amount the applying household will receive (without the prorating in place). The difference is the monthly underpayment amount. The number of months is found by determining the first month in which the proration was applied to the case in which the applicant was the head of household. Calculate the number of months from that month to the current month. That is the number by which the worker will multiply the underpayment.

NOTE: If there is no longer a SSI family member in the HH, see ii. below for the calculation method.

The information about the monthly amount, the number of months and the total retroactive amount shall be included on the acceptance notice. Include all other necessary information on the “Action Taken On Your Application” (CNS) version. The worker then **must** use **CNS reason code L20** in addition to the appropriate WMS case level reason code.

ii. No Before/After Comparison Budgets

When no pre and post proration figure can be found because, for example, the case was open and closed with the proration in place and the household is not currently eligible, or there is no longer a family member in the household, base the calculation on a household of three, including 2 TA and 1 SSI family members. Use the standard of need of the district of residence, using the shelter with children schedule, no fuel allowance and no other special allowances.

The underpayment amount is the difference between the full needs for 2 persons and the prorated needs for three.

For example, the needs for 3 = \$691. That amount reduced by 1/3 = \$460. The needs for 2 = \$501. The difference is \$41 (\$501 – \$460). The monthly underpayment amount is \$41.

iii. Applicant is **Ineligible for Ongoing TA**

If the individual is found ineligible for ongoing TA at the time that the denial letter is done, the worker must determine the underpayment amount BUT NOT issue that payment. Rather, the applicant is told the amount of the underpayment and

how it was calculated and that the payment will be made if the applicant becomes eligible in the future. This information will be produced on the denial notice by using **CNS reason code L20**. (L20 with a denial case reason code will produce language informing the applicant that payment will not be made as the applicant is not currently eligible.)

iv. Months to Count – **Applicant Ineligible**

Count each month that proration was in place. If there were breaks of assistance and the proration was in place at the time of each closing, and the household remained in the district, and became eligible again in the same case with the same head of household, then count the closed months, in addition to the active months that the proration was in place. Do not count any months that the household lived out of the district.

When the applicant is ineligible for ongoing TA, do not count any months that the case was closed since the last closing date.

c. Doe Class Member – NYC

As stated in E. 2 above, any potential Doe class member identified by OTDA to HRA must be scheduled for a simplified eligibility interview. A determination must be made of the applicant's eligibility for TA and the appropriate acceptance or denial notice must be issued. No retroactive calculation will be done at that time. Rather MRB3, the final MRB, will be conducted at a time to be determined and will identify whether a Doe class member applied and had an eligibility determination done within a period to be determined. The approximate period will cover the time beginning with the first referrals from OTDA to HRA of potential Doe class members to an end period that will be sufficient time for HRA to have acted on the last referred cases.

MRB3 will ignore cases identified as having received "Not a Doe class member" letter, and cases that were denied for not appearing for the eligibility interview, unless the reapplication and a determination of eligibility was subsequently done within the target period.

The MRB will calculate the retroactive amount and issue the payment if:

- the applicant was determined eligible for ongoing TA at the time of the initial application based on the referral from OTDA to HRA, even if closed at the time of MRB3, or
- the applicant was determined ineligible at the time of the initial application based on the referral from OTDA to HRA, but is eligible for ongoing assistance at the time of MRB3, unless the case received a "Not a Doe class member".

The Doe class member will receive a notice explaining the calculation of the amount.

The payment type code for the Doe underpayments is 77 "Court Ordered Retroactive Payment". 77 is a trackable payment type for time limits and for child support offset.

MRB3 will calculate but **not issue** the retroactive payment if the Doe class applicant was not determined eligible at any time from the initial application based on the referral from OTDA to HRA. The Doe class member will receive a notice explaining the calculation of the amount and that he or she will receive the payment if eligible in the future.

The method for calculating the retroactive payment for reapplying NYC cases is the same as described for reapplying cases outside NYC, eligible or ineligible, as discussed in b. immediately above.

