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

Section 1

Transmittal:	09-ADM-03
To:	Local District Commissioners
Issuing Division/Office :	Center for Employment and Economic Supports
Date:	February 4, 2009
Subject:	Change to the AIDS/HIV-related Illness Emergency Shelter Allowance
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors Medical Assistance Directors Staff Development Coordinators Transitional Opportunities Program Coordinators Child Assistance Program Coordinators
Contact Person(s):	Temporary Assistance Bureau (TA) at 1-800 343-8859, extension 4-9344 Food Stamp Bureau (FS), extension 3-1469 Metropolitan Field Support Bureau, (212) 961-8207 For Medicaid: Local District Support Upstate (518) 474-8887; New York City (212) 417-4500
Attachments:	None
Attachment Available On – Line:	<input type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-08 01 INF-03		18 NYCRR 352.3(k)	Chapter 53 of the Laws of 2008		ABEL Transmittal 08-3

Section 2

I. Summary

Applicants for or recipients of temporary assistance (TA), who have been medically diagnosed as having AIDS or HIV-related illness and any family member residing with such person, who are homeless or facing homelessness and who have no viable less costly alternative housing available, may request an Emergency Shelter Allowance (ESA) to meet their ongoing need for housing.

Changes in the 2008-09 State Budget Bill effective April 1, 2008 eliminated a district's ability to consider the needs or income of any other household members receiving Supplemental Security Income (SSI) other than the named applicant or recipient considered to be the "first person" in the household who is diagnosed as having AIDS or HIV-related illness.

Effective April 1, 2008, districts must not include income or needs of additional SSI recipients residing with the applying household, regardless of their medical status, when such individual is not the "first person" on the application when determining the eligibility for and amount of the ESA, even when related to other household members by blood or adoption, or when legally responsible for any other household member.

II. Purpose

The purpose of this Administrative Directive (ADM) is to advise districts of the 2008-2009 legislative change that impacts the way districts count the income and consider the needs of recipients of Supplemental Security Income (SSI) for household's requesting an ESA under 18 NYCRR §352.3(k).

III. Background

Applicants for or recipients of TA, who have been medically diagnosed as having AIDS or HIV-related illness, and any family member residing with such person, who are homeless or facing homelessness and have no viable less costly alternative housing available, may request an ESA to meet their ongoing need for housing. This ESA must not exceed the actual monthly rent incurred by the household.

In the past, districts were directed to use all the countable income, including the SSI, and the needs of all the SSI recipients to determine the amount of the ESA. The medical status of all the SSI recipients in the household was previously a factor to consider in determining whether to include or exclude this person in the ESA budgetary process.

Prospectively, and for the purposes of this Directive, "first person" means any household member medically diagnosed has having AIDS or an HIV-related illness who qualifies the household for an ESA. The "first person" may or may not be in receipt of SSI, and may or may not be the individual listed on line 01 of the application.

Changes in the 2008-09 State Budget eliminated a district's ability to consider the needs or income of any other household member receiving SSI other than the named applicant or recipient considered to be the "first person" in the household who was diagnosed as having AIDS or HIV-related illness, even those related by blood or adoption, or those for whom legal responsibility exists.

IV. Program Implications

Districts must not include the income or the needs of any SSI recipient, regardless of his/her medical status and relationship to the other members of the household, when such individual is not the "first person" in the household when determining the eligibility for and amount of the ESA. All other household members who are not considered SSI recipients, and who may or may not have a medical diagnosis of AIDS or HIV-related illness, are included in determining eligibility and benefit level in accordance with TA budgeting rules under Social Services Law and regulation.

The following examples illustrate this type of budgeting. NYC budgeting methodology is used for all examples. At its own option, the NYC HIV/AIDS Services Administration (HASA) provides an allowance called a Transportation and Nutrition Allowance (T and N). This Directive is not advising the rest of state districts to begin offering this optional allowance. However, the change in budgeting methodology applies to all multi-person ESA cases statewide.

Example 1

A mother and child reside in NYC. She receives SSI and is medically diagnosed as having AIDS. Her child receives SSI and is medically diagnosed as having an HIV-related illness. The mother is facing eviction so she applies for an ESA and asks to include her child in the application.

Example 1 Household Budget *Prior to 4/1/08*

Basic	179.00
HEA	22.50
SHEA	17.00
Actual Shelter	810.00
T and N	386.00 (193 x 2)
Total Needs (rounded)	1,414.00
Countable SSI Income	1,320.00
ESA	94.00

Although the mother has requested that the income and needs of her child with an HIV-related illness be included in the household's budget, beginning on 4/1/08, only the needs and income of the mother (the "first person") are considered when calculating the ESA for the household.

Example 1 Household Budget Beginning 4/1/08

Basic	112.00
HEA	14.10
SHEA	11.00
Actual Shelter	810.00
T and N	193.00
Total Needs (rounded)	1,140.00
Countable SSI Income	660.00
ESA	480.00

Example 2

A mother has two children and lives in NYC. She receives SSI for herself and is medically diagnosed as having AIDS. The first child receives SSI and is also medically diagnosed as having AIDS. The second child does not receive SSI, and is not diagnosed as having AIDS or an HIV-related illness. The mother applies for herself and her SSI child only. However, the second non-SSI child is not exempt from filing unit provisions and must apply and be included in the calculation of the household's ESA.

Example 2 Household Budget Prior to 4/1/08

Basic	238.00
HEA	30.00
SHEA	23.00
Actual Shelter	1,100.00
T and N	386.00 (193 X 2)
Total Needs (rounded)	1,777.00
Countable SSI Income	1,320.00
ESA	457.00

Although the mother has requested that the income and needs of the first child with AIDS be included in the household's budget, beginning on 4/1/08, only the needs and income of the mother and the non-SSI, non-AIDS child are considered when calculating the ESA for the household.

