Administrative Directive Memorandum

Section 1

Transmittal:	20-ADM-01
To:	Social Services District Commissioners
Issuing Division/Office:	OTDA and DOH
Date:	January 7, 2020
Subject:	Gender Designation "X"
Suggested Distribution:	Commissioners, TA Directors, SNAP Directors, WMS Coordinators, Medicaid Directors, HEAP Coordinators, Staff Development Coordinators, Child Support Coordinators
Contact Person(s):	OTDA Questions – Temporary Assistance Bureau (518) 474-9344 Medicaid Questions – Local District Liaison Upstate: (518) 474-8887; New York City: (212) 417-4500
Attachments:	
Attachment Available Online:	☐

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
12-INF-13					GIS 15 MA/19 New York City Local Law No. 163 of 2018

Section 2

I.   Summary

This Administrative Directive (ADM) is to inform social services districts (districts) that some individuals may now have identity documents with a gender designation of "X," (non-binary gender) rather than "M" (male) or "F" (female) and to provide information on the correct handling of applications and recertifications submitted by these individuals. For the purpose of this ADM, the term "gender" will be used in place of "sex" in reference to identity documents, computer systems, and for other limited purposes.

II.   Purpose

The purpose of this ADM is to provide districts with instruction on how to process a transaction when an individual has a gender designation other than "M" or "F." Individuals with the "X" designation must not be discriminated against or face barriers to benefits and/or services.

However, because the Welfare Management System (WMS) is currently unable to accommodate gender designations other than "M" or "F" or process a case without a gender designation, individuals with "X" will be asked to choose either an "M" or "F" gender variable to process their application and/or recertification for benefits and/or other services.

III. Background

All New Yorkers, regardless of gender identity or expression, have equal access to State benefits and/or services. An individual must not be denied benefits and/or services or discriminated against because of their gender identity or expression, sex, including reproductive anatomy, or gender designation.

There is now a New York City (NYC) local law that allows a gender designation of "X" on birth records. Effective January 1, 2019, "X" may be used on NYC birth records to designate a gender that is not exclusively male or female. Individuals from certain other states may also have a gender designation of "X" on their state-issued identity documents.

 "X" and other third gender designations were created to indicate that an individual identifies in a way other than "M" or "F." Individuals who have "X" or another gender designation on an identity document may identify in various ways including; non-binary, gender non-conforming, intersex and/or transgender, and may use other gender pronouns, such as "they/them."

It is never appropriate to assume someone's gender, their gender pronouns, or how they identify based on their appearance. When referring to an individual, please use their name or politely ask which gender pronouns they use. Gender pronouns include "he," "she," "they," or any other pronoun requested by the individual. The following definitions may also be helpful for agency staff:

- "Gender" is a term used to refer to a person's gender identity. Gender identity is a person's internal sense of being male, female, some combination of male and female, or neither male nor female.

- "Sex" is a term used in this ADM to mean multiple things. It can indicate biological differences based on characteristics of genitals or chromosomes. It is also a term used when referring to the designated "sex" fields of identity documents and computer systems.

- "Non-binary" is a term that many people use to describe their gender identity when they do not identify as exclusively male or female. A person may use the term to indicate that they identify as neither male nor female, some combination of both, or as some other gender designation.

- "Gender non-conforming" is a term that describes people who have, or are perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations. These expectations vary across cultures and have changed over time. A person who is gender non-conforming does not necessarily identify as non-binary.

- Transgender is an umbrella term that can be used to describe people whose gender identity and/or expression is different from what is expected of them in their culture based on the sex assigned to them at birth.

- Genderfluid is a term used to describe a person who shifts in gender identity and/or gender expression.

- Intersex is an umbrella term that can describe those with biological traits that are not typical for either male or female sex categorization. These can include XXY chromosomes, variations in external genitalia, differences in reproductive anatomy, and/or hormone differences.

IV. Program Implications

A. Temporary Assistance, Supplemental Nutrition Assistance Program, or Home Energy Assistance Program: If an individual identifies with a binary gender designation (i.e., M or F) when applying or recertifying for any type of assistance at a district, they must be allowed to enter the binary gender designation of their choosing on their application or recertification form. When an individual identifies as non-binary (i.e., identifies as neither M nor F), the instructions set forth in section V below should be followed.

Other than the application or recertification form entry, there are no program implications for Temporary Assistance (TA), Supplemental Nutrition Assistance Program (SNAP), or Home Energy Assistance Program (HEAP). An individual's gender identity has no impact on eligibility for, or receipt of, benefits from these programs.

B. Medicaid: Because WMS is currently unable to accommodate gender designations other than "M" or "F," payments for certain medical services are linked to "M" or "F" entries in WMS. To ensure access to certain services that are coded based on gender, individuals applying for Medicaid will be informed that either an "M" or "F" variable is required to process the Medicaid application (see section V). This directive does not change existing Medicaid processes or rules with regard to payment for services including documentation and/or prior authorization requirements for certain services.

C. Title IV-D Child Support Services: All individuals applying for child support services must be allowed to enter the gender designation they deem most accurate from the available choices, for themselves and their children on their child support application or referral form.