Additional information about MBR2 and MBR3 to calculate the retroactive payments in NYC will be provided at a later date.

F. DOE CLASS MEMBER LIVING IN A DIFFERENT DISTRICT

A Doe class member already may be eligible for ongoing TA in one district, or may be referred to the district of residence by OTDA and be potentially eligible for a retroactive payment from another district.

1. Potential Doe Class member currently eligible for ongoing TA

- The current district of residence also must, for potential Doe class cases that are currently receiving ongoing TA, determine the monthly underpayment amount and report that amount to the former district(s) of residence since July 2004. The former district(s) must use that monthly amount and determine and issue the underpayment amount for any month that the Doe class member was affected by the Doe proration in that district. The current district of residence also must provide notice to the Doe class head of household that the former district(s) will be notified and asked to determine eligibility for and the amount of the retroactive payment owed by the former district(s). (CNS Reason Code L21; See Notices, Section VI. D. 8)
- The former district of residence must:
On receipt of notification from the current district of residence, make a determination of whether or not the referred head of household was a Doe class member. If so, calculate the underpayment amount based on the monthly determination by the current district of residence and issue the payment to the Doe class member within 45 days of the receipt of the referral. The former district also must issue notice using CNS reason code L22 "Doe – Current eligible, payment owed by other than where-found district". (See Notices, Section VI. D.9)

If the former district determines that the head of household is not a Doe class member in that district, that district must issue the "Doe – Not a Class member" notice. (CNS Reason Code J20; See Notices, Section VI. D. 4)

2. Potential Doe Class member is NOT currently receiving ongoing TA

- The current district of residence must:
 - For currently **inactive** Doe class cases that keep the simplified eligibility appointment based on the referral from OTDA to the district of residence, make a determination of current eligibility and determine the monthly potential underpayment amount. The district of residence will inform the applicant of the decision on the current application.
 - Send the CNS notice code J20, "Doe - Not a Class Member" if the applicant was the head of household for a TA case in the district of residence in any month since July 2004 and the district's determination is the applicant is not a Doe class member.

- If the district of residence determines that the applicant **is** a Doe class member in that district, process according to the directions above for Doe Class Member, Section V. E. 3. b. above.
- If the applicant was the head of household for an active TA case in any *other* district in NY since July 2004, the district of residence must send that district the underpayment amount they determined and must provide the documentation of the household composition and of relationship between the household members if that is requested by the district that must make a retroactive payment. The Doe cover letter (See Attachment 3) must be sent to the former district so that district has the information and verification of the monthly underpayment amount if the potential Doe class applicant is determined to be a Doe class member.

G. MISCELLANEOUS OTHER CORRECTIONS

1. Aid Continuing Recoveries – Separate lists will be provided to districts of cases that requested a fair hearing on the issue of the Doe proration and were granted aid continuing. Those cases will have lost their fair hearing and had an overpayment calculated based on the aid continuing amount.

If the worker has calculated the retroactive underpayment amount from the month that the notice to reduce the TA due to the proration was effective, then no further consideration to the aid continuing overpayment amount is needed since, for the aid continuing period, the case will have received both an unreduced benefit AND an underpayment adjustment.

For example, Mrs. A was informed that her benefit was to be reduced by \$75/month effective September 1. She requested and was granted aid continuing. The hearing was held, and a decision was issued on November 23rd. The reduction became effective December 1. The overpayment of aid continuing was \$225 (\$75 x 3 months). When the worker calculated the retroactive underpayment, he calculated the amount from September 1. Since Mrs. A got both aid continuing AND an underpayment for the same months, it is not necessary to reimburse Mrs. A for any recoveries that may have been taken by recoupment, nor is it necessary to remove any remaining balance from the record of overpayments. In other words, Mrs. A still owes that debt.

However, if the worker figured Mrs. A's retroactive amount from December 1, then the amount of the original debt must be determined. Any portion that was recovered must be issued as an additional underpayment adjustment and debt remaining must be terminated.

2. Overpayments - Shelter Supplement Cases
Doe class recipient households whose TA benefits were prorated may be due an additional underpayment adjustment if the family had a shelter arrears emergency and applied for a shelter supplement. This also applies to court ordered supplement cases.

In certain shelter supplement cases, when determining the amount of the shelter allowance that was applied to the rent, the worker used the full shelter allowance including the "needs" of the SSI family member.

For example, the monthly rent is \$400.00: The household applied for help to pay the previous three months of arrears. There were two TA and one SSI family members. The shelter allowance for three is \$400 and the TA benefit was reduced by 1/3. When determining whether the family applied the TA shelter allowance to the shelter cost, the

TA worker saw that the family applied \$266 each month to the shelter but the remaining \$134/mo. was determined to be an overpayment.

The shelter allowance for two is \$283 in this district. The worker must determine if an overpayment would have been owed if not for the proration. From the two person shelter allowance of \$283, deduct the amount that the family paid, \$266. The monthly overpayment amount is \$17/month x 3=\$51, not \$134/month x 3=\$402.

If the overpayment has been recovered, the excess must be paid to the recipient. In this example, all of the overpayment was recovered. The district must pay \$351 (\$402 - \$51) to the recipient as an underpayment adjustment.

If any balance of the debt remained in excess of \$51, the amount of the debt must be adjusted to \$51.

Notice must be provided to inform any affected household about the amount of the difference and if that amount is being refunded (if already recouped) or the original debt is being reduced by the difference.

3. ROS Only – Amount Reported to the Social Security Administration (SSA)

If a Doe case received FA or non-cash SNA (FP) (case types 11 or 12) at the time that any case member became eligible for SSI, the worker will have been asked to report the pending SSI member's share of the TA benefit to SSA. If the worker reported the prorata share rather than the incremental share, then the pending SSI individual will have received a lower retroactive amount. The monthly difference between the person's prorata share and incremental share must be calculated and the difference, times the number of months, reported to SSA must be issued to the household if the household is currently eligible.

If the case is not currently eligible, the amount should be noted in the case record as due to the former recipient in the event the former recipient becomes eligible for TA in the future.

H. FOOD STAMPS IMPLICATIONS

For Food Stamps, the retroactive lump-sum TA payment must be treated as a non-recurring lump-sum payment. That is, the payment is **not** considered as income to the food stamp household. For a small number of closed ROS cases (*) that are not categorically eligible, and that receive the retroactive payment before January 1, 2008, the payment is counted as a resource to the household in the month received. Any money that remains may be counted as a resource in any month until January 1, 2008.

(* - TA cases now closed but were active on September 14, 2007)

I. MEDICAID IMPLICATIONS

In determining eligibility for Medical Assistance, SSI recipients and their income and/or resources continue to be considered "invisible". Medical Assistance does not prorate eligibility standards.

For Medicaid purposes, the TA underpayment must be excluded as income in the month received and excluded as a resource in the following month. If any money remains, it must be counted as a resource thereafter.

If TA denies, closes, or sanctions a case and/or an individual for failure to apply for SSI or accept SSI benefits, a referral must be made to Medical Assistance for a separate determination.

VI. Systems Implications

A. CROSS DISTRICT INQUIRY

As necessary, the current district of residence can identify if a potential Doe class member received TA, or received TA on behalf of children in any other district in NYS.

1. ROS: Select "Application and Case Inquiry" (selection 12) on the main menu. Then, use either the "Individual CIN or SSN Inquiry" or the "Individual Name Inquiry".
 - To inquire against all ROS districts, leave the DIST field blank and the NYC field blank. Select the appropriate line # for further inquiry.
 - To inquire against NYC, leave the DIST field blank and enter "Y" in the NYC field. Select the appropriate line # for further inquiry.
2. NYC WMS: Select "Inquiry" (selection 01) off the main menu. On the "WMS Inquiry Menu" select "Individual Inquiry" (selection 2). On the "WMS Individual Inquiry Menu", enter 7 "Cross Machine Inquiry" in the "Enter # of Inquiry Desired" field. Then enter the name, Sex, and birth date. The SSN also may be used to inquire. Select the appropriate line # for further inquiry.

B. PAYMENT TYPE CODES FOR ALL DOE RELATED PAYMENTS

The following payment types are trackable payments for time limits and for child support offset. When made for a period that does not include the current month, it is not trackable for employment participation purposes.

1. ROS: Use "W2-Court Ordered Retroactive Payment-Cash" for all Doe related payments for ACTIVE cases. This payment type will be allowed in Case Types 11, 12, 16 and 17. W2 will be invalid for Case Types 18 or 19. W2 is allowed at Transaction Types 02, 05, 06, 07, 08, 09, 10, 11, and 14. W2 is only permitted to be authorized with an Issuance Code of "2-Once-Only". Method of Payment 01 is required for this Pay Type Code. The Payment Schedule for this payment type must be blank or "O-Other". The Pick-Up Code must equal "1-Mailed" or "6-Other". The Payment Type on Screen 6 of the LDSS 3209: "Authorization Change" Form should read as follows:

ACT	PAY TYPE	METH	AMOUNT	ISSU	PAY SCH	PK UP	PERIOD DATE	
							FROM	TO
2	W2	01	\$\$\$\$.¢¢	2	O or BLANK	1 or 6	XXXXXX	XXXXXX

Local action code 2 = Prepare and Issue
 Payment type W2 = Court Ordered Retroactive Payment-Cash
 Method of payment 01 = Unrestricted
 Amount = Underpayment Amount
 Issuance code 2 = Once Only
 Payment schedule O or Blank = Other
 Pick up code 1 or 6 = Mailed or Other
 Period date = Dates of Underpayment Period

2. NYC: Use 77 "Court Ordered Retroactive Payment" for all Doe related payments.

C. PAYMENTS ON CLOSED CASES – DOE UNDERPAYMENT OWED BY FORMER DISTRICT

When a former district of residence is informed by the current district of residence that the potential Doe class household is eligible for TA, the former district of residence must determine if the household is a Doe class household as stated in Section V above. If so, the payment must be issued to the currently eligible TA household by the former district on the closed TA case in the former district. **The former district must use the household's correct, current address.** Because the former recipient's EBT card is unlikely to work to access benefits and due to CNS language implications, a paper check must be issued.

1. ROS: Payments to closed cases can be made on Upstate WMS using either or an Open/Close transaction (Transaction Type 09) or Closed Case Maintenance (Transaction Type 14). As with all Closed Case Maintenance (CCM) transactions, CCM can only be used if the case has been closed within the last 120 days and the Payment Period entered must fall within a previous period of eligibility.

NOTE: If issuing a payment on a closed case using CNS reason code L20, ROS districts must use transaction type (TT) 09 or the CNS notice language will be wrong. If L20 and TT 09 are used, the notice will correctly tell the individual that the payment will be made by check (payment type W1). If L20 is used on a closed case with any other transaction type, the notice will tell the individual that they are not currently eligible for the payment. This note applies to relatively few cases, those that are currently closed but were active on September 14, 2007.

Use "W1-Court Ordered Retroactive Payment-Check" for all Doe related payments for INACTIVE cases. This payment type will be allowed in Case Types 11, 12, 16 and 17. W1 is only permitted to be authorized with an Issuance Code of "2-Once-Only". Method of Payment 01, 05 or 06 is allowed for this Pay Type Code. The Payment Schedule for this new payment type must be blank or "O-Other". The Pick-Up Code must equal "1-Mailed". The Payment Type on Screen 6 of the LDSS 3209: "Authorization Change" Form should read as follows:

ACT	PAY TYPE	METH	AMOUNT	ISSU	PAY SCH	PK UP	PERIOD DATE FROM TO	
2	W1	01, 05 or 06	\$\$\$\$.¢¢	2	O or BLANK	1 or 6	XXXXXX	XXXXXX

Local action code 2 = Prepare and Issue

Payment type W1 = Court Ordered Retroactive Payment-Check

Method of payment 01, 05 or 06 = Unrestricted, Assoc. Name A or Assoc. Name B

Amount = Underpayment Amount

Issuance code 2 = Once Only

Payment schedule O or Blank = Other

Pick up code 1 = Mailed

Period date = Dates of Underpayment Period

2. NYC: Edits will be adjusted to allow payment type 77 to be issued on a closed case. The NYC worker must enter the single issue restricted (Restrict Code 2 - Direct to Vendor on form DSS-3575) and on the PA single issue screen enter the client's name and address as the vendor. This will then bypass EBT and a paper check will be issued to the class member who is eligible to receive the payment.

D. NOTICES:

Upstate and NYC (exceptions to the prospective MRB)

District workers MUST use **all** appropriate case level reason codes.

In ROS, this means using not just the appropriate case level **WMS reason code** but **also** the appropriate **CNS reason codes**. In NYC, all codes referred to in this section are CNS codes with the exception of P20 which is a WMS code.

Failure to use all appropriate codes will result in incomplete notices and will also mean that districts will have to manually report on each and every case on their list of potential Doe class members. If the codes are used correctly, correct and complete notices will be produced and the reporting required under the Court ordered remedial plan can be more easily and completely accomplished and with little or no manual reporting by districts to OTDA.

1. **Undercare with change**: The case is currently active with the proration in place. TA grant increase (Notice that will provide budget comparison, distribution, budget basis produced by use of WMS Case Reason Code B20 or B60.) Transaction Type (TT) 05 (Undercare), 06 (Undercare, Recertification)

The worker also must use CNS reason code B89 which will produce the following text. Use of B89 also will require the use of L20. Both codes were specifically developed for Doe class cases.

B89, Doe Reversal of Proration text:

“This is because a court has directed we may no longer prorate (reduce) your public assistance needs because there is an SSI family member in your household.

This decision is based on Office Regulation 18 NYCRR 352.2.”

2. **L20, Doe Underpayment text :**

“Your family includes (or did include) a child and a person who receives SSI. A court directed that we could not prorate (reduce) your standard of need because you have an SSI family member in your household.

The Court also told social services to calculate the PA benefits that you lost due to the proration policy back to the time that you were first affected by this policy. We decided how much money you are owed by finding the difference between what your current benefit would be with the proration in place, and the current amount of your benefit without the proration in place.

The current difference is \$(_____). We considered that amount each month for (__) months. You got less public assistance than you should have between (____) and (____). The proration may not have been in place in every month during this period. The total amount of the underpayment is \$(_____).

You can access this benefit on your EBT card. This benefit will be available no later than one week from the date of this notice.

ADDITIONAL IMPORTANT INFORMATION ABOUT THE RETROACTIVE BENEFIT

This retroactive (underpayment) benefit cannot be withheld or reduced because you have previous overpayments.

This retroactive benefit does not count as income against your PA benefit. The retroactive benefit does not count as a resource for PA.

This decision is based on Office Regulation 18 NYCRR 352.2.”

3. Undercare with no change, Closing, Recertification Closing

When a case is identified as a Doe class case, but the proration is no longer in place, or the case is closing or has closed since the GIS was received, the retroactive underpayment amount must be calculated and issued. In addition to the appropriate case reason, the required Doe notice language will be produced by using the CNS reason codes with the following transaction types - 05 or 06 with no change (based on ABEL budget comparison), 07(Close), 08 (Recert Closing), 09 (Open/Close).

L20, Doe Underpayment text:

“Your family includes (or did include) a child and a person who receives SSI. A court directed that we could not prorate (reduce) your standard of need because you have an SSI family member in your household.

The Court also told social services to calculate the PA benefits that you lost due to the proration policy back to the time that you were first affected by this policy. We decided how much money you are owed by finding the difference between what your current benefit would be with the proration in place, and the current amount of your benefit without the proration in place.

The current difference is \$(_____). We considered that amount each month for (__) months. You got less public assistance than you should have between (____) and (____). The proration may not have been in place in every month during this period. The total amount of the underpayment is \$(_____).

You can access this benefit on your EBT card. This benefit will be available no later than one week from the date of this notice.

ADDITIONAL IMPORTANT INFORMATION ABOUT THE RETROACTIVE BENEFIT

This retroactive (underpayment) benefit cannot be withheld or reduced because you have previous overpayments.

This retroactive benefit does not count as income against your PA benefit. The retroactive benefit does not count as a resource for PA.

This decision is based on Office Regulation 18 NYCRR 352.2.”

Note: Notice Language will indicate that a check will be mailed within 15 days if the transaction type is 09.

4. J20: Doe – Not a Class Member - text

“We have determined that you are not a Doe class member. A Doe class member is one whose public assistance benefits were reduced because the family included both a child and an SSI family member at any time from July 2004, until present.

In order to have been affected by the benefit reduction due to the presence of an SSI family member, the person receiving SSI must have been:

- A child who was a sibling to a child receiving public assistance, or the natural or adoptive child of the adult receiving public assistance; or,

- An adult whose natural or adoptive child received public assistance.

If you believe that you are a Doe class member and would like the attorneys for that class to review your case, please call the Empire Justice Center at 518-462-5887.

This decision is based on Office Regulation 18 NYCRR 352.2.”

5. Z55 – Doe Call-in (will include the application package)

This call-in code is used when the where-found district has a closed TA case to use for notice generation purposes. (See Z56 below if there is no closed TA case in the where-found district.)

“The New York State Office of Temporary and Disability Assistance (OTDA) has given us your name and address because you indicated that you want to be considered as a Doe class member and have your eligibility for an underpayment determined.

In order to make this determination, you must apply for public assistance and come into the office at the address shown at the top of this letter.

You must come into the office on (Date) at (Time).

If you cannot keep this appointment and you need a different appointment, let us know right away. Call the telephone number at the top of this page and to arrange for another appointment.

If you do not keep this appointment and you do not make a different appointment, you will lose your right to have your eligibility for a retroactive payment determined.

You do not have to be eligible for public assistance at this time in order to have your eligibility for a retroactive payment determined. But you must apply.

If you have received public assistance in a different social services district in New York State since July 2004, bring with you as much information as possible about where you lived when you received public assistance.

Even if you did not receive public assistance in this social services district before, you must still apply in this district in order to determine if you are eligible to be considered for an underpayment.”

6. Z56 – Doe Call-in (will include the application package)

The CNS text is the same as for Z55, but Z56 is designed to be used with an application registry number as opposed to Z55 which is used when the where-found district has a case number on a closed case to use to generate the notice. The where-found district must mock-up an application based on the information provided by OTDA.

7. P20 – Doe – did not keep eligibility appointment

“You cannot be considered for Public Assistance. This is because you did not keep your eligibility appointment on (____) at (____) even though we told you about this appointment in advance.

Because you did not apply as required, you cannot be considered for status as a Doe class member and have your eligibility to have a retroactive payment determined. If you

do not request a fair hearing within 60 days of the date of this notice to challenge the denial for failure to appear at the scheduled interview, you will not be able to be considered for eligibility for a retroactive payment in the future.

This decision is based on Office Regulation 18 NYCRR 352.2.”

8. L21 - Doe – Class/Payment Decision Will be Made by Another District

“Your family includes (or did include) a child and a person who receives SSI. A court directed that we could not prorate (reduce) your standard of need because you have an SSI family member in your household.

The Court also told social services to calculate the PA benefits that you lost due to the proration policy back to the time that you were first affected by this policy. We decided how much money you are owed by finding the difference between what your current benefit would be with the proration in place, and the current amount of your benefit without the proration in place.

The current difference is \$(_____) per month. You received public assistance in another district since July, 2004. We will report this amount to the district(s) from which you received public assistance. We will tell the district(s) that you applied to be considered for a retroactive benefit and the district(s) will send you a letter telling you if you are eligible to have a retroactive payment calculated and issued.

This decision is based on Office Regulation 18 NYCRR 352.2.”

9. L22 – Doe – Underpayment Issued by Other Than Where-found District

“Your family includes (or did include) a child and a person who receives SSI. A court directed that we could not prorate (reduce) your standard of need because you have an SSI family member in your household.

The Court also told social services to calculate the PA benefits that you lost due to the proration policy back to the time that you were first affected by this policy. We decided how much money you are owed by finding the difference between what your current benefit would be with the proration in place, and the current amount of your benefit without the proration in place.

The current difference is \$(_____) per month. The current difference amount was reported by the social services district where you now live. We considered that amount each month for (__) months. You got less public assistance than you should have between (____) and (____). The proration may not have been in place in every month during this period. The total amount of the underpayment is \$(_____).

You will receive a check within 15 days of the date of this letter.

ADDITIONAL IMPORTANT INFORMATION ABOUT THE RETROACTIVE BENEFIT

This retroactive (underpayment) benefit cannot be withheld or reduced because you have previous overpayments.

This retroactive benefit does not count as income against your PA benefit. The retroactive benefit does not count as a resource for PA.

This decision is based on Office Regulation 18 NYCRR 352.2.”

10. L23 – Doe Underpayment Owed by Other Than Where-found District – Not Eligible in Any District

“Your family includes (or did include) a child and a person who receives SSI. A court directed that we could not prorate (reduce) your standard of need because you have an SSI family member in your household.

The Court also told social services to calculate the PA benefits that you lost due to the proration policy back to the time that you were first affected by this policy. We decided how much money you are owed by finding the difference between what your current benefit would be with the proration in place, and the current amount of your benefit without the proration in place.

The current difference is \$(_____) per month. The current difference amount was reported by the social services district where you now live. We considered that amount each month for (__) months. You got less public assistance than you should have between (____) and (____). The proration may not have been in place in every month during this period. The total amount of the underpayment is \$(_____).

BUT, YOU ARE NOT ENTITLED TO RECEIVE THIS PAYMENT UNLESS YOU BECOME ELIGIBLE FOR PA IN THE FUTURE.

If you become eligible for this retroactive (underpayment) benefit in the future, it cannot be withheld or reduced because you received overpayments previously. Also, the retroactive benefit would not count as income against your PA benefit and the retroactive benefit does not count as a resource for PA.

This decision is based on Office Regulation 18 NYCRR 352.2.”

11. Closed Case – Doe Class but Not Currently Eligible. Where-found District Owes the Underpayment

When a reapplying case is identified as a Doe class case in the district of residence, but the case is not currently eligible for TA or does not meet the definition of an “active” case, the underpayment must be calculated and notice must be issued informing the applicant about the reason for the denial and that the underpayment was calculated and will be paid if the applicant becomes eligible in the future. The appropriate denial code along with L20, “Doe Underpayment” produce the correct notice.

L20, Doe Underpayment text, if the transaction type is equal to 03 (denial) or 14 (closed case maintenance):

“Your family includes (or did include) a child and a person who receives SSI. A court directed that we could not prorate (reduce) your standard of need because you have an SSI family member in your household.

The Court also told social services to calculate the PA benefits that you lost due to the proration policy back to the time that you were first affected by this policy. We decided how much money you are owed by finding the difference between what your current benefit would be with the proration in place, and the current amount of your benefit without the proration in place.

The current difference is \$(_____). We considered that amount each month for (__) months. You got less public assistance than you should have between (____) and

(____). The proration may not have been in place in every month during this period. The total amount of the underpayment is \$(_____).

BUT, YOU ARE NOT ENTITLED TO RECEIVE THIS PAYMENT UNLESS YOU BECOME ELIGIBLE FOR PA IN THE FUTURE.

If you become eligible for this retroactive (underpayment) benefit in the future, it cannot be withheld or reduced because you received overpayments previously. Also, the retroactive benefit would not count as income against your PA benefit and the retroactive benefit does not count as a resource for PA.

This decision is based on Office Regulation 18 NYCRR 352.2.”

VII. Additional Information

- A. Lists of ROS Cases: Lists of ROS cases that have had any month with an uneven household and case count on ABEL and without a shelter proration indicator will be sent to districts under separate cover. Districts must review the cases and take the appropriate actions according to the directions in this ADM.
- B. Impact on Time Limit Tracking: If a case is otherwise trackable for time limits at the time the underpayment is issued, tracking will be updated accordingly. No manual updates will be required.
- C. Interim Assistance Reimbursement (IAR) Calculation (ROS Only): 18 NYCRR 353.2(a)(6), defines grants or payments furnished to or on behalf of an applicant for SSI. These are the assistance for basic needs given to such an individual applicant for SSI or the incremental amount of assistance for basic needs given to a family with which the individual resides.

They include amounts paid to vendors for such individuals and amounts expended directly on behalf of the individual. **IAR must be calculated using the incremental method**, even which finds the difference between the benefit (including vendor payments) that the family received with the SSI individual included and the benefit without the SSI individual included. For example, if a family received \$500 based on four household and case members before one member became eligible for SSI, the IAR will be determined by finding the difference between that amount and the TA for the household and case of three.

This is true for ALL households, including Rice households.

- D. Claiming Hierarchy: The following information was included in 04 ADM-05 which is being cancelled.

The Social Security Administration requires that assistance payments made to or on behalf of SSI recipients from Temporary Assistance for Needy Families (TANF) funds, including Family Assistance (FA), Safety Net Assistance-Federally Participating (SNA-FP) and Emergency Assistance to Needy Families (EAF), count as income and reduce the recipient's SSI benefit. When the benefit paid on behalf of a household reflects the SSI recipient's share of the total household needs, districts may use TANF funds to meet the needs of eligible non-SSI members. However, districts must not meet the needs attributed to the SSI member using TANF funds. SSI individuals will generally only have unmet needs if the SSI individual or family member has a high cost need such as shelter in a residential program for victims of domestic violence.

Districts must authorize and claim the temporary assistance payments using the following hierarchy: FA or SNA-FP, EAF and SNA-Federally Non-Participating (SNA-FNP). **However, districts must not use FA, SNA-FP or EAF for the SSI individual's share of the needs.**

E. Record Keeping – Closed Case Owed Underpayment

When a Doe class case has been determined to be eligible for an underpayment due to the Doe proration but the case is not currently eligible in any district in NYS, the district that owes the underpayment must record the underpayment and issue it if the former recipient returns to that district or the district otherwise becomes aware that the former recipient is active for ongoing TA.

F. Refusal to Apply for or Accept SSI

When an individual refuses without good cause to apply for SSI for him or herself or for a child in his or her care, the penalty is the removal of the non-cooperative individual adult from the budget (incremental sanction).

This is true unless it is a Rice individual. Then the penalty is a prorata reduction.

G. Emergency Housing – How the Doe Change Affects Determination of the Family's Share

When a family is in need of temporary housing and includes an SSI member, the method of determining the family's share of the temporary housing cost is the incremental method.

For example, if the cost of the temporary housing is the same no matter how many family members, then that cost is all attributed to the TA family members.

VIII. Effective Date: September 14, 2007

Issued By

Name: Russell Sykes
Title: Deputy Commissioner
Division/Office: Center for Employment and Economic Supports