Example 2 Household Budget Beginning 4/1/08

Basic	179.00
HEA	22.50
SHEA	17.00
Actual Shelter	1,100.00
T and N	193.00
Total Needs (rounded)	1,511.00
Countable SSI Income	660.00
ESA	851.00

Example 3

A single individual living in NYC and receiving SSI is medically diagnosed with AIDS and applies for an ESA.

Example 3 Household Budget *Prior to 4/1/08*

Basic	112.00
HEA	14.10
SHEA	11.00
Actual Shelter	580.00
T and N	193.00
Total Needs (rounded)	910.00
Countable SSI Income	724.00
ESA	186.00

The household's ESA remains unchanged beginning 4/1/08 because this is a single person household and is not impacted by this change.

Example 4

A mother and her two children reside in NYC. The mother receives SSI, and is medically diagnosed as having an HIV-related illness. The first child receives SSI but is not diagnosed with AIDS or an HIV-related illness. The mother applies for TA for the second child who does not receive SSI, and who is also not diagnosed with AIDS or an HIV-related illness. Without including the mother as the household's "first person", the household does not qualify for an ESA. Recurring TA budgeting procedures apply. The two non-applying SSI household members are excluded from the budget due to filing unit provisions.

Basic	112.00
HEA	14.10
SHEA	11.00
Shelter	277.00 (Shelter schedule maximum)
T and N	000.00
Total Needs (rounded)	414.00
Countable SSI Income	000.00
Recurring TA Grant	414.00
ESA	000.00

Example 5

A father and his child reside in NYC. The father receives SSI and is medically diagnosed as having AIDS. The child receives SSI, but is not diagnosed as having AIDS or an HIV-related illness. The father applies for an ESA but prior to 4/1/08 is ineligible because of excessive SSI income.

Example 5 Household Budget *Prior to 4/1/08*

Basic	179.00
HEA	22.50
SHEA	17.00
Actual Shelter	700.00
T and N	193.00
Total Needs (rounded)	1,111.00
Countable SSI Income	1,320.00
ESA	000.00

The income and needs of the SSI household member are no longer counted in the calculation of the household's ESA.

Example 5 Household Budget *Beginning 4/1/08*

Basic	112.00
HEA	14.10
SHEA	11.00
Shelter	700.00
T and N	193.00
Total Needs (rounded)	1,030.00
Countable SSI Income	660.00
ESA	370.00

Example 6

A father and his child reside in NYC. The father receives SSI and is medically diagnosed as having AIDS. The child does not receive SSI and has no other income, but is diagnosed as having AIDS or an HIV-related illness. The father applies for an ESA

Example 6 Household Budget *Prior to 4/1/08*

Basic	179.00
HEA	22.50
SHEA	17.00
Actual Shelter	850.00
T and N	386.00 (193 x 2)
Total Needs (rounded)	1,454.00
Countable SSI Income	660.00
ESA	794.00

Example 6 Household Budget Beginning 4/1/08

Basic	112.00
HEA	14.10
SHEA	11.00
Actual Shelter	850.00
T and N	193.00
Total Needs (rounded)	1,180.00
Countable SSI Income	000.00
ESA	1,180.00

The SSI father is not drawn into the household's filing unit.

V. Required Action

Districts must review all cases receiving the ESA and adjust each household's budget impacted by this change at next contact, but no later than the next recertification period following the release of this Directive. Districts must calculate underpayment adjustments retroactive to April 1, 2008 on all open cases and cases closed with an effective date of April 1, 2008 or greater. Underpayment adjustments are made to recipients in accordance with 18 NYCRR §352.31(f). Cases closed with an effective date of April 1, 2008 must be reviewed to determine if this change impacts the status of the closed case, and make a re-determination of eligibility as necessary retroactive to April 1, 2008. Overpayments for shelter arrears payments authorized after April 1, 2008 to those affected cases as a result of delay in implementing this change must be reviewed and adjusted.

VI. Systems Implications

Upstate (ROS) WMS

Upstate ABEL will continue to support the budgeting of TA cases eligible for the Emergency Shelter Allowance with use of shelter type **"20- Rental Supplement"**. Workers are to enter the appropriate number of individuals in the case, income and shelter. The appropriate shelter maximum will no longer be system edited. Districts must enter the shelter amount using the actual shelter paid for the household.

Districts must continue to use payment type "E5-Emergency Shelter Allowance" when authorizing these payments. Payments should not be authorized on Case Type 18-Emergency Assistance for Adults (see 01-INF 03).

NYC WMS

NYC WMS will be updated to lift the edit requiring the SPEC code = "Y" when individuals are < 19 years old.

VII. Additional Information (Optional)

FS Implications

As noted in Section 12.4(d), page 274, of the Food Stamp Source Book, “emergency shelter allowances for persons with AIDS or HIV-related illnesses are exempt as income”. The budgetable food stamp shelter amount for such households is equal to the actual cost of shelter minus the amount of the emergency shelter allowance. For example, using Example 3 above, the actual cost of shelter incurred by the household is \$580 per month. The monthly ESA is \$186. The monthly food stamp shelter cost is \$394.

MA Implications

A separate Medicaid determination must be made for Temporary Assistance recipients, in receipt of Medicaid, who are closed due to this change.

New York State has contracted with the Social Security Administration so that eligibility for SSI generally means automatic eligibility for Medicaid. The SSI recipient does not need to file an application for Medicaid. When determining Medicaid eligibility for members of a household that includes an SSI recipient, the SSI recipient is invisible, along with his or her income.

VIII. Effective Date

Retroactive to April 1, 2008.

Issued By

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