V. Required Action

A. TA, SNAP, HEAP, or Medicaid: District staff should understand the following protocols to provide benefits and/or services effectively to any individual that comes into the district office. If an applicant or recipient in your district has either: a) a gender designation listed on their identification and/or application or reapplication that is neither "M" or "F," or b) a binary gender marker of "M" or "F" on such documentation with which they do not identify, districts should take the following actions:

1. Inform the individual that while their rights to gender identity and expression are protected, applicants and recipients will need to select either "M" or "F," not for identification, but as a variable to be used only for automated processing purposes. **Possible language to use is**:

   New York State ensures your right to access State benefits and/or services regardless of gender identity or expression. Although the gender marker on your identification is listed as "__," at this time our internal computer system can only process the gender designations "M" or "F." Therefore, we are requesting that you select either an "M" or "F" gender variable in order to process your application or recertification form. The gender variable you select is for our computer system's use only and will not appear on your benefit card or any other public-facing document. Selecting "M" or "F" will not change how you are treated or change the TA, SNAP, or HEAP benefits

*for which you may be eligible. Also, with respect to Medicaid benefits,
certain medical services are typically only available to people with an "M" or
"F" as their gender variable. These services can be made available for
individuals with a different gender variable than the one typically associated
with the medical service, but the process to make those benefits available
is a manual process and may delay delivery of benefits. Which gender
variable do you prefer for processing purposes?*

Medicaid: Individuals seeking Medicaid must be informed that payment for certain
medical services are currently restricted to an "M" or "F" gender variable. These services
may be made available for individuals identifying with "M" or "F" or third gender variable,
but a manual process is required to make those benefits available. Districts should
contact their local district Medicaid liaison for assistance if they are made aware of a
Medicaid billing issue for a non-binary, intersex or transgender individual.

2. If the individual refuses to select either "M" or "F," reiterate their right to access benefits
   and/or services and the need to select either "M" or "F" for systematic processing at this
   time. Districts should determine if the individual has a particular concern about choosing
   "M" or "F." Some people may be concerned that the indicator will show on their
   Electronic Benefits Transfer (EBT) card or mail. They may have concerns about work
   experience assignments or temporary housing placements. Try to resolve their concerns
   and to encourage them to select either "M" or "F."

3. If the individual still will not select either "M" or "F," inform the individual that "F" is the
   default option that will be used, for internal processing purposes only, if no gender
   variable is selected. If the individual refuses to have their application processed with an
   "F," they have the right to decline benefits and/or services by withdrawing their application
   or recertification form.

4. Maintain a list of applicants/recipients who have identity documents with a gender
   designation of "X". This list will support the updating of system entries once WMS can
   accommodate gender markers other than "M" or "F." Each district must ensure that such
   applicants/recipients have equal access to benefits and services, regardless of gender
   identity.

5. Retain the list of applicants/recipients who have identity documents with a gender
   designation of "X" until further notice by the Office of Temporary and Disability Assistance
   (OTDA) and the Department of Health (DOH).

   Note: Direction regarding the processing of a mailed-in Medicaid-only application will be
   issued under a separate release.

B. **Title IV-D Child Support Services:** District child support enforcement units and support
   collection units (collectively CSEUs) must build child support cases on the Automated State
   Support Enforcement and Tracking System (ASSETS) using gender designations of
   "Female" or "Male" for the noncustodial parent (gender designations for the custodial parent
   and child are not required to proceed with case building). After building the case, CSEU staff
   with the ASSETS "Case Update" role may then update the gender of the noncustodial parent
   to blank to best reflect the gender designation of "X" at this time (choices are blank, Male,
   Female, or Unknown). If paternity establishment is required for any child on the case, and
   the case was built with gender of the noncustodial parent as "Female", CSEU staff must also
   update the wedlock indicator of each child needing paternity establishment to the appropriate
   value.

VI. Systems Implications

At the present time, WMS accommodates only the gender designations of "M" or "F." The entry of "M" or "F" has no impact on OTDA assistance or services, but WMS does require entry of either "M" or "F" to register and/or process a case.

A. Rest of State (ROS)

1. **myBenefits/myWorkspace:** A myBenefits user can submit a SNAP application and set a filing date without a gender selection. The submitted SNAP application will appear in the myWorkspace intake mailbox. A myBenefits TA or SNAP recertification or Early Outreach HEAP-only application gender field will be prepopulated with data pulled from WMS. A myBenefits Change report does not have a gender field. A myBenefits Regular or Combo HEAP application requires the user to select a gender variable of "M" or "F." Workers contacted regarding the gender selection in myBenefits must follow the steps outlined in #1 and #2 of "Required Action" above.

2. **WMS:** To avoid duplicate Client Identification Number (CIN) assignments, clearance reports should be run under both "M" and "F" for all individuals who apply for benefits and/or services using an "X."

B. New York City (NYC)

To avoid duplicate CIN assignments, workers processing cases in Paperless Office System (POS) and in the Eligibility Data and Image Transfer System (EDITS) should run clearance reports in WMS to view all possible CINs and select the best for the individual.

VII. Other

Districts are reminded that an individual's gender identity and pronouns are not determined by the gender variable in WMS or myBenefits. In addition, an individual must not be discriminated against based on their gender identity.

VIII. Effective Date

This ADM is effective immediately.